



**City of Lambertville
Regularly Scheduled Council Meeting
December 15, 2022, 7:00 P.M.
Phillip L. Pittore Justice Center
25 South Union Street, Lambertville
AGENDA**

1) STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT

This meeting is being held in compliance with the Open Public Meetings Act with the meeting notice provided to the Hunterdon County Democrat, the Trenton Times, various individuals on the list serve, department heads and the City Engineer and City Attorney.

This meeting will be recorded and streamed live using the Zoom Meeting Platform.

The meeting agenda offers the planned action items of the Governing Body to the extent known at the time of publication.

2) ROLL CALL

Councilwoman Lambert, Councilman Sanders, Councilman Stegman, Council President Taylor, Mayor Nowick

3) PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

4) APPROVAL OF THE MEETING MINUTES

- a) November 12, 2022 Meeting Minutes
- b) November 17-2022 Meeting Minutes
- c) November 17-2022 Closed Session Minutes
- d) December 1, 2022 Meeting Minutes
- e) December 1, 2022 Closed Session Minutes

5) RESOLUTIONS – CONSENT AGENDA

The following resolutions on a consent agenda are considered routine and shall be enacted by one motion. Should any member of City Council seek separate discussion of any item, that item shall be removed and discussed separately.

RESOLUTION NUMBER 204-2022: A Resolution to Authorize the Refund of An Overpayment in Property Taxes to Heritage Abstract Company in the Amount of \$1,413.53 for 72 North Franklin Street.

RESOLUTION NUMBER 204-2022

A Resolution to Authorize the Refund of An Overpayment in Property Taxes to Heritage Abstract Company in the Amount of \$1,413.53 for 72 North Franklin Street

NOW THEREFORE BE IT RESOLVED that the governing body in the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that the following refund of an overpayment of taxes to Heritage Abstract Company for an overpayments of second quarter property tax for 72 North Franklin Street in the amount of \$1,413.53 hereby authorized.

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ADOPTED: December 15, 2022

RESOLUTION NUMBER 205-2022: A Resolution to Authorize Refunds for Bulk Garbage Permits, Construction Permits and a Historic Preservation Application Fee, and Facility Use Deposits

RESOLUTION NUMBER 205-2022

A Resolution to Authorize Refunds for Bulk Garbage Permits, Construction Permits and a Historic Preservation Application Fee

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that the following refunds of permits and application fees are here by authorized:

Bulk Garbage Permits: Bill Linderman in the amount of \$50.00

Kevin Gillen in the amount of \$90.00

Construction Permit: Custom Cooling in the amount of \$259.00
(12 Buttonwood Street, Block 1009, Lot 12)

Chimney & Fire, 251 N. Union Street, Block 1005 Lot 11 in the amount of \$136.00

Application Fee to Historic Preservation: Thomas Murphy in the amount of \$50.00

Facility Use Deposit to Rock Creek Woods HOA in the amount of \$250.00

ADOPTED: December 15, 2022

RESOLUTION NUMBER 206-2022: A Resolution to Authorize the Contract with Lt. Robert Brown for 2023.

RESOLUTION NUMBER 206-2022

Resolution to Authorize the Mayor, City Attorney, and City Clerk to Execute the Contract with Lt. Brown for One-Year.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that the one-year contract with Robert Brown, with a 2% increase in salary and longevity, to serve as Officer-in-Charge and Lieutenant for the Police Department.

ADOPTED: December 16, 2021

- 6) **BILLS LIST**
- 7) **ORDINANCES FIRST READING/INTRODUCTION** – None.
- 8) **ORDINANCES IN DRAFT FORM:**

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ORDINANCE NUMBER XX-2022: *An Ordinance to Revise the Lambertville City Code, 2014, Chapter XX, Flood Damage Prevention, Incorporating the Mandated Higher State Standards Found in the Flood Hazard Area Control Act. See 08-19-2022 Letter from NJDEP.*

ORDINANCE NO. XX-XX

ON ORDINANCE BY THE CITY COUNCIL OF THE CITY OF LAMBERTVILLE AMENDING THE CITY OF LAMBERTVILLE CODE OF ORDINANCES TO REPEAL CHAPTER 19; TO ADOPT A NEW CHAPTER 19; 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 Lambertville 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 Lambertville was accepted for participation in the National Flood Insurance Program on April 1, 1981 and the City Council of the City of Lambertville desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59, 60, 65 and 70 as necessary for such participation; and

WHEREAS, the City of Lambertville 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 Lambertville 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

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WHEREAS, the City of Lambertville 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 City Council of

The City of Lambertville 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 19 of the Ordinances of the City of Lambertville.

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 The City of Lambertville (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.

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- (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 Lambertville administer and enforce the State building codes, the City Council of The City of Lambertville 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 \$2000, imprisonment for a term not

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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 \$2000 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.

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102.2 Establishment of Flood Hazard Areas. The City of Lambertville was accepted for participation in the National Flood Insurance Program on April 1, 1981.

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 City Hall of the City of Lambertville.

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 (FIS) dated May 12, 2012 and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 102.2(1) whose effective date is September 25, 2009** are hereby adopted by reference.

Table 102.2(1)

Map Panel #	Effective Date	Suffix	Map Panel #	Effective Date	Suffix
34019C0339G	May 2, 2012				
34019C0402G	May 2, 2012				
34019C0406F	September 25, 2009				

- 2) **Federal Best Available Information.** The City of Lambertville 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)

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Map Panel #	Preliminary Date	Map Panel #	Preliminary Date
N/A			

- 3) **Other Best Available Data.** The City of Lambertville shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the City of Lambertville. Other “best available information” may not be used which results in less restrictive flood elevations, design standards, or smaller flood hazard areas than the sources described in Section 102.2 (1) and (2), above. This information shall be used for floodplain regulation purposes only.

Table 102.2(3)

Map Description	Ordinance Number	Date Effective	Date Withd Ordinance N

- 4) **State Regulated Flood Hazard Areas.** For State regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the “Flood Hazard Area Control Act Design Flood Elevation”, as defined in Section 201, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the Special Flood Hazard Areas (SFHAs) as identified by FEMA. The following is a list of New Jersey State studied waters in this community under the FHACA, and their respective map identification numbers.

Table 102.2(3 or 4) List of State Studied Waters

Name of Studied Water	File Name	Map Number

- 5) The most restrictive 0.2% annual chance (500 year) flood area, based on the effective or preliminary FEMA flood study, is adopted by this ordinance for consideration when establishing the Best Available Flood Hazard Data Area and shall be considered the Special Flood Hazard Area.

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- 6) The 0.2% annual chance (500 year) flood zone shall only apply to properties with a Substantial Damage determinations, and to new construction for full compliance, it shall not apply to Substantial Improvement determinations. All properties within the 1% (100 year) area shall comply with this ordinance in its entirety. Repetitive Loss properties in the 0.2% zone shall comply with equipment elevations specified in section 801.2 g. in this ordinance
- 7) Elevation requirements shall always be 1 foot higher than the currently adopted NJDEP design flood elevation and freeboard.

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 of freeboard above the currently adopted NJDEP Design Flood Elevation and freeboard; or
- 2) For any undelineated watercourse (where mapping or studies described in 102.2 (1) and (2) above are