

Absent:

5:00 P.M.

1. Flag Salute
 2. Opening Prayer
 3. Open Public Meetings Act Announcement
 4. Swearing In Ceremony: Police Officer Peter Rao
 5. Resolution 2023-193 Re: Executive Session _____ P.M.
- Topics to Be Discussed:

M: S: RC: MC:

6. Return from Executive Session P.M.

M: S: RC: MC:

7. Approval of 10/4/2023 Council Meeting Minutes

M: S: RC: MC:

- ## 8. Approval of Payroll, Requisition List and Operating Expenses

M: S: RC: MC:

9. Baseball Presentation: Tom Repici and Jeanette Kessler
10. Public Comment on Agenda Items Only
11. Ordinance No. 12 of 2023 – Public Hearing and Adoption
Floodplain Management Regulations

M: S: RC: MC:

12. Ordinance No. 13 of 2023 – Public Hearing and Adoption
Amending Chapter 210-37, Article II of the Code as it Relates to Fees

M: S: RC: MC:

13. Ordinance No. 14 of 2023 - Public Hearing and Adoption
Short Term Rental Regulations

M: S: RC: MC:

14. Resolution 2023-194 Re: Authorizing Execution of Shared Services Agreement for the Participation in a County-Wide Registration Program for Abandoned Properties

M: S: RC: MC:

15. Resolution 2023-195 Re: Confirming the Review and Completion of CY 2023/SFY Best Practices Inventory

M: S: RC: MC:

16. Resolution 2023-196 Re: Authorizing Payment to Atlantic County for Work Performed at Brigantine City Hall for Reconstruction of the Fire Department Concrete Apron

M: S: RC: MC:

17. Resolution 2023-197 Re: Authorizing the Award of a Contract to Doran Engineering, PA for Design, Construction Management and Inspection Services for the Reconstruction of the Existing Golf Course Cart Path on the Back Nine, Brigantine Golf Links

M: S: RC: MC:

18. Resolution 2023-198 Re: Authorizing Award of Contract for Food and Beverages at the Brigantine Golf Links

M: S: RC: MC:

19. Resolution 2023-199 Re: Appointment of Municipal Court Judge

M: S: RC: MC:

20. Resolution 2023-200 Re: Cancellation of Outstanding Checks

M: S: RC: MC:

21. Resolution 2023-201 Re: C.E.R. Class Tuition Refund

M: S: RC: MC:

22. Resolution 2023-202 Re: Township of Long Beach and City of Brigantine Shared Services Agreement for Legal Services

M: S: RC: MC:

23. Ordinance No. 15 of 2023 – Introduction
Bond Ordinance – Utility Capital

M: S: RC: MC:

24. Ordinance No. 16 of 2023 – Introduction
Bond Ordinance – General Capital

M: S: RC: MC:

25. Consent Agenda

A. Elks Raffle #1029

B. Elks Raffle #1030

C. Brigantine Polar Bear Plunge

M: S: RC: MC:

25. Council Manager/Committee Discussion

26. Public Comments

27. Council Comments

28. Adjourn _____ P.M.

The City Council of the City of Brigantine reserves the right to consider, discuss and/or take any formal action upon resolutions or ordinances not appearing on the printed agenda.

**CITY OF BRIGANTINE
ORDINANCE NO. 12 OF 2023**

**ORDINANCE FOR ADOPTION OF THE FLOODPLAIN MANAGEMENT REGULATIONS
OF CITY OF BRIGANTINE**

**AN ORDINANCE BY THE MAYOR AND COUNCIL AMENDING THE CITY OF
BRIGANTINE CODE OF ORDINANCES TO REPEAL CHAPTER 181; TO ADOPT A
NEW CHAPTER 181 FLOOD DAMAGE PREVENTION ORDINANCE; 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 **CITY OF BRIGANTINE** 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 **CITY OF BRIGANTINE** was accepted for participation in the National Flood Insurance Program on **June 18, 1971** and the **MAYOR AND COUNCIL** 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 **CITY OF BRIGANTINE** 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 **CITY OF BRIGANTINE** 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 **CITY OF BRIGANTINE** is required, pursuant to N.J.S.A.58:16A-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 **MAYOR AND COUNCIL** of **CITY OF BRIGANTINE** 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 181 – FLOOD DAMAGE PREVENTION ORDINANCE.**

SECTION 101 SCOPE AND ADMINISTRATION

101.1 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 **CITY OF BRIGANTINE** (hereinafter "these regulations").

101.2 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 Section 102 of these regulations.

101.3 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.

101.4 Coordination with Building Codes. Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the **CITY OF BRIGANTINE** administer and enforce the State building codes, the **MAYOR AND COUNCIL** of **CITY OF BRIGANTINE** 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.

101.5 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 Section 103.14 of this ordinance.

101.6 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.

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

101.8 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.

101.8.1 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.

101.9 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.

SECTION 102 APPLICABILITY

102.1 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.

102.2 Establishment of Flood Hazard Areas. The **CITY OF BRIGANTINE** was accepted for participation in the National Flood Insurance Program on **June 18, 1971**.

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 Brigantine Construction Office, 1417 West Brigantine Avenue, Brigantine, New Jersey 08203**.

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, Atlantic County, New Jersey (All Jurisdictions)" dated August 28, 2018 and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 102.2(1) whose top level document (index map) effective date is August 28, 2018 are hereby adopted by reference.

Table 102.2(1)

Map Panel #	Effective Date	Revision Letter
34001C0334	August 28, 2018	F
34001C0342	August 28, 2018	F
34001C0343	August 28, 2018	F
34001C0344	August 28, 2018	F
34001C0353	August 28, 2018	F
34001C0354	August 28, 2018	F

34001C0361	August 28, 2018	F
34001C0362	August 28, 2018	F
34001C0363	August 28, 2018	F
34001C0456	August 28, 2018	F
34001C0457	August 28, 2018	F

- 2) **Federal Best Available Information.** City of Brigantine shall utilize Federal flood information as listed in the table below 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.

Table 102.2(2)

Map Panel #	Preliminary Date	Revision Letter	Map Panel #	Preliminary Date	Revision Letter
34001C0341	January 30, 2015	F	34001C0354	January 30, 2015	G
34001C0342	January 30, 2015	G	34001C0361	January 30, 2015	G
34001C0343	January 30, 2015	G	34001C0456	January 30, 2015	G
34001C0353	January 30, 2015	G	34001C0457	January 30, 2015	G
34001C0334	January 30, 2015	G			

102.3 Establishing the Local Design Flood Elevation (LDFE).

The Local Design Flood Elevation (LDFE) is established in the flood hazard areas determined in Section 102.2, 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 Section 102.2, above plus one foot, the elevations listed in Table 102.3(1), below: or as described by N.J.A.C 7:13 as of December 2023.

Table 102.3(1)

Delineated Flood Zones	Local Design Flood Elevation
AE9	12 feet
AE10	12 feet
AE11	12 feet

- 2) Flood Hazard Protection Area – Shaded X (FHPA-0SX) - Shaded X Zones as determined using best available data shall be regulated as an AE9 zone as described in Section 102.3(1), above.

- 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.

SECTION 103 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

103.1 Floodplain Administrator Designation. The **Construction Official** is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate the performance of certain duties to other employees.

103.2 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 Section 107 of these regulations.

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

103.4 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 Section 102 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 Section 103.14 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 Section 107 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 Section 106 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 Section 107 of these regulations.
- (13) Cite violations in accordance with Section 108 of these regulations.
- (14) Notify the Federal Emergency Management Agency when the corporate boundaries of **CITY OF BRIGANTINE** have been modified.
- (15) Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in Section 102.2.

103.5 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.

103.6 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.

103.7 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 102.2 and 102.3 respectively. This information shall be provided to the Construction Official and documented according to Section 103.15.

103.8 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.

103.9 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.

103.10 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.

103.10.1 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.

103.11 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.

103.11.1 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.

103.12 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.

103.13 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.

103.14 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 Section 101.5, 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.

103.15 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.

103.16 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.

SECTION 104 PERMITS

104.1 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.

104.2 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 Section 105 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.

104.3 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.

104.4 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.

104.5 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.

SECTION 105 SITE PLANS AND CONSTRUCTION DOCUMENTS

105.1 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 Section 105.2.
- (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 Section 105.2(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.

105.2 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 Section 105.3 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 Section 105.3 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).

105.3 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.

SECTION 106 INSPECTIONS

106.1 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.

106.2 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.

106.3 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 Section 801.2 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 Section 801.2 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 Section 801.2.
- 4) **Final inspection.** Prior to the final inspection, certification of the elevation required in Section 801.2 shall be submitted to the Construction Official on an Elevation Certificate.

106.4 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.

SECTION 107 VARIANCES

107.1 General. The **City of Brigantine Planning Board** shall hear and decide requests for variances. The **City of Brigantine Planning Board** shall base its determination on technical justifications submitted by applicants, the considerations for issuance in Section 107.5, the conditions of issuance set forth in Section 107.6, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The **City of Brigantine Planning Board** has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations.

107.2 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 1612 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.

107.3 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.

107.4 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 Section 105.2(1) of these regulations.

107.5 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.

107.6 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.

SECTION 108 VIOLATIONS

108.1 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.

108.2 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.

108.3 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.

108.4 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.

SECTION 201 DEFINITIONS

201.1 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.

201.2 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 V0) 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 area 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.

COASTAL A ZONE – An Area of Special Flood Hazard starting from a Velocity (V) Zone and extending up to the landward Limit of the Moderate Wave Action delineation. Where no V Zone is mapped the Coastal A Zone is the portion between the open coast and the landward Limit of the Moderate Wave Action delineation. Coastal A Zones may be subject to wave effects, velocity flows, erosion, scour, or a combination of these forces. Construction and development in Coastal A Zones is to be regulated similarly to V Zones/Coastal High Hazard Areas except as allowed by ASCE 24.

COASTAL HIGH HAZARD AREA – An Area of Special Flood Hazard inclusive of the V Zone extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

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.

DEEP FOUNDATIONS – Per ASCE 24, deep foundations refer to those foundations constructed on erodible soils in Coastal High Hazard and Coastal A Zones which are founded on piles, drilled shafts, caissons, or other types of deep foundations and are designed to resist erosion and scour and support lateral and vertical loads as described in ASCE 7. Foundations shall extend to 10 feet below Mean Water Level (MWL) unless the design demonstrates that pile penetration will provide sufficient depth and stability as determined by ASCE 24, ASCE 7, and additional geotechnical investigations if any unexpected conditions are encountered during construction.

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 HAZARD PROTECTION AREA (FHPA) – An area requiring higher construction standards because of the erodibility of the underlying soil characteristics and the vulnerability of structures in these areas to erosion and scour if dunes and/or flood protection infrastructure seaward of these areas are breached. These areas are established pursuant to ASCE 24-14 1.3.2 and the commentary discussed in these standards in C4.1.1, an analysis of underlying soil characteristics, an evaluation of existing natural and man-made flood protection infrastructure, and documented vulnerability during past severe flood events. A predicted sea level rise will adversely affect construction in areas subject to erosion as storm surges and wave velocities affect more structures further inland from the current shoreline. The increased foundation costs for constructing to higher standards in these areas will be offset by lower flood damages and mitigation costs over the expected life of the structure. These areas are legally established through the Flood Damage Prevention Ordinance adoption process and described in the ordinance. These areas will also be established as part of the master plan for consideration by the Planning Board and/or the Zoning Board of Adjustment prior to either board's approval of new development projects.

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 Section 107 of this ordinance, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Mayor and Council 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.

LIMIT OF MODERATE WAVE ACTION (LiMWA) – Inland limit of the area affected by waves greater than 1.5 feet during the Base Flood. Base Flood conditions between the VE Zone and the LiMWA will be similar to, but less severe than those in the VE Zone.

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.

LOWEST HORIZONTAL STRUCTURAL MEMBER - In an elevated building in a Coastal A or Coastal High Hazard Zone, the lowest beam, joist, or other horizontal member that supports the building is the lowest horizontal structural member. Grade beams installed to support vertical foundation members where they enter the ground are not considered lowest horizontal members.

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 tax assessor's office, 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.

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 over a one (1) year period, the cumulative 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. 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 official 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.

V ZONE CERTIFICATE - A certificate that contains a certification signed by a licensed design professional certifying that the designs, plans, and specifications and the methods of construction in V Zones and Coastal A Zones are in accordance with accepted standards of practice. This certificate also includes an optional Breakaway Wall Design Certification for enclosures in these zones below the Best Available Flood Hazard Data Elevation. A completed certification is required at permit application.

V 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 in any given year shown on the Flood Insurance Rate Map (FIRM) zones V1-V30 and VE and is referred to as the Coastal High Hazard Area.

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.

SECTION 301 SUBDIVISIONS AND OTHER DEVELOPMENTS

301.1 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.

301.2 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.

SECTION 401 SITE IMPROVEMENT

401.1 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 Section 105.2(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 Section 105.2(1) is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with Section 801.2 of this ordinance. and the floodway requirements of N.J.A.C. 7:13 as of December 2023.

401.1.1 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.

401.2 Coastal High Hazard Areas (V Zones) and Coastal A Zones. In Coastal High Hazard Areas and Coastal A Zones:

- (1) New buildings shall only be authorized landward of the reach of mean high tide.
- (2) The placement of manufactured homes shall be prohibited except in an existing manufactured home park or subdivision.
- (3) Basements or enclosures that are below grade on all sides are prohibited.
- (4) The use of fill for structural support of buildings is prohibited.

401.3 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.

401.4 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.

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

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

401.7 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.

401.8 Limitations on sites in coastal high hazard areas (V Zones) and Coastal A Zones. In coastal high hazard areas and Coastal A Zones, alteration of sand dunes shall be permitted only when the engineering analysis required by Section 105.2(4) of these regulations demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with Section 801.10(3) of these regulations and as permitted under the NJ Coastal Zone Management Rules (N.J.A.C. 7:7).

401.9 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.

SECTION 501 MANUFACTURED HOMES

501.1 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).

501.2 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 Section 801.2.

501.3 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.

501.4 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.

501.5 Enclosures. Fully enclosed areas below elevated manufactured homes shall comply with the requirements of Section 801.2.

501.6 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 Section 801.2 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 Section 801.2, 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).

SECTION 601 RECREATIONAL VEHICLES

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

601.2 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.

601.3 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 Section 801.2 for habitable buildings and Section 501.3.

SECTION 701 TANKS

701.1 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 and Section 501.3.

SECTION 801 OTHER DEVELOPMENT AND BUILDING WORK

801.1 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 Section 105.2(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 Section 102.3;
- (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 Section 102.3 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.

801.2 Requirements for Habitable Buildings and Structures.

- 1) Construction and Elevation in A Zones and Flood Hazard Protection Areas – Shaded X (FHPA-SX) 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 Section 201) 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 Section 102.3, 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 Section 102.3, 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 801.2.1(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 five (5) 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;

2) Construction and Elevation in V Zones and Coastal A Zones.

- a. All new construction and substantial improvements shall be constructed according to structural designs, plans and specifications conforming with ASCE 24 Chapter 4 which are signed by a licensed design professional and certified by that individual in a V Zone Certificate.
- b. All new construction and substantial improvement of any habitable building (as defined in Section 201) located in coastal high hazard areas shall have the lowest horizontal structural member, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to the Local Design Flood Elevation as determined in Section 102.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.
- c. All new construction and substantial improvements of non-residential structures shall:
 - i. Have the lowest horizontal structural member, 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 Section 102.3, be in conformance with ASCE 24 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 4 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.
- d. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. All breakaway walls shall be constructed according to structural designs, plans and specifications conforming with ASCE 24 Chapter 4, signed by a licensed design professional, and certified by that individual in a Breakaway Wall 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:
 - i. 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.
 - ii. 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 801.2.2(c)ii are met;
 - iii. Be constructed to meet the requirements of ASCE 24 Chapter 4;

- iv. Have openings documented on an Elevation Certificate and have breakaway wall construction documented on a Breakaway Wall Certificate unless the requirements of 801.2.2(c)ii are met for a non-residential structure; and
- v. 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;

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

801.4 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 Section 105.2(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 Section 107 of this ordinance.

801.5 Retaining walls, sidewalks, and driveways. Retaining walls, sidewalks and driveways that involve placement of fill in floodways shall meet the requirements of Section 105.2(1) of these regulations and N.J.A.C. 7:13.

801.6 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 Section 105.2(1) of these regulations. Above-ground swimming pools are prohibited in floodways by N.J.A.C. 7:13.

801.7 Roads and watercourse crossings.

For any railroad, roadway, or parking area proposed in a flood hazard area, the travel surface shall be constructed in accordance with N.J.A.C. 7:13 as of December 2023.

801.8 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 Section 105.2(1) of these regulations.

801.9 Other development in coastal high hazard areas (Zone V) and Coastal A Zones. In Coastal High Hazard Areas (V Zones) and Coastal A Zones, development activities other than buildings and structures shall be permitted only when also authorized by the appropriate Federal, State or local authority; when located outside the footprint of, and not structurally attached to, buildings and structures; and when analyses prepared by a licensed professional engineer demonstrates no harmful diversion of floodwater or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

- (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
- (2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the base flood or otherwise function to avoid obstruction of floodwater; and
- (3) On-site filled or mound sewage systems.

801.10 Nonstructural fill in coastal high hazard areas (Zone V) and Coastal A Zones. In coastal high hazard areas and Coastal A Zones:

- (1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
- (2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only when an analysis prepared by a licensed professional engineer demonstrates no harmful diversion of floodwater or wave runup and wave reflection that would increase damage to adjacent buildings and structures.
- (3) Sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection where the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

SECTION 901 TEMPORARY STRUCTURES AND TEMPORARY STORAGE

901.1 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.

901.2 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.

901.3 Floodway encroachment. Temporary structures and temporary storage in floodways shall meet the requirements of Section 105.2(1) of these regulations.

SECTION 1001 UTILITY AND MISCELLANEOUS GROUP U

1001.1 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.

1001.2 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 Section 102.3.

1001.3 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 Section 102.3 and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.

1001.4 Enclosures below base flood elevation. Fully enclosed areas below the design flood elevation shall be constructed in accordance with Section 801.2 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.

1001.5 Flood-damage resistant materials. Flood-damage-resistant materials shall be used below the Local Design Flood Elevation determined in Section 102.3.

1001.6 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 Section 102.3.

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 proper passage in accordance with the law.

INTRODUCTION: OCTOBER 4, 2023
ADOPTION: OCTOBER 18, 2023

ATTEST: VINCE SERA, MAYOR

LYNN SWEENEY, RMC, CITY CLERK

ORDINANCE NO. 13 OF 2023

AN ORDINANCE AMENDING CHAPTER 210-37, ARTICLE II OF THE CODE OF THE CITY OF BRIGANTINE
PORTION AS IT RELATES TO FEES

Whereas, the City of Brigantine is permitted by its police power to establish certain fees for services within the City of Brigantine; and

Whereas, the City of Brigantine is desirous of updating its fees schedule so that said fees are clearly stated in a way that will be more understandable to the general public; and

Whereas, the City Council of the City of Brigantine is desirous of amending said fee schedule.

Now, Therefore, be it ordained by the City of Council of the City of Brigantine in the County of Atlantic, State of New Jersey as follows:

SECTION I: Section 210-37 Subsection R-2 of the Code of the City of Brigantine shall be amended to read as follows:

“The fees and charges for licenses, permits and services provided by the City of Brigantine, except for fees set by the “Uniform Construction Code in the Construction Officials Office, and the Uniform Fire Code are as set below:

- | | |
|--|---------------------------------|
| 2. Rental Registration/inspection fees | |
| a. Initial rental registration inspection | \$150.00 per unit for all units |
| b. Reinspection due to failed initial inspection | \$25.00 |
| c. Reinspection due to failed reinspection | \$100.00 per unit for all Units |
| d. Reinspection due to change in tenancy | \$100 per unit For all units |
| e. Non-life Hazard Inspection | \$60.00 |
| f. Short term rental: License Fee | \$150.00 per advertised bedroom |
| g. Digital Lodging Tax (marketplace only) | 1.25 % per online booking |
| h. License Transfer Fee (all rentals) | \$150.00 per unit |

SECTION II: Severability

If any section or part of this Ordinance is deemed to be invalid or illegal in any court or competent jurisdiction then said part is severable from this Ordinance as a whole and the remaining selections or parts of this Ordinance shall remain in full force and effect.

SECTION III: Repealer

All Ordinances or portions thereof inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

SECTION IV: Effective Date

This Ordinance shall take effect after final adoption and publication as prescribed by law.

INTRODUCTION: October 4, 2023

ADOPTION: October 18, 2023

Vincent Sera, Mayor

ATTEST:

Lynn Sweeney, RMC, City Clerk

CITY OF BRIGANTINE
ORDINANCE 11-2023

**AN ORDINANCE OF THE CITY OF BRIGANTINE, COUNTY OF ATLANTIC, STATE OF
NEW JERSEY AMENDING THE CITY CODE OF THE CITY OF BRIGANTINE, SO AS TO
AMEND CHAPTER 246, ENTITLED "RENTAL PROPERTY"**

WHEREAS, the City Council of the City of Brigantine (the "Council") seeks to permit transient accommodation or short-term rental use of certain legally permitted dwelling units throughout the City of Brigantine (the "City" or "Brigantine") in order to facilitate the booking of reservations for such uses through third party booking platforms, and promote tourism and economic vitality in the City; and

WHEREAS, the short-term rental of dwellings and dwelling units can provide a flexible housing stock that allows travelers a safe accommodation while contributing to the local economy, promoting travel and tourism and supporting the local tourism industry and business community; and

WHEREAS, the short-term rental of dwellings and dwelling units can provide homeowners with an opportunity to maintain ownership of property in difficult economic circumstances; and

WHEREAS, the needs of long-term residents should be balanced with the allowance of short term rentals; and

WHEREAS, the Council recognizes that unregulated short-term rentals can create disproportionate impacts related to their size, excessive occupancy, and lack of proper facilities; and

WHEREAS, the presence of short-term rentals of residential dwelling units in established residential neighborhoods can create negative compatibility impacts and nuisance violations, which include, but are not limited to, excessive noise, over-crowded on-street parking, accumulation of trash, and diminished public safety; and

WHEREAS, long-term rental housing vacancy rates in the City are at low levels, making it increasingly difficult for people to obtain permanent housing in Brigantine; and

WHEREAS, removal of residential units from the long-term housing market for short-term rental use contributes to low vacancy rates; and

WHEREAS, the conversion of long-term housing units to short-term rentals will result in the loss of long-term housing for City residents; and

WHEREAS, it is in the public interest that short-term rental uses be regulated to help preserve housing for long-term tenants and to minimize any potential deleterious effects of short-term rental properties on other properties in the surrounding neighborhoods in which they are located; and

WHEREAS, the Council finds that there is a substantial interest in furthering the public health, safety and welfare by controlling density, by protecting the residential character of areas designated for residential use, by establishing and enforcing minimum life safety standards, and by preserving the long-term rental housing market located within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGANTINE IN THE COUNTY OF ATLANTIC, STATE OF NEW JERSEY AS FOLLOWS:

SECTION I.

Article I Rental Property Licensing Requirements

§ 246-1. Definitions.

Unless the context clearly indicates a different meaning, the following words or phrases when used in this chapter shall have the following meaning:

AGENT or MANAGING AGENT — The individual or individuals designated by the owner as the person(s) authorized by the owner to perform any duty imposed upon the owner by this chapter, provided that in order to be an agent or managing agent the individual designated must reside in Atlantic County, New Jersey as set forth in N.J.S.A. 46:8-28(c). The term does not include a licensed real estate broker or salesman of the State of New Jersey as those terms are defined by N.J.S.A. 45:15-3; unless such broker or salesperson shall affirmatively consent to act as such agent or managing agent.

ANNUAL RENTAL — The accessory use of a dwelling unit for occupancy by someone other than the unit's owner or permanent resident for a period of more than thirty (30) consecutive days, up to a cumulative total period not to exceed one (1) calendar year, which dwelling unit is regularly used and kept open as such for the lodging of guests, and which is advertised or held out to the public as a place regularly rented to transient occupants, as that term is defined in this Section. Inspections shall be completed at least once per year.

APARTMENT or DWELLING — Any apartment, cottage, bungalow or other dwelling unit consisting of one or more rooms occupying all or part of a floor or floors in a building of one or more floors or stories, but not the entire building, whether designed with or without housekeeping facilities for dwelling purposes and notwithstanding whether the apartment be designed for residence, for office, or the operation of any industry or business, or for any other type of independent use.

BUILDING — Any building or structure, or part thereof, used for human habitation, use or occupancy and includes any accessory buildings and appurtenance belonging thereto or usually enjoyed therewith. Consistent with the definitions contained in the Uniform Construction Code (UCC) and the Uniform Fire Code (UFC), "building" shall also mean a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind. When used herein, building and structure shall be interchangeable except where the context clearly indicates otherwise.

DANGEROUS CONDITION — A condition that creates a substantial risk of injury to life and/or property.

DWELLING UNIT — Any room or rooms, or suite or apartment thereof, whether furnished or unfurnished, which is occupied, or intended, arranged or designed to be occupied, for sleeping or dwelling purposes by one or more persons, including but not limited to the owner thereof, or any of his servants, agents or employees, and shall include all privileges, services, furnishings, furniture, equipment, facilities, and improvements connected with use or occupancy thereof. This definition applies only to those dwelling units, including single-family residences, which are available for lease or rental purposes. Consistent with the definitions contained in the Uniform Construction Code (UCC) and the Uniform Fire Code (UFC) the definition shall also mean a single unit providing complete, independent living facilities for one or more persons living as a single, housekeeping unit, including permanent provisions for living, sleeping, eating, cooking and sanitation.

GUESTS — See definition of "visitors."

LANDLORD — See definition of "owner."

LICENSE or RENTAL LICENSE — The license issued by the City attesting that the rental unit has been properly inspected and licensed at required intervals in accordance with this chapter.

LICENSE FEE — The fee charged by the City for the initial application and renewal fee for the short-term rental license.

LICENSE YEAR — Shall be for a maximum term of 12 months as defined in § 246-12 of this chapter.

LICENSEE — The person to whom the license is issued pursuant to this chapter. The term "licensee" includes within its definition the term "agent" or "managing agent," where applicable.

LICENSING CLERK — The municipal official or employee designated to receive rental license applications and registrations and to issue licenses pursuant to this chapter.

MANAGING AGENT — See definition of "agent."

NUISANCE PROPERTY — Any property that has been determined as violating the City Code of the City of Brigantine pursuant to Chapter 246 excessive qualifying calls for services, substantiated complaints, or for violations of the chapter.

OCCUPANCY LOAD — The number of persons permitted in a short-term rental property ("STRP"), based upon an inspection completed in compliance with local and state codes and shall be capped at 18 occupants, regardless of the number of bedrooms.

OCCUPANT — Person who resides in a rental unit, including, but not limited to, the named tenant(s). The term shall include residents, overnight visitors and children. The term shall not include those visitors or guests who are not residing therein.

OWNER — The person who owns, purports to own or exercises control over any building. Consistent with the definitions contained in the Uniform Construction Code (UCC) and the Uniform Fire Code (UFC), "owner" shall also mean the owner or owners in fee of the property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee or any other person, firm or corporation, directly or indirectly in control of a building, structure or real property and shall include any subdivision thereof of the state.

OWNER-OCCUPIED — The owner of the property resides in the short-term rental property, or in the principal residential unit with which the STRP is associated on the same lot, and identifies same as his or her principal residence as that term is defined in this Section. For purposes of this Section, if the owner of the property is an entity other than an individual or individuals, then at least one principal or member of the owner entity must reside in the STRP, or in the principal residential unit with which the STRP is associated on the same lot, and identify same as his or her principal residence as that term is defined in this Section.

PRINCIPAL RESIDENCE — The address: (1) where at least one of the property owners spends the majority of his or her non-working time, and (2) which is most clearly the center of his or her domestic life, and (3) which is identified on his or her driver's license, voter registration or state identification card as being his or her legal address. All the above requirements must be met in order for an address to constitute being a principal residence for purposes of this Section.

PROPERTY — A parcel of real property located within the boundaries of the City of Brigantine, Atlantic County, New Jersey.

PERSON — An individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.

REALTOR — An individual who is licensed by the State of New Jersey as a real estate salesperson, a real estate broker-salesperson, and/or a real estate referral agent, as those terms are defined in the New Jersey Real Estate Brokers and Salesmen Act ("Brokers Act"), N.J.S.A. 45:15-1 to -29.5.

RENTAL AGENT — The person who negotiates for the lease of the rental unit on behalf of the owner. Such person shall be the holder of the required license mandated by the State of New Jersey. The rental agent is not the managing agent under the terms of this chapter unless the rental agent should expressly consent to assume such duties or obligations.

RENTAL PROPERTY — A building or structure which contains one or more rental units including, but not limited to, resort houses, which is rented, leased, subleased or occupied by a tenant. The term "rental property" shall not include any property covered by the New Jersey Hotel and Multiple Dwelling Law. N.J.S.A. 55:13A-1, et seq.

RENTAL UNIT — Collectively the term apartment or dwelling, building, dwelling unit, as defined by this chapter. This definition shall not apply to any single-family home which is not available for rental purposes.

RESORT HOUSE — A residentially styled structure that is used, maintained, marketed, promoted and/or advertised as a destination location available for rent, lease or sub-lease for a gathering of invited guests for functions and special events, including, but not limited to, weddings, retreats, family reunions, parties and meetings. A resort house is a commercial use appropriate only in areas zoned for hotel/motel use and never has been permitted as a legal use under existing ordinance standards. A resort house is a commercial use and is not a traditional single-family residence and requires more off-street parking in order to accommodate the number of guests. Traditional seasonal rentals as defined in this Chapter or bed and breakfast establishments, licensed by the City and intended to accommodate not more than 18 persons shall not be considered to be resort houses.

RESPONSIBLE PARTY — The short-term rental property owner or a person (property manager) designated by the owner to be called upon and be responsible at all times during the period of a short-term rental and to answer for the maintenance of the property, or the conduct and acts of occupants of the short-term rental property, and, in the case of the property manager, to accept service of legal process on behalf of the owner of the short-term rental property.

SEASONAL RENTAL — Shall have the same meaning as that of "short-term rental" but, in addition thereto, shall encompass any rental between May 1 through September 30.

SHORT-TERM RENTAL — The accessory use of a dwelling unit for occupancy by someone other than the unit's owner or permanent resident for a period of less than thirty (30) consecutive days, which dwelling unit is regularly used and kept open as such for the lodging of guests, and which is advertised or held out to the public as a place regularly rented to transient occupants, as that term is defined in this Section. The dwelling unit can be rented to short-term renters throughout the licensed period. Inspections shall be completed at least once per year.

SHORT-TERM RENTAL PROPERTY (also referenced as "STRP") — A residential dwelling unit that is used and/or advertised for rent as a short-term rental by transient occupants as guests, as those terms are defined in this Section. Dwelling units rented to the same occupant for more than thirty (30) continuous days, licensed Bed and Breakfast establishments, licensed rooming or boarding houses, hotels, and motels shall not be considered Short-Term Rental Property.

SHORT-TERM RENTAL PROPERTY AGENT — Any New Jersey licensed real estate agent or other person designated and charged by the owner of a short-term rental property, with the responsibility for making the STR application to the City on behalf of the owner, and fulfilling all of the obligations in connection with completion of the short-term rental property license application process on behalf of the owner. Such person shall be available for, and responsive to contact on behalf of the owner, at all times.

TENANT — Any person who occupies any rental unit, as a named lessee, pursuant to the terms of a lease agreement, whether written or oral, or who occupies a rental unit pursuant to permission or license of any kind granted by an owner or owner's agent. The term shall be construed liberally to include not only tenants but guests and occupants. The term shall also include subtenants.

TRANSIENT OCCUPANT — Any person or a guest or invitee of such person, who, in exchange for compensation or by gift, occupies or is in actual or apparent control or possession of residential property, which is either: (1) registered as a short-term rental property, or (2) satisfies the definition of a short-term rental property, as such term is defined in this Section.

VISITOR(S) — A person or persons who, on a temporary or occasional basis, visit(s) a rental unit at the express or implied invitation of the tenant(s) but who does/do not reside there or sleep there. The term is the same as "guests."

§ 246-2. Short title; scope and applicability.

This article shall be known as the "Rental License Regulations" of the City.

- A. Introduction. All rental properties, or properties containing rental units, including but not limited to resort houses, are subject to licensing and inspection by the City. All such properties, in addition to the requirement of being licensed and inspected by the City, are also required to be registered pursuant to the Landlord Registration Act. Registration applies to all rental properties, except those containing one or two rental units which are owner-occupied. Multiple dwellings containing three or more units, regardless of whether or not any of the units are rentals, must be registered with the State of New Jersey.
- B. License requirements. This chapter is applicable to each and every rental unit or rental property which shall include:
 - (1) A property with one or more rental units including owner-occupied properties with one or more rental units; and including duplex and triplex properties;
 - (2) Each condominium unit which is rented but excluding condominium motels.
 - (3) Resort houses.
- C. Registration requirements. In addition to the licensing requirements imposed by this chapter, certain properties must also be registered with either the City or the State of New Jersey pursuant to the Landlord Registration Act, N.J.S.A. 46:8-27 to 46:8-37. That law requires:
 - (1) Registration of all rental properties, except for owner-occupied properties which contain one or two rental units in accordance with the following:
 - (a) Properties containing less than three rental units, except for owner-occupied properties containing one or two unit(s), must be registered with the City Clerk or the designee of the City Clerk.
 - (b) Those properties containing three or more rental units must be registered with the State of New Jersey.
 - (c) All multiple dwellings containing three or more units, regardless of whether or not any of the units are rentals, must be registered with the state.
 - (2) This requirement is addressed further in § 246-4 of this chapter.
- D. Inspection requirements. In addition to the licensing and registration requirements applicable to

rental properties, certain other properties, even though they are not subject to the licensing requirements of Chapter 246, are nonetheless subject to periodic inspection by the City pursuant to Chapter 175 of the Brigantine City Code. The frequency of such inspections is determined by New Jersey State Law.

§ 246-3. Policy statement.

- A. It is the stated policy of the City that every property containing rental unit(s) within the City, including one or two rental units that are owner-occupied, shall be required to submit to inspection and be licensed in order to be leased or occupied.
- B. Moreover, as recognized by the New Jersey State Legislature in enacting N.J.S.A. 40:48-2.12(n) many municipalities in this state, and the residents thereof, have experienced disturbances, damages and public expense resulting from carelessly granted and inadequately supervised rentals to irresponsible tenants by inept or indifferent landlords. The stated purpose of N.J.S.A. 40:48-2.12(n) was to enable municipal governing bodies to take effective action to assure that excesses, when they occur, shall not be repeated, and that landlords be held to sufficient standards of responsibility. Therefore, to preserve the peace and tranquility of such communities, including the City Brigantine, for permanent residents, and for other owner-occupants as well as other tenants and vacationers, and to maintain viability as vacation spots for citizens of New Jersey as well as other states and counties it is necessary and desirable that those communities have adequate means to curb and discourage those occasional excesses arising from irresponsible rentals, including seasonal rentals.
- C. The New Jersey Legislature, pursuant to N.J.S.A. 40:52-1(n) specifically authorized municipalities to license and regulate the "rental of real property for a term of less than 175 consecutive days for residential purposes by a person having a permanent place of residence elsewhere."
- D. Furthermore, most, if not all, such rental units are located within residential neighborhoods in the City and abut owner-occupied homes and residences and many such rental units have an immediate and harmful negative impact upon the immediate neighbors and interfere with the peace and tranquility that such neighbors have every right to expect. Past experience indicates that such problems are especially associated with "short-term rentals" that is, rentals of less than 175 days.

§ 246-4. Dual responsibilities of owners of rental units.

The owner of rental unit(s) has a dual responsibility as follows:

- A. Each rental property containing one or more rental units must be licensed and inspected, at least annually, by the City in accordance with this chapter; and
- B. Each property containing one or more rental units must, in addition, be registered in accordance with the Landlord Registration Act, N.J.S.A. 46:8-27 to 46:8-37 as follows:
 - (1) Owner-occupied one or two rental units: No registration is required with the State of New Jersey.
 - (2) Non-owner-occupied one or two rental units: Must be registered (in addition to being licensed and inspected) with the Municipal Clerk or designee.
 - (3) Properties containing three or more rental units must be registered with the State of New Jersey.
- C. As an accommodation to City owners, and to the extent permitted by law, the application for a rental license shall contain the information required by the Landlord Registration Act and, when completed and filed by the owner, shall be indexed and made available for public inspection as required by said law. This dual filing accommodation shall not, however, relieve the owner of any other duty or

responsibility imposed by the Landlord Registration Act as the same may be amended or supplemented.

§ 246-5. License requirements for all rental properties.

- A. All rental properties located within the City shall be required to be inspected and licensed annually by the City. In addition, all such rental properties shall also be registered with either the City Clerk (or designee) or the State of New Jersey as required in 246-2(c)(1) No rental property or rental unit shall be leased or occupied unless a rental license has been issued for the property or rental unit as provided in this chapter. This provision does not apply to hotels or motels.
- B. All rental units shall be licensed by the City. Application for a rental license shall be made on forms which shall be provided for that purpose by the City Licensing Clerk. Such licensing shall be required on an annual basis; that is, at least once in every consecutive twelve-month period or term as provided herein. An application form shall be required for each rental unit and a rental license shall be required for each individual rental unit.

§ 246-6. Procedure for obtaining license.

- A. The owner of a rental unit shall submit a license application together with the required fee to the Licensing Clerk. Such application shall be on forms supplied by the City. No inspection of the rental unit shall be conducted by the City until such time as the application is deemed complete by the City and the owner pays all required fees.
- B. Upon the filing of an initial application for a rental license, the rental unit shall be inspected prior to the issuance of the rental license and such license shall be issued only in the event that the rental unit passes such inspection in accordance with procedures set forth in this chapter.

§ 246-7. Conditions for obtaining license.

In order to qualify for a rental license, the following requirements shall be met by the applicant or applicant's agent:

- A. An application on a form supplied by the City shall be completed by the property owner and shall contain all of the information, including any attachments which may be required.
- B. All municipal taxes, water and sewer charges and any other municipal assessments are paid on a current basis, that is, paid through the tax quarter immediately preceding the initial application or any renewal thereof.
- C. Prior to the issuance of a rental license, on either an initial application or on any renewal application, the rental unit must first be inspected by the City and pass such inspection. The procedure for the scheduling of such inspections shall be in accord with the procedure set forth in § 246-6 of this chapter.
- D. If the address of the record owner of the property for which a rental license is sought is not located in Atlantic County, New Jersey, the owner shall designate in writing an Agent or managing agent who resides in Atlantic County who is authorized to accept notices to issue receipts therefore and to accept service of process on behalf of the record owner.

§ 246-8. Denial of issuance or renewal of rental license.

- A. The City may deny the issuance of a license or may refuse to renew a rental license in accordance with the provisions of this chapter.

- B. A rental license shall not be issued for any property for which a rental license has been suspended or revoked until the period of suspension or revocation has expired, regardless of any change in ownership of the property.

§ 246-9. Grounds for denial, revocation, and/or suspension of rental license.

Any application for a rental license, including any renewal thereof, may be denied and any rental license that has been issued pursuant to this chapter may be revoked or suspended for any of the following causes:

- A. Any fraud, material misrepresentation, or false statement contained in the application for license.
- B. Any fraud, material misrepresentation, or false statement made in connection with the leasing of any rental unit.
- C. Any fraud, material misrepresentation, or false statement made in connection with any advertisement of the property.
- D. Any violation of this chapter.
- E. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.
- F. Failure of the applicant or licensee to comply with the conditions required for the issuance of a rental license as set forth in this chapter.
- G. Any grounds which would justify the revocation or suspension of a rental license as specified in Article II of this chapter shall also be cause for the denial or any renewal of a rental license.

§ 246-10. Appeal.

- A. Any Person who is denied the issuance of a rental license or any renewal thereof, or who has had a rental license revoked or suspended may appeal such determination administratively to a Hearing Officer appointed by the City in accordance with the procedures set forth in Article III of this chapter. Such appeal shall be filed not later than 45 days following notification of City action.
- B. Such appeal shall be in writing, with the original filed with the City Clerk, and a copy filed at the same time with the Licensing Clerk. Upon receipt of such appeal, the City Clerk shall notify the City Manager and the City Solicitor of such filing and the City Clerk shall forward a copy of the appeal notice to the Hearing Officer, who shall schedule a hearing on such appeal not sooner than 10 nor later than 30 business days following filing. Following a hearing, the Hearing Officer shall submit his/her findings and determination to the City Council following the same general procedures outlined in Article III of this chapter. The Hearing Officer shall transmit his findings of fact and conclusions of law to the City Council within 15 days of the conclusion of the hearing. City Council shall make the final determination by resolution and may, in its discretion, accept, reject, or modify the findings and recommendations of the Hearing Officer.
- C. The Municipal Solicitor or his designee shall represent the City at the hearing of the appeal.

§ 246-11. Notice of appeal; contents.

The notice of appeal to be filed with the City Clerk shall be in writing and shall contain the following:

- A. Name, address, telephone number and email address of the person(s) filing the appeal;
- B. Name, address, telephone number and email address of the managing agent, if any;
- C. Location of the rental property specifying block, lot number and street address;
- D. Number of rental units at that location licensed or intended to be licensed;

E. Specifying the specific grounds for the appeal.

§ 246-12. Term for Annual Rental.

- A. The annual rental license term shall commence on the day that the property passes inspection required by this chapter and shall expire the following year on the last day of the month in which the initial scheduled inspection was scheduled. For example, if the initial scheduled inspection occurred on February 10 of a given year, the rental license shall expire at the end of February of the following year. The initial license term may be for less than 12 months depending upon the date of submission of a completed application, the payment of all fees and other charges and a passing inspection of the rental property by the City.
- B. Initial application. When the Licensing Clerk deems an application for a rental license complete, the rental unit shall be inspected and the owner shall be informed of the scheduled date for inspection, which shall be the initial scheduled inspection date.
- C. If the rental property passes such inspection, the rental license shall be issued and dated as of the date the rental unit passes inspection but shall expire the following year on the last day of the month in which the initial scheduled inspection occurred as provided in Subsection B, above.
- D. If the rental unit fails inspection, a re-inspection will be scheduled. Additional re-inspections may be scheduled as circumstances at the rental unit may require. A rental license shall be issued and dated as of the date the rental unit passes the required inspection but will nevertheless expire the following year on the last day of the month in which the initial scheduled inspection occurred.
- E. Re-inspection. Should the rental property fail inspection, either on an initial application for licensing or upon a renewal application, the owner shall be required to address to the City's satisfaction the reasons for the failed inspection and the rental property will be re-inspected before a rental license is issued by the City and delivered to the owner or owner's agent.
- F. Possession of license required. No rental unit shall be occupied (other than by the owner) until such time as a valid rental license is issued by the City and in the possession of the owner or the owner's agent. On an initial application for a rental license, or pending any renewal application an owner, agent, or realtor may offer the rental unit for lease and may negotiate for the lease thereof but the owner, agent or realtor must condition all such negotiations and any lease agreement, whether oral or written, on the owner's possession of a valid rental license for the subject premises before any actual occupancy of the rental unit may occur. If a rental unit fails the initial inspection and does not pass a re-inspection before the license expires, such rental unit may not be occupied until such time as it passes inspection and the owner is actually in possession of a valid, current rental license.
- G. Expiration of rental licenses. All rental licenses shall expire on the last day of the month of the initial scheduled inspection Date for renewal of rental license.

§ 246-13. Transferability.

In the event that a property containing one or more licensed rental units is sold, assigned or transferred during the license year, the rental license shall not be automatically transferable to the new owner. The new owner shall apply for and pay for license transfer with the municipality before renting of property.

§ 246-14. Inspection; frequency.

Each rental unit shall be inspected at least once in each license year.

§ 246-15. Additional annual inspections.

Rental units shall be inspected prior to a new tenant occupying the rental unit. The owner shall provide notice to the City Licensing Official, not less than 48 hours prior to, of the new tenant move-in date. The rental unit may be inspected pursuant to this chapter prior to the new tenant occupying the rental unit to ensure the rental unit is complying with all ordinances and state regulations. The owner shall be required to cure any violations of state or municipal regulations identified by the City during the inspection prior to the new tenant occupying the property.

§ 246-16. Nature of inspection.

Such inspection shall be carried out in accordance with the following:

- A. All rental units, including those units inspected by the State of New Jersey pursuant to the New Jersey Hotel and Multiple Dwellings Act,¹ shall be cyclically inspected by the City's Bureau of Fire Prevention, the Local Enforcing Agency (LEA) for the New Jersey Division of Fire Safety to determine compliance with the Uniform Fire Safety Act of the State of New Jersey and the International Property Maintenance Code (IPMC) to the extent that same has been adopted by the City, as well as any other code or codes in effect and applicable at the time of any inspection.
- B. Cross reference: Units in a building subject to the New Jersey Hotel and Multiple Dwellings Act which are not rented and which are owner-occupied shall be subject to cyclical inspection by the City's Bureau of Fire Prevention, the Local Enforcing Agency (LEA) for the New Jersey Division of Fire Safety in accordance with the provisions of Chapter 175 of the Brigantine City Code.

§ 246-17. Unoccupied unit(s).

In the event that a rental unit fails to pass inspection, such unit or units shall not thereafter be occupied and the owner of the property, the managing agent or rental agent shall not rent or lease such rental unit, nor permit any tenant to occupy such rental unit until the unit has passed inspection.

§ 246-18. Occupied unit(s).

Whenever a rental unit is occupied by a tenant at the time of the inspection and the rental unit does not pass inspection, said unit may continue to be occupied provided that all such repairs or corrections are made within 30 days of the original inspection. If the nature of the deficiency is such that continued occupancy poses an imminent threat to the safety of the occupants or others, then the appropriate officials may preclude further occupancy of the rental unit until such time as the repairs are satisfactorily made, or the officials may, in the exercise of their sound discretion, reduce the time for making necessary repairs from 30 days to a lesser time depending on the nature and extent of repairs to be made and the nature of the threat. In the event that the necessary repairs are not made within the time period specified herein, then the owner and any tenant occupying the unit thereafter shall be deemed in violation of this article and subject to the penalty provisions hereof. Each and every day that the violation continues shall constitute a separate offense.

§ 246-19. Re-inspection.

- A. Any rental unit that does not pass inspection shall be subject to re-inspection at the expiration of 30 days, or upon the expiration of such shorter time, if applicable. For good cause, the thirty-day period may be extended by the Fire Inspector, with the consent of the Fire Official as herein provided.

- B. The Fire Official may grant extensions of time whenever he shall determine, that despite diligent effort, compliance cannot be accomplished within the time specified in the notice. No extension shall be granted unless it is requested in writing by the owner. A request for extension shall set forth the work which has been accomplished, the work that remains, the reason why an extension is necessary and the date by which the work will be completed. [Source: N.J.A.C. 5:70-2.10(d)]

§ 246-20. License suspended pending repairs.

Upon re-inspection of a rental unit, if it is determined that the necessary repairs have not been made within the time period specified in § 246-19, above, then in such event, the rental license shall be suspended and remain suspended until the necessary repairs have been made and the property re-inspected.

§ 246-21. Evidence of license; decal to be affixed to each rental unit.

In addition to the issuance of a rental license each licensee shall be issued a decal, which shall be permanently affixed to the main door through which access is gained to the rental unit, or in a window in the rental unit, in such a way that the decal is visible from the exterior of the premises in which the rental unit is located. The failure to affix the decal as required by this section shall constitute a violation thereof. The absence of a decal shall constitute prima facie evidence that the rental unit has not been issued a rental license.

§ 246-22. Occupancy prohibited.

No person, other than the owner, shall hereafter occupy, or attempt to occupy, any rental unit, nor shall the owner, managing agent or rental agent permit occupancy or attempted occupancy of any rental unit within the City unless the same has been registered, inspected and licensed in accordance with this chapter.

§ 246-23. Landlord prohibited from leasing unlicensed rental unit.

Any landlord who leases a rental unit while such unit is unlicensed or who represents to any person, including any tenant, realtor, attorney or other agent that such unit is properly licensed, shall be deemed in violation of this article and subject to the fines and penalties herein. Each day that a tenant shall remain in occupancy of such unlicensed rental unit shall be considered a separate and distinct violation of this chapter for which the landlord shall be responsible.

§ 246-24. Occupancy by tenant when unit unlicensed.

Any tenant who knowingly leases and/or occupies an unlicensed rental unit shall be deemed in violation of this chapter and subject to the fines and penalties included herein. Each day such tenant shall remain in occupancy of such unlicensed premises shall be considered a separate and distinct violation of this chapter.

§ 246-25. Agent prohibited from renting unlicensed rental unit.

Any realtor, attorney, or other person who knowingly acts as a representative of the landlord, tenant or both in order to effectuate the leasing and/or occupancy of an unlicensed rental unit, shall be deemed in violation of this chapter and subject to the fines and penalties herein provided. The City will, on request and without charge, provide to each real estate office a list of all rental units which have been licensed.

§ 246-26. Limitations on occupancy.

Each owner granted a license pursuant to this section shall be permitted to lease or rent the rental unit to a maximum specified number of tenants and occupants, including minor children, which number shall not exceed the number which has been computed in accordance with the following:

- A. Every room occupied for sleeping purposes by one occupant shall contain at least the minimum square footage as calculated by the City officials using the standards established by the International Property Maintenance Code.
- B. Rental units shall not be occupied by more than the maximum number of occupants as determined in accordance with Subsection A above, but subject to the provisions of § 246-27.
- C. Prohibited occupancy. Kitchens, uninhabitable spaces, garages and/or detached structures, and interior public areas shall not be occupied for sleeping purposes.

§ 246-27. Maximum number of occupants not to exceed 18.

- A. Notwithstanding any other provision of this chapter, or any other law or ordinance, or any other rule, regulation or code to the contrary, and notwithstanding any method of calculating occupancy authorized by this chapter, no rental property, inclusive of all rental units contained therein, shall have an authorized aggregate maximum permitted occupancy greater than 18 occupants, as provided in the Hotel/Motel Dwelling Law, N.J.S.A. 55:13A-I, et seq.
- B. For purposes of calculating occupancy capacity, each rental unit within a condominium form of ownership is considered a separate rental property. (New Jersey Condominium Act, N.J.S.A. 46:8B-1, et seq.)

§ 246-28. Maximum number of occupants; posting.

The maximum number of occupants shall be posted in each rental unit in a location visible to any occupant of the rental unit. It shall be unlawful for any person or persons to occupy the rental unit in excess of the maximum number permitted. Any person violating this provision shall be subject to the penalty provisions hereof.

§ 246-29. Owner responsibilities; state and municipal registration; maintain tenant register; responsibility form.

- A. Every owner of a rental property or rental unit shall:
 - (1) Comply with the registration requirements of the Landlord Registration Act, N.J.S.A. 46:8-27, et seq., as the same may be amended and supplemented. A completed license application under this chapter shall also serve as a registration pursuant to the New Jersey Landlord Registration Act and the City shall index and file a copy of such license application as required by law. The owner must, however, fully comply with any other requirements of the New Jersey Landlord Registration Act as the same may be amended or supplemented.
 - (2) Comply with New Jersey State law which requires that owners of rental units register such units with either the Municipal Clerk or with the State of New Jersey as follows:
 - (a) Owners of one and two rental units which are owner occupied are exempt from registration under the Landlord Registration Act, N.J.S.A. 46:8-27 et seq., but shall be required to be licensed by the City pursuant to this chapter.
 - (b) Owners of one and two rental units which are not owner occupied are required to register such rental units with the City Clerk or the Clerk's designee under the Landlord Registration Act, N.J.S.A. 46:8-27 et seq., and shall, in addition, be required to be licensed by the City pursuant to this chapter.
 - (c) Owners of three or more rental units shall be required to register such units with the State of New Jersey, Department of Community Affairs, Bureau of Housing Inspection, or such

other or additional department, division or agency as may hereafter be designated by the State of New Jersey. In addition, owners of rental properties containing three or more rental units shall also apply for a rental license from the City in accordance with this chapter.

B. Every owner of a rental property or unit shall have the following further duty and responsibility:

- (1) It shall be the responsibility of the owner or the owner's agent or managing agent to register all tenants in the tenant register and to give a copy of the tenant register to the tenant(s) and to advise the tenant(s) of the requirement that the tenant register be maintained on the rental or leased premises at all times.
- (2) The duty of the owner or managing agent under § 246-29B(1) may be discharged through a realtor or other rental agent provided that such realtor or rental agent agrees, in writing, to discharge that responsibility.

§ 246-30. Tenant responsibilities for annual rental.

Each tenant shall:

- A. Complete and sign the tenant register in accordance with this chapter and maintain and safeguard such tenant register in the rental unit at all times;
- B. Immediately produce the tenant register, at all times, upon the request of City Officials or employees including the Chief of Police or any officer of the Brigantine Police Department or any representative of the licensing, inspection or Fire Prevention departments or divisions of the City of Brigantine or a representative of the Atlantic County Department of Health;
- C. Be responsible for maintaining the rental unit in such manner so as to avoid and prevent said premises from becoming loud or disorderly or a nuisance so as to interfere with the peace and tranquility and quality of life of other nearby residents and visitors. Loud, offensive and disorderly conduct may include excessive noise, unruly behavior, obscene language, fighting, littering, parking of vehicles on lawns and on neighboring property, public urination, poor maintenance of the property and grounds and violation of trash collection and recycling ordinances.
- D. Be responsible for the proper storage and disposal of solid waste and recyclable materials and to do so in accordance with applicable City ordinances;
- E. Comply strictly with the maximum occupancy limits established for each rental unit and shall prevent occupancy by more than the maximum number of occupants permitted.

§ 246-31. Types of fees.

The City shall charge a rental license fee. There is no separate fee for registration of a rental unit pursuant to the New Jersey Landlord Registration Act, N.J.S.A. 46:8-27, et seq. For administrative purposes, bills for rental license fees may be issued in the year preceding the effective date of a fee but shall nevertheless reflect the amount of the fee to be charged for the year designated.

§ 246-32. Time for payment of fees; late payments; refunds prohibited for annual rental.

All license and inspection fees shall be payable to the City as follows:

- A. Initial license application. All fees shall be payable at the time the initial license application is submitted.

- B. Renewal applications. A renewal application and invoice will be mailed to each current license holder during the last three months of the calendar year preceding renewal. Such application together with all fees must be paid not later than December 31 of the year preceding expiration of the license. No inspection of the rental unit(s) will be conducted, however, until the completed renewal application is returned to and all required fees are paid to the Licensing Clerk.
- C. Late payment. If all fees are not paid by December 31, an additional late payment fee of \$50 shall be due and payable together with all other fees. To avoid any late payment fee, the fee (and any renewal application) must be received by the License Clerk by December 31, or the next business day thereafter if December 31 falls on a Saturday, Sunday or legal holiday or it must be postmarked not later than December 31.

§ 246-33. Enforcement.

The provisions of any of the several articles of this chapter shall be enforced by any one or more of the following: the Chief of the Brigantine Police Department or his/her designee, the Construction Code Official, the Fire Official, the Licensing Clerk, Code Enforcement Official and Zoning Official of the City, any employee designated by the City Council, and the Atlantic County Department of Health.

§ 246-34. Rules and regulations.

City Council is authorized to adopt, by resolution, rules and regulations pertaining to the enforcement of this chapter.

§ 246-35. Annual Rental Penalty.

Any person violating any of the provisions of this article shall, upon conviction, be subject to one or more of the following:

- A. For a first offense:
 - (1) A fine not to exceed the sum of \$1,000; and/or
 - (2) Incarceration for a term not to exceed 90 days; and/or
 - (3) A period of community service for a period not exceeding 90 days.
- B. For a second or subsequent offense:
 - (1) A fine in the minimum amount of \$100 and not to exceed the sum of \$2,000; and/or
 - (2) Incarceration for a term not to exceed 90 days; and/or
 - (3) By a period of community service for a period not exceeding 90 days.
- C. For penalties related to Short-Term Rental Properties, § 246-38 (6) and (7) shall control.

§ 246-36. Violations occurring within one year.

Any person convicted of violating this chapter within one year of the date of a previous violation and who was fined for the previous violation, shall be sentenced by the 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 chapter, but shall be calculated separately from the fine imposed for the violation of the chapter. (See N.J.S.A. 40:49-5.)

§ 246-37. Additional penalties.

The foregoing penalties shall be exclusive of, and in addition to, any other penalty or penalties provided in this chapter and the penalties set forth in N.J.S.A. 46:8-35, of the Landlord Registration Act; including but not limited to:

- A. Any administrative penalties contained in:
 - a. The Uniform Fire Safety Act; or
 - b. The Uniform Construction Code (UCC), the International Property Maintenance Code (IPMC) or any other code now in force in the City or which may hereinafter be adopted by the City.

§ 246-38. Short-Term Rentals

1. Nonrefundable Fees:

- A. The license fee shall be \$150 per advertised bedroom.
- B. The license Transfer fee shall be \$150 per occurrence.
- C. Digital Lodging Tax (market place only), 1.25% per online booking.

2. Regulations Pertaining to Short-Term Rentals.

A. Length of rental period.

1. Each owner granted a license pursuant to this section shall be permitted to lease or rent the rental unit for a specified number of nights in accordance with the following:

- a. 1 & 2 Bedroom rental units and owner-occupied duplexes: no minimum rental period is required.
- b. 3 bedroom and greater rental units: No units consisting of 3 bedrooms or greater shall be rented for a period of less than 2 consecutive nights.

B. It shall be unlawful for any owner of any property within the geographic bounds of the City of Brigantine to rent or operate a short-term rental contrary to the procedures and regulations established in this Section or applicable state statute. Failure to make application for, and to obtain issuance of a short-term rental license prior to advertising the rental in print publications or newspapers, on any internet-based booking platforms, or online and/or in the MLS or other real estate listing of a real estate agent licensed by the NJ Real Estate Commission, shall be equivalent to operation of the rental without a license, and shall constitute a violation of this code, and will result in enforcement action and the issuance of a summons, and may subject the rental owner, the rental agent, and the responsible party to issuance of fines and/or penalties. If a property owner's previously approved rental license agreement automatically expires before the property owner can apply for the subsequent year's renewal license, the property owner is permitted to advertise the property for the following year, but remains estopped from renting the property until an annual license is obtain for the following year.

C. Short-term rentals shall only be permitted in the following classifications of property in the City of Brigantine:

1. Condominium units, where the Condominium Association By-Laws or Master Deed expressly permit a short-term rental;
2. Single-family residences; and
3. Multi-family residential dwellings.

D. Notwithstanding the provisions of Subsection B. above, short-term rentals shall not be permitted in hotels or studio hotels; motels; boarding or rooming houses; dormitories; any housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees with or without families; foster homes; public or private clubs; rest homes; halfway houses; transitional housing facility or other facility operated for the care, treatment, or reintegration into society of any person; adult family care homes; assisted living facilities; community residences for developmentally disabled persons; community shelters for victims of domestic violence; nursing homes; any housing operated or used exclusively for religious, charitable or educational purposes; or any housing owned by a governmental or quasi-governmental agency and used to house its employees or for governmental purposes. Furthermore, short-term rental of the following properties is prohibited:

1. Condominiums or townhomes, where the Condominium Association By-Laws or Master Deed, or Condominium Rules and Regulations, do not permit short-term rentals of condominium units in the development;
2. Owner allowed the expiration of the STR license, without having made a timely application for renewal of the license prior to its expiration date; or
3. STR license was suspended or revoked; or
4. Upon sale or transfer of title to the property to any other individual, or entity, whether or not any of the current owner(s) is a principal or member in the grantee entity.

E. In addition to any other licensing requirements set forth in the City Code, the owner of an STRP shall obtain a short-term rental license from the City before renting or advertising for rent any short-term rental. The failure to obtain a valid STR license prior to operating or advertising the short-term rental property in any print, digital, or internet advertisement or web-based platform, and/or in the MLS or any realtor's property listing shall be a violation of this article.

F. No STR license issued under this section may be transferred or assigned or used by any person or entity, other than the owner to whom it is issued, or at any property location or dwelling unit other than the property for which it is issued.

G. Every STR owner must comply with the City's land use regulations and zoning ordinance.

H. The short-term rental license, if issued, shall be valid for the year or partial year for which the applicant has applied, without proration and shall be renewed on an annual basis by submitting a renewal application to the Fire Prevention Office.

I. STRPs shall not advertise in combination with other properties. Advertised occupancies, whether through print publications or newspapers, on any internet-based booking platforms, or online, can only reflect a single property.

J. The short-term rental license shall expire automatically when the short-term rental property is sold, assigned or transferred during the license year. The new owner shall apply for and pay for license transfer in accordance with § 246-38 before renting the property. A new initial application shall be required for any short-term rental that was subject of a license suspension or revocation.

K. Application fees, license fees, and renewal fees of any kind shall not be prorated.

3. Application and inspections.

A. Applicants for a short-term rental license shall submit to the Fire Prevention Office an initial application and any additional documentation as required. The application shall be furnished under oath, on a form provided by the City, accompanied by the nonrefundable initial application fee or renewal application fee. The application shall include:

1. The name, address, telephone number and email address of the owner(s) of record of the dwelling unit for which a license is sought as well as a copy of their driver's license or other valid state identification card;
2. The number and location of all parking spaces available to the premises, which shall include the number of off-street parking spaces and on-street parking spaces directly adjacent to the premises. The owner shall certify that every effort shall be made to avoid and/or mitigate issues with on-street parking in the neighborhood in which the STR is located, resulting from excessive vehicles generated by the STR usage of the property, in order to avoid a shortage of parking for residents in the surrounding neighborhood;
3. The address of the proposed STR unit;
4. If the owner is an LLC, corporation, or partnership, the following information must also be included: individual names of all members of the LLC, principals of corporation, or partners in partnership and the personal contact information, including address and telephone numbers for each of them;
5. The name, address, telephone number and email address of the STR responsible party, which shall constitute his or her seven-day-a-week, twenty-four-hour-a-day contact information;
6. The owner's acknowledgement that owner received a copy of this ordinance, has reviewed the ordinance, understands its requirements, and certifies, under oath as to the accuracy of all information provided in the license application;
7. The owner agrees to use his or her best efforts to assure that use of the premises by all transient occupants will not disrupt the neighborhood, and will not interfere with the rights of the neighboring property owners to the quiet enjoyment of their properties; and
8. A sworn statement shall be required that there have been no prior revocations or suspensions of this or a similar license, in which event a license shall not be issued, which denial may be appealed as provided hereinafter.
9. Attached to and concurrent with submission of the license application described in this section, the owner shall provide:
 - a. Proof of the owner's current ownership of the short-term rental unit;
 - b. Proof of general liability insurance in a minimum amount of \$500,000 including coverage specific to short-term rental activity; and

- c. Written certificates from the STR responsible party that they agree to perform all of the respective duties specified in this section.
 - d. Proof of certified Lead inspection for properties built before 1978.
 - 10. Owner's agreement that all renters of the short-term rental property shall be limited to one (1) vehicle per four occupants of the short-term rental property.
 - 11. Every application for a short-term rental license shall be subject to annual inspections for the STRP's compliance with the City's fire safety regulations and property maintenance code.
 - 12. The City Manager or designee shall have the authority to obtain additional information from the STRP owner or amend the license application to require additional information, as reasonably necessary, to achieve the objectives of this Section.
- B. A physical inspection of the unit by the Fire Prevention Office is required for each application and renewal thereof. If an STRP fails the initial inspection, the owner must make all necessary improvements and call for a re-inspection. Each additional inspection will generate a charge of \$25 for the first re-inspection, and any subsequent re-inspection shall be \$100, which must be paid in advance of the re-inspection(s).
 - C. The owner of the short-term rental must maintain three years of records concerning rental occupancy, including the identity of all transient occupants who have occupied the property, which shall consist of names, ages, addresses and dates of occupancy, which shall be made available upon request of the City.
 - D. The STRP owner must be current with all property taxes, water and sewer utility charges, and electric utility charges assessed to the property prior to issuance of a short-term rental license. In the event any code violations have been issued by the City relating to the STRP, a short-term rental license shall not be issued until such time as all violations are remedied.
 - E. All fines or penalties issued by the Municipal Court of the City of Brigantine for any past violations related to the STRP, including penalties for failure to appear in court, must be satisfied in full prior to the issuance of a short-term rental license.
 - F. The STRP owner shall publish the short-term rental license number issued by the City in every print, digital, or internet advertisement, and/or in the Multiple Listing Service (hereinafter "MLS") or other real estate listing of a real estate agent licensed by the NJ State Real Estate Commission, in which the STRP is advertised for rent.
 - G. No short-term rental property shall be rented to any person under 25 years of age. The primary occupant executing the rental agreement shall be 25 years of age or older and must actually occupy the property during the term of the short-term rental. In the event any occupants are under 18 years of age those occupants shall be the immediate family member or under legal guardianship of the primary occupant or another occupant that is 25 years of age or older. Both the primary occupant executing the short-term rental agreement and the STR owner shall be responsible for compliance with this provision, and both shall be responsible for a violation.
4. Issuance of license and appeal procedure.

- A. Upon submission of a completed initial or renewal application and all required fees and completion of the STR inspection the Fire Prevention Office shall either issue or deny in writing the short-term rental license (with the reasons for a denial being stated therein) with 10 business days.
 - B. In cases where a STR application is denied, the owner shall have 10 calendar days to appeal in writing to the City Manager.
 - C. The City Manager or designee shall hear and decide the appeal within 30 days.
5. Short-Term Rental Operational Requirements.
- A. Short-term rentals must comply with all applicable rules, regulations and ordinances of the City of Brigantine and all applicable rules, regulations and statutes of the State of New Jersey, including regulations governing such lodging uses, as applicable. The STRP owner shall ensure that the short-term rental is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of a short-term rental.
 - B. The owner of a STRP shall not install any advertising or identifying mechanisms, such as signage, including lawn signage, or advertise in print publications or newspapers, on any internet-based booking platforms, or online identifying the property for rent as a short-term rental property intended for high school prom rentals, high school graduation rentals, bachelor and/or bachelorette party rentals, or any group rentals in general.
 - C. Transient occupants of the STRP shall comply with all ordinances of the City of Brigantine including, but not limited to those ordinances regulating noise and nuisance conduct. Failure of transient occupants to comply shall subject the transient occupants, the STRP owner, the STRP responsible party, and the STRP rental agent listed in the short-term rental license application to fines and/or penalties and suspension or revocation of the STRP license.
 - D. The STRP owner shall post the following information in a prominent location within the short term rental property:
 - 1. Owner name; if owner is an entity, the name of a principal in the entity, and phone number for the owner (individual);
 - 2. The name and phone number of the responsible party and the STRP rental agent (as those terms are defined in this Section);
 - 3. The phone numbers for the City of Brigantine's Police Department and Fire Prevention Office;
 - 4. Maximum number of parking spaces available on site;
 - 5. Trash and recycling collection information and all applicable rules and regulations regarding trash disposal and recycling;
 - 6. A Hard Copy of this Ordinance and/or a conspicuous electronic link/QR code to the Brigantine E-360 web page; and
 - 7. Notification that a transient occupant, STRP rental agent, the responsible party or STRP owner may be cited or fined by the City of Brigantine for violations of, and in accordance with any applicable ordinance(s) or laws.
 - E. In the event any complaints are received by the City of Brigantine's Police Department or Fire Prevention Office regarding the short-term rental and/or the transient occupants in the

STRP, and the STRP owner is unreachable or unresponsive, both the responsible party and the STRP rental agent identified in the short-term rental license application shall be responsible for taking any action required to properly resolve such complaints, and shall be authorized by the STRP owner to do so.

- F. While a STRP is rented, the owner, the STRP rental agent, or the responsible party shall be available twenty-four hours per day, seven days per week for the purpose of responding within two (2) hours to complaints concerning the STRP premises, maintenance of the STRP premises, operation of the STRP, or conduct of the STRP occupants, or nuisance complaints arising by virtue of the short-term rental.
- G. Failure to make application for, and to obtain the issuance of, a short-term rental license prior to advertising the STRP in print publications or newspapers, on any internet-based booking platforms, or online, and/or in the MLS or other real estate listing of a real estate agent licensed by the NJ State Real Estate Commission, shall be equivalent to operation of the STRP without a license, and shall constitute a violation of this Section, and will result in enforcement action and the issuance of a summons, and shall subject the STRP owner, the STRP rental agent, and the responsible party to issuance of fines and/or penalties. If a property owner's previously approved rental license agreement automatically expires before the property owner can apply for the subsequent year's annual renewal license, the property owner is permitted to advertise the property for the following year, but remains estopped from renting the property until an annual license is obtain for the following year.
- H. The person offering a dwelling unit for short-term rental use must be the owner of the dwelling unit. A tenant of a property may not apply for a short-term rental license, nor shall the property or any portion thereof be sub-leased by the tenant on a short-term basis, or operated as a STRP by the tenant. This STRP regulation shall supersede any conflicting provision in a private lease agreement permitting sub-leasing of the property, or any portion of the property. Violation of this Section may result in enforcement action against the tenant, the STRP owner, the STRP rental agent, and the responsible party, and will subject all such parties to the issuance of a summons and levying of fines and/or penalties.

6. License Suspension and Revocation.

If the STRP is the subject of five (5) or more substantiated complaints within a calendar year, the City's Manager or his/her designee shall suspend the short-term rental license issued for the STRP for a period of six (6) months. In which case, the STRP may not be the subject of a new STRP license application for six (6) months following the date of revocation of the license. The City Manager or his/her designee shall retain the discretion to revoke a short-term rental license in the event of a single substantiated complaint if, in his/her sole discretion, the interests of the City and its residents justify immediate revocation. In the event that an STRP is the subject of a civil and/or criminal complaint and/or code violation that involves a dangerous condition as defined in this section the City Manager or his/her designee may, at their sole discretion, suspend the STRP's short-term rental license pending substantiation. The City Manager may, under its own discretion, determine the property as a nuisance property as defined under § 246-1 of this Chapter.

Any STRP who has its license(s) suspended twice within a three (3) year period shall have their license(s) suspended for a three (3) year period. The City Manager may, under its own discretion, determine the property as a nuisance property as defined under § 246-1 of this Chapter.

7. Violations and Penalties

- A. A violation of any provision of the within Section may subject the STRP owner, transient occupant(s), the short-term rental property rental agent, and the responsible party or their agents to fines assessed by the Municipal Court up to \$2,000 per violation, per day, that the violation exists.
 - B. The STRP owner, Transient Occupant(s) the Short-Term Property, Rental Agent, and the Responsible Party or their agents shall have thirty (30) days to cure the violation. Within the thirty (30) day period, at the STRP owner, Transient Occupants, the Short-Term Property Rental Agent, and the Responsible Party or their agents' request, they shall be afforded a hearing before a City of Brigantine Municipal Court Judge for an independent determination concerning the violation.
 - C. Subsequent to the expiration of the 30-day period, the fine shall be imposed if a Court has not determined otherwise or upon re-inspection of the property, it is determined that the abatement has not been substantially completed.
8. Any ordinances or parts thereof inconsistent herewith shall be amended and supplemented to conform to the provisions contained herein.
9. If any part of this section is declared unconstitutional or illegal by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.
10. This section shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey, following the required twenty-day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

Article II Revocation or Suspension; Other Disciplinary Action; Procedure; Conditional Renewals

§ 246-39 Grounds for revocation, suspension or probation.

- A. The City may, administratively, decline to issue or renew a rental license in accordance with subsection § 246-9 hereof. An owner shall be entitled to appeal any such decision by the filing of an appeal within the time permitted and in accordance with the procedures set forth in subparagraphs § 246-10 and § 246-11.
- B. The City may also revoke or suspend an issued and outstanding rental license, or place such license in a probationary status. This action shall be in addition to any other penalty prescribed herein, in accordance with the provisions of N.J.S.A. 40:52-2 and N.J.S.A. 40:48-2, upon the happening of one or more of the following:
 - 1) Conviction of the owner(s), or any of them if there is more than one, of a violation of this chapter in the municipal court or other court of competent jurisdiction.
 - 2) Following a determination by the City after a hearing that a violation of this chapter has occurred.
 - 3) If, in any calendar year, there shall be five (5) or more substantiated complaints of conduct upon or in proximity to any rental premises, and attributable to the acts or incitements of any of the tenants of those premises, and such complaints have been substantiated by prosecution and conviction in any court of competent jurisdiction as a

violation of any provision of Title 2C of the New Jersey Statutes or any municipal ordinance governing disorderly conduct.

- 4) A pattern of permitting the rental unit(s) to be occupied by more than the maximum number of occupants as defined herein.
- 5) Maintaining the rental unit or units or the property in which the rental unit is a part in a dangerous condition likely to result in injury to person or property.
- 6) A false, misleading, or fraudulent statement made in connection with the registration, licensing or inspection of a rental unit or units, under this chapter.
- 7) A pattern of conduct which results in creating, maintaining, permitting or suffering the existence of any of the following conditions at or about the rental unit:
 - a. A nuisance as that term is defined by N.J.S.A. 2C:33-12 provided, however, that a conviction of such person or persons under that statute shall not be required in order for the City to take action relating to the rental license under this section;
 - b. The failure to comply with any directive of the City concerning the abatement of conduct prohibited by Subsection B(7)(a), above.
 - c. The failure to comply with City ordinances pertaining to the proper accumulation and disposal of solid waste (trash) and recyclable material or otherwise allowing such materials to accumulate in such a way as to be unsanitary or unsightly.
- 8) If the licensee, who is an owner of the property affected by the license or upon which the licensed business or activity is conducted, has failed to pay the taxes water, sewer or other municipal charges due on the property for at least three consecutive quarters.
- 9) Any other grounds that would be a basis for denial or nonrenewal of a rental license shall also constitute grounds for the revocation or suspension of a rental license or the placing of such license in a probationary status.

Article III Posting Bond Against Consequences of Tenants Behavior

§ 246-57 Definitions.

As used in this article of this chapter:

HEARING OFFICER

A person designated pursuant to this section to hear and determine proceedings pursuant to this section and its enabling legislation N.J.S.A. 40:48-2.12n, et seq. As required by state statute, said Hearing Officer shall be a licensed New Jersey attorney who shall not be an owner or lessee of any real property within the City of Brigantine, nor hold any interest in the assets of or profits arising from the ownership or lease of such property.

LANDLORD

The person or persons who own or purport to own any building in which there is rented or offered for rent housing space for living or dwelling under either a written or oral lease, which building contains no more than four dwelling units. In the case of a mobile home park, "landlord" shall mean the owner of an

individual dwelling unit within the mobile home park. The limitation of not more than four dwelling units is limited solely to the provisions of this Article 4 pertaining to the requirement for posting of a bond by landlords under certain circumstances.

ANNUAL RENTAL

The accessory use of a dwelling unit for occupancy by someone other than the unit's owner or permanent resident for a period of more than thirty (30) consecutive days, up to a cumulative total period not to exceed one (1) calendar year, which dwelling unit is regularly used and kept open as such for the lodging of guests, and which is advertised or held out to the public as a place regularly rented to transient occupants, as that term is defined in this Section. Inspections shall be completed at least once per year.

SUBSTANTIATED COMPLAINT

A complaint which may form the basis for proceedings in accordance with the authority conferred by N.J.S.A. 40:48-2.12(q). A substantiated complaint shall be one in which there was prosecution and conviction in any Court of competent jurisdiction.

Section III

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section IV

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section V

This ordinance shall take effect on January 1, 2024

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the City Council on first reading at a meeting of the City Council of the City of Brigantine held on the 4 day of Oct, 2023, and will be considered for second reading and final passage at a regular meeting of the City Council to be held on the 18 day of Oct, 2023 at 5:00 p.m., at the City Hall, Brigantine, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

City Clerk, City of Brigantine

**CITY OF BRIGANTINE
RESOLUTION NO. 2023-**

**AUTHORIZING EXECUTION OF SHARED SERVICES AGREEMENT
FOR THE PARTICIPATION IN A COUNTY-WIDE REGISTRATION
PROGRAM FOR ABANDONED PROPERTIES**

WHEREAS, there exists within the City of Brigantine the need for a new third-party administrator to develop and/or implement a real property registry and fee collection program in order to identify vacant and abandoned properties in the City of Brigantine, continue to eliminate and prevent community decay, the spread of blight and deterioration of properties in the City of Brigantine; and

WHEREAS, funds are available for this purpose; and

WHEREAS, it is the recommendation of the Common Council of the City of Brigantine that the SHARED SERVICES AGREEMENT FOR THE PARTICIPATION IN A COUNTY-WIDE REGISTRATION PROGRAM FOR ABANDONED PROPERTIES attached hereto as Exhibit "A" be accepted.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Common Council of the City of Brigantine that the Mayor and Municipal Clerk are hereby authorized and directed to execute the SHARED SERVICES AGREEMENT FOR THE PARTICIPATION IN A COUNTY-WIDE REGISTRATION PROGRAM FOR ABANDONED PROPERTIES attached hereto as Exhibit "A".

I, Lynn Sweeney, Municipal Clerk of the City of Brigantine, do hereby certify that the foregoing Resolution was duly adopted at a Regular Meeting of the Common Council of the City of Brigantine, held this 18th day of October 2023.

Lynn Sweeney, RMC
City Clerk

CITY OF BRIGANTINE
RESOLUTION NO. 2023-
A RESOLUTION BY THE CITY OF BRIGANTINE NEW JERSEY
CONFIRMING THE REVIEW & COMPLETION OF CY 2023/SFY 2024 BEST PRACTICES INVENTORY
BRIGANTINE, NEW JERSEY

WHEREAS, the State Fiscal year 2024 Appropriations Act (P.L. 2017, c.99) requires the Division of Local Government Services to determine whether some portion of municipality's state aid will withhold based on the results of a Best Practices Inventory to be completed by each municipality; and

WHEREAS, the City of Brigantine Chief Financial Officer has prepared and submitted the CY2023/SFY 2024 Best Practices Inventory on behalf of the City of Brigantine; and

WHEREAS, to ensure that the Governing Body has been apprised of the response, the completed Best Practices Inventory must be a discussion item at a public meeting of said Governing Body.

NOW, THEREFORE, BE IT RESOLVED that this Resolution shall serve to confirm that a discussion of the CY2023/SFY 2024 Best Practices Inventory was held at the October 18th, 2023 meeting of the City of Brigantine Council.

Certified to be a true copy of a Resolution adopted by the Municipal Council of the City of Brigantine, County of Atlantic and State of New Jersey, on the 18th day of October, 2023

CITY OF BRIGANTINE

Lynn Sweeney, RMC
City Clerk

Albert Stanley
Chief Financial Officer

CITY OF BRIGANTINE
RESOLUTION 2023-

A RESOLUTION BY THE CITY OF BRIGANTINE NEW JERSEY
AUTHORIZING PAYMENT TO ATLANTIC COUNTY FOR WORK PERFORMED AT BRIGANTINE CITY HALL FOR
RECONSTRUCTION OF THE FIRE DEPARTMENT CONCRETE APRON

WHEREAS, The County of Atlantic, State of New Jersey, has entered into a contract, through the public bidding process, and did enter into a contract with South State, Inc for the roadway resurfacing of Brigantine Avenue (CR 638)-Section 2A/B; and

WHEREAS, the City of Brigantine has requested of Atlantic County to amend their contract with South State, Inc. to extend the concrete apron at the Fire House to the front of the building, utilizing the public bid prices from the county project, and

WHEREAS, Atlantic County has agreed to the request from the City of Brigantine,

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the City of Brigantine, State of New Jersey, the City Manager is hereby authorized to enter into an agreement, not to exceed One Hundred and Five Thousand dollars (\$105,000.00), with Atlantic County for the work described above.

Certified to be a true copy of a Resolution adopted by the Municipal Council of the City of Brigantine, County of Atlantic and State of New Jersey, on the 18th day of October, 2023

City of Brigantine

Lynn Sweeney, RMC
City Clerk

Albert Stanley
Chief Financial Officer

CITY OF BRIGANTINE
RESOLUTION NO. 2023-
A RESOLUTION BY THE CITY OF BRIGANTINE NEW JERSEY
AUTHORIZING THE AWARD OF A CONTRACT TO DORAN ENGINEERING, PA
FOR DESIGN, CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE RECONSTRUCTION
OF THE EXISTING GOLF COURSE CART PATH ON THE BACK NINE, BRIGANTINE GOLF LINKS
BRIGANTINE, NEW JERSEY

WHEREAS, The City of Brigantine did accept proposals on September 27, 2023; and

WHEREAS, four (4) bids were received and Doran Engineering, PA, 840 No. Main Street, Pleasantville, NJ, was determined to be the lowest responsible bidder, with a bid of \$37,750.00; and

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the City of Brigantine, County of Atlantic and State of New Jersey, that the bid submitted by Doran Engineering, PA, is hereby determined to be the lowest responsible bid, and is accepted by the city subject to the execution of an appropriate agreement, the posting of Insurance Certificates as required by the bid documents in form acceptable to the Municipal Attorney; and

BE IT FURTHER RESOLVED that Albert Stanley, Chief Financial Officer of the City of Brigantine, does hereby certify that there are adequate funds available in Account #

Certified to be a true copy of a Resolution adopted by the Municipal Council of the City of Brigantine, County of Atlantic and State of New Jersey, on the 18th day of October, 2023

CITY OF BRIGANTINE

Lynn Sweeney, RMC
City Clerk

Albert Stanley
Chief Financial Officer

RESOLUTION NO. 2023-

A RESOLUTION BY THE CITY OF BRIGANTINE AUTHORIZING
AWARD OF CONTRACT FOR FOOD AND BEVERAGES AT THE BRIGANTINE GOLF LINKS
TO THE 19TH HOLE AT THE LINKS LLC

WHEREAS, the City Council of the City of Brigantine authorized the acceptance of proposals for Food and Beverage Services at the Brigantine Golf Links and

WHEREAS, 19TH Hole at The Links LLC was determined the lowest responsible bidder; and

WHEREAS, The City of Brigantine authorizes the City Manager to enter into an agreement with 19th Hole at the Links LLC based on the specifications bid by the 19th Hole at the Links and

WHEREAS, the City Council and Manager recommends awarding 19th Hole at the Links for Food and Beverage Services starting November 1, 2023 to October 31st, 2024; and

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Brigantine, County of Atlantic and State of New Jersey on this 18th day of October 2023:

CITY OF BRIGANTINE

Lynn Sweeney, RMC
City Clerk

Albert Stanley
Chief Financial Officer

Recorded Vote:	MOTIONS	AYE	NAY	ABSTAIN	ABSENT
Sera					
Riordan					
Kane					
Bew					
Lettieri					
Haney					
DeLucry					

**CITY OF BRIGANTINE
RESOLUTION 2023-**

THE CITY COUNCIL OF THE CITY OF BRIGANTINE RESOLVES THAT:

WHEREAS, the City of Brigantine wishes to engage the Professional Services of a Municipal Court Judge; and

WHEREAS, a Municipal Court Judge may serve in accordance with a Professional Service Contract which may be awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(A)(1); and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRIGANTINE THAT:

SECTION I

Timothy P. Maguire, Attorney-at-Law of the State of New Jersey, be and is hereby appointed as the Municipal Court Judge for the City of Brigantine for a term beginning on January 1, 2024 and lasting until December 31, 2026 or until a successor is duly appointed, qualified and sworn, whichever is later.

SECTION II

A Professional Service Agreement and Contract is hereby awarded to said Timothy P. Maguire, Esquire, as follows:

- (A) Nature: Municipal Court Judge
- (B) Duration: From January 1, 2024 through December 31, 2026 or until a successor is duly appointed, qualified and sworn, whichever is later.
- (C) Service and Amount: A Municipal Court Judge shall be compensated as per City of Brigantine Salary Ordinance.

SECTION III

This resolution and the Professional Service Contract, detailing the terms and conditions of service, are to be placed on file and made available for public inspection in the office of the City Clerk of the City of Brigantine. The City Clerk shall cause to be published in the newspaper of the City, a brief notice stating the information contained in this resolution and in the proceeding paragraph, pursuant to N.J.S.A.40A:11-5(1)(A)(1).

SECTION IV

The award of the contract pursuant to this resolution shall be effective upon the certification of availability of funds by the Chief Financial Officer of the City of Brigantine. If said Timothy P. Maguire, Esquire is reappointed at a future date as Municipal Judge, there will be no need to prepare an additional resolution unless the terms and conditions of the contract between Timothy P. Maguire, Esquire and the City of Brigantine are changed in any manner.

This is to certify that the above is a true and lawful copy of a resolution adopted

by the City Council of the City of Brigantine,
County of Atlantic, State of New Jersey, at
it's meeting of October 18, 2023.

Lynn Sweeney, RMC
City Clerk

CITY OF BRIGANTINE

RESOLUTION NO

2023-

CANCELLATION OF OUTSTANDING CHECKS

WHEREAS, there exists an outstanding check in the Bail Accounts of the Brigantine Municipal Court; and

WHEREAS, it has been determined that the outstanding check should be canceled.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the City of Brigantine, County of Atlantic, that the following outstanding check be and hereby cancelled to the cash balance of the City of Brigantine.

Bail Account	check No. 3785	Amount \$ 70.00
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Disbursement Account 2184760	check No. 3868	Amount \$ 70.00
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RESOLUTION 2023 –

WHEREAS, it has been determined by the Brigantine C.E.R. that the individual(s) as indicated on the attached Schedule “A” are being issued a refund for Art Class. WHEREAS, it is the desire of the Council of the City of Brigantine to have these payment(s) Returned to the respective individual(s).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Brigantine, County of Atlantic, State of New Jersey, that:

1. The Financial Department is hereby authorized to refund the amounts shown to the respective applicants as presented in Schedule “A”.
2. Copies of the resolution shall be sent to the Director of the C.E.R.

Schedule A

REFUNDS

2023 Spring Session

Refunds for Art Class

Donna Dykes
203 Roosevelt Blvd.
Brigantine, NJ 08203

Refund for Watercolor Class	\$ 80.00
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TOTAL:	\$ 80.00
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**CITY OF BRIGANTINE
RESOLUTION 2023-**

**TOWNSHIP OF LONG BEACH AND CITY OF BRIGANTINE
SHARED SERVICES AGREEMENT FOR LEGAL SERVICES**

THIS SHARED SERVICES AGREEMENT (“Agreement”), effective upon full execution and adoption of the required resolutions, is by and between the Township of Long Beach (“Township”) and the City of Brigantine (“Brigantine”).

RECITALS

WHEREAS, the Township and Brigantine are authorized pursuant to N.J.S.A. 40A:65-1, *et seq.*, to share certain services, including the sharing of the services provided by municipal employees and officers; and

WHEREAS, pursuant to N.J.S.A. 40A:64-3, “service” means any of the powers, duties, and functions exercised or performed by a local unit by or pursuant to law and “shared service” means any service provided on a regional, joint, interlocal, shared, or similar basis between local units, the provisions of which are memorialized by agreement between the participating local units; and

WHEREAS, the Township awarded a contract for professional legal services to Pashman Stein Walder Hayden, P.C. (“Pashman Stein”), in accordance with and pursuant to the provisions of N.J.S.A. 19:44A-20.5 and N.J.S.A. 40A:11-5(1)(a)(i); and

WHEREAS, the scope and terms of Pashman Stein’s legal representation of the Township are more fully set forth in the engagement letter dated June 2, 2023 (“First Engagement Letter”), including, but not limited to, the hourly rates, the scope of the work and the cap on the professional fees; and

WHEREAS, the First Engagement Letter set forth Pashman Stein’s agreement to provide the Township with legal services relating to the Township’s opposition to the Atlantic Shores offshore wind project, including the drafting, preparation, and filing of objections to the New Jersey Department of Environmental Protection (“NJDEP”) on or before the NJDEP deadline (collectively “Phase I Legal Services”); and

WHEREAS, the Boroughs of Barnegat Light, Beach Haven, Harvey Cedars, Ship Bottom, and Surf City (collectively “Island Municipalities”) entered into a shared service agreements (collectively “First Shared Service Agreement”) with the Township (as lead agency) to participate in and contribute to the Phase I Legal Services provided by Pashman Stein and otherwise retained the legal services of Pashman Stein as a special counsel; and

WHEREAS, the Phase I Legal Services have concluded; and

WHEREAS, the Township has agreed to secure additional legal services from Pashman Stein relating to the Township's opposition to the Atlantic Shores offshore wind project, specifically (i) the filing of a lawsuit seeking a declaration that the NJDEP is not impartial and seeking an order directing a plenary hearing before an administrative law judge and (ii) submit a supplemental comments letter providing the NJDEP with the visual impact study and other information by the October 19, 2023 filing deadline (collectively "Phase II Legal Services"); and

WHEREAS, the Island Municipalities and Brigantine have indicated a desire to participate and contribute to the Phase II Legal Services secured by the Township; and

WHEREAS, the scope and terms of Pashman Stein's amended representation of the Township are more fully set forth in the engagement letter dated October 16, 2023 ("Second Engagement Letter"), including, but not limited to, the hourly rates, the scope of the work and the cap of the professional fees; and

WHEREAS, no expert fees or additional professional fees shall be authorized without the prior written approval of the Township; and

WHEREAS, Brigantine desires to participate in and contribute to the scope of Legal Services set forth in the Second Engagement Letter with the Township designated as the lead agency pursuant to the terms set forth herein; and

WHEREAS, each of the municipalities have retained Pashman Stein as special counsel for the Phase I Legal Services and intend to amend the terms of Pashman Stein's legal representation to include the Phase II Legal Services in accordance with the terms of this Second Engagement Letter and this Agreement.

NOW, THEREFORE, BE IT RESOLVED, based upon the foregoing Recitals, which are incorporated herein and made material terms of this Agreement by reference, and in consideration of the mutual promises and representations set forth herein, the Township and Brigantine hereby and expressly agree as follows.

1. Lead Agency. The Township shall continue as the lead agency for the Phase II Legal Services and has and shall continue to direct and coordinate the Phase II Legal Services. Pashman Stein shall be the designated special legal counsel for the Township, Brigantine, and all municipalities that execute this Agreement for the Phase II Legal Services pursuant to and in accordance with the Rules of Professional Conduct.
2. Retention of Pashman Stein. Brigantine agrees to and does retain the legal services of Pashman Stein pursuant to and in accordance with the terms of the Engagement Letter, which is incorporated herein and made material terms of this Agreement by reference and Brigantine shall adopt a resolution authorizing this Agreement and a Resolution setting forth the retention of Pashman Stein in accordance with all applicable regulations.
3. Fees and Consideration. The Township shall pay and be responsible for the payment of the legal fees and costs pursuant to the Engagement Letter and Brigantine shall be responsible

for payment and contribution of \$10,000.00 to the Township for the Legal Services on or before February 1, 2024.

IN WITNESS WHEREOF, the Parties hereto have hereunto set their hands and seals the day and date first written above.

TOWNSHIP

Danielle La Valle
Municipal Clerk

Joseph Mancini
Mayor, Township of Long Beach

City of Brigantine

City Clerk, Lynn Sweeney, RMC
Municipal Clerk

Vince Sera
Mayor

CITY OF BRIGANTINE
BOND ORDINANCE NO. 15 OF 2023

BOND ORDINANCE PROVIDING FOR VARIOUS
IMPROVEMENTS TO THE WATER UTILITY SYSTEM IN
AND BY THE CITY OF BRIGANTINE, IN THE COUNTY OF
ATLANTIC, NEW JERSEY, APPROPRIATING \$7,112,000
THEREFOR AND AUTHORIZING THE ISSUANCE OF
\$7,112,000 BONDS OR NOTES OF THE CITY TO
FINANCE THE COST THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGANTINE, IN
THE COUNTY OF ATLANTIC, NEW JERSEY (not less than two-thirds of all members
thereof affirmatively concurring) AS FOLLOWS:

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the City of Brigantine, in the County of Atlantic, New Jersey (the "City"). For the several improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$7,112,000. No down payment is required as the purposes authorized herein are deemed self-liquidating and the bonds and bond anticipation notes authorized herein are deductible from the gross debt of the City, as more fully explained in Section 6(e) of this bond ordinance.

Section 2. In order to finance the cost of the several improvements or purposes, negotiable bonds are hereby authorized to be issued in the principal amount of \$7,112,000 pursuant to the New Jersey Local Bond Law (N.J.S.A. 40A:2-1 et seq.) (the "Local Bond Law"). In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

<u>Purpose</u>	<u>Appropriation & Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds & Notes</u>	<u>Period of Usefulness</u>
a) Increase water main size at various areas, including all work and materials necessary therefor and incidental thereto.	\$1,150,000	\$1,150,000	40 years
b) The removal and replacement of the Bayshore water line, including all work and materials necessary therefor and incidental thereto.	\$950,000	\$950,000	40 years
c) The removal and replacement of water mains, including all work and materials necessary therefor and incidental thereto.	\$1,150,000	\$1,150,000	40 years

d) The replacement of various fire hydrants and water valves, including all work and materials necessary therefor and incidental thereto.	\$581,000	\$581,000	15 years
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e) Wells and pump stations rehabilitation (5 & 6), including all work and materials necessary therefor and incidental thereto.	\$2,700,000	\$2,700,000	20 years
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f) Emergency infrastructure repairs to the Water Utility System, including all work and materials necessary therefor and incidental thereto.	<u>\$581,000</u>	<u>\$581,000</u>	15 years
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Total:	<u>\$7,112,000</u>	<u>\$7,112,000</u>	
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Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date, unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the

provisions of the Local Bond Law or other applicable law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The City hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the City is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are improvements or purposes that the City may lawfully undertake as self-liquidating purposes of a municipal public utility. No part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 28.32 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$7,112,000, but that the net debt of the City determined as provided in the Local Bond Law is not increased by this bond ordinance. The obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$762,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purposes or improvements.

(e) This bond ordinance authorizes obligations of the City solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for purposes that are deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-47(a) and are deductible from the gross debt of the City pursuant to N.J.S.A. 40A:2-44(c).

Section 7. The City hereby declares the intent of the City to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes

described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of the Treasury Regulations.

Section 8. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the City is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the City and to execute such disclosure document on behalf of the City. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the City pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the City and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the City fails to comply with its undertaking, the City shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the City are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the City,

and the City shall be obligated to levy *ad valorem* taxes upon all the taxable property within the City for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Introduction: October 16, 2023

Adoption: November 1, 2023

Lynn Sweeney, RMC, City Clerk

Vince Sera, Mayor

CITY OF BRIGANTINE

ORDINANCE NO. 16 OF 2023

BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE CITY OF BRIGANTINE, IN THE COUNTY OF ATLANTIC, NEW JERSEY, APPROPRIATING \$12,495,920 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$11,871,124 BONDS OR NOTES OF THE CITY TO FINANCE PART OF THE COST THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGANTINE, IN THE COUNTY OF ATLANTIC, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the City of Brigantine, in the County of Atlantic, New Jersey (the "City") as general improvements. For the several improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$12,495,920, and further including the aggregate sum of \$624,796 as the several down payments for the improvements or purposes required by the New Jersey Local Bond Law (N.J.S.A. 40A:2-1 et seq.) (the "Local Bond Law"). The down payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the several down payments, negotiable bonds are hereby authorized to be issued in the principal amount of \$11,871,124 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

<u>Purpose</u>	<u>Appropriation & Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds & Notes</u>	<u>Period of Usefulness</u>
a) <u>Administration</u>			
1) The acquisition of servers and information technology equipment, including all related costs and expenditures incidental thereto.	\$28,000	\$26,600	7 years
2) The acquisition of furniture and other equipment, including all related costs and expenditures incidental thereto.	\$26,000	\$24,700	5 years
3) The acquisition of a camera and sound system, including all related costs and expenditures incidental thereto.	\$58,000	\$55,100	10 years

b) **Police**

1)

Server/hardware/software upgrades and the acquisition of information technology equipment and computers, including all related costs and expenditures incidental thereto and further including all work and materials necessary therefor and incidental thereto.

\$135,000

\$128,250

7 years

2) The acquisition of conducted energy devices (tasers) and radio upgrades, including all related costs and expenditures incidental thereto and further including all work and materials necessary therefor and incidental thereto.

\$90,000

\$85,500

10 years

3) The acquisition of police vehicles and equipment therefor, including all related costs and expenditures incidental thereto.

\$200,000

\$190,000

5 years

c) **Fire**

1) The acquisition of an ambulance (Rescue 3) and a fire prevention vehicle, including all related costs and expenditures incidental thereto.

\$380,000

\$361,000

5 years

2) The acquisition and installation of personnel

lockers, including all related costs and expenditures incidental thereto and further including all work and materials necessary therefor and incidental thereto.

\$20,000

\$19,000

15 years

d) **Department of Public Works**

The acquisition and installation of an outfall pike (Elks) and drainpipes at McDermott Place and Sheridan Boulevard, including all related costs and expenditures incidental thereto and further including all work and materials necessary therefor and incidental thereto.

\$890,000

\$845,500

40 years

e) **Roads**

Access road drainage and irrigation improvements, the reconstruction of 28th Street (Brigantine Avenue to Revere Boulevard) and improvements to Washington Circle (Circle to Sheridan Boulevard), including all work and materials necessary therefor and incidental thereto.

\$1,770,720

\$1,682,184

10 years

f) **Concrete**

Concrete work to the Fire House apron, 38th Street to Harbor Beach Boulevard, 14th Street (North Well Site) and 14th Street (South Well Site), including all work and materials necessary therefor and incidental thereto.

\$520,800

\$494,760

10 years

g) **Bulkhead**

1) Bulkhead improvements at Pepper Cove and various other locations, including all work and materials necessary therefor and incidental thereto.

\$224,000

\$212,800

15 years

h) **Sanitary Sewer**

1) The construction of a South End lift station and sanitary sewer pump stations, including all work and materials necessary therefor and incidental thereto.

\$1,780,000

\$1,691,000

20 years

2) The replacement of sewer lines at various locations, including all related costs and expenditures incidental thereto and further including all work and materials necessary therefor and incidental thereto.

\$572,000

\$543,400

40 years

i) **Public Grounds and Recreation**

The replacement of netting, the construction of batting cages, updates to stadium lights at all fields, improvements to the tennis/pickle ball building and restrooms and the installation of a miniature golf course on 15th Street, including all work and materials necessary therefor and incidental thereto.

\$1,562,400

\$1,484,280

15 years

j) **Building**

1) Improvements to the

beach restrooms, the construction of new restrooms at the golf course, improvements to the Department of Public Works Building and heating, ventilation and air-conditioning improvements to City Hall Complex, Police and Fire Buildings and the Library, including all work and materials necessary therefor and incidental thereto.

\$3,678,000

\$3,494,100

15 years

2) Various improvements to the fire house, including all work and materials necessary therefor and incidental thereto.

\$130,000

\$123,500

5 years

k) Equipment/Vehicles

The acquisition of a bucket truck, a trash truck and sport utility vehicles for Public Works, including all related costs and expenditures incidental thereto.

\$310,000

\$294,500

5 years

l) Beach Patrol

The acquisition of a medic truck, a ranger Polaris, a command vehicle, a waverunner and a lifeguard boat, including all related costs and expenditures incidental thereto.

\$121,000

\$114,950

5 years

Total

\$12,495,920

\$11,871,124

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the down payment for each purpose.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date, unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law or other applicable law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The City hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the City is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital

or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

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

(b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 16.62 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$11,871,124, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$1,108,920 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purposes or improvements.

Section 7. The City hereby declares the intent of the City to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance

and to use the proceeds to pay or reimburse expenditures for the costs of the purposes or improvements described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of the Treasury Regulations.

Section 8. Any grant moneys received for the purposes or improvements described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the City is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the City and to execute such disclosure document on behalf of the City. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the City pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the City and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the City fails to comply with its undertaking, the City shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the City are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the City,

and the City shall be obligated to levy *ad valorem* taxes upon all the taxable property within the City for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Introduction: October 20, 2023

Adoption: November 1, 2023

Lynn Sweeney, RMC, City Clerk

Vince Sera, Mayor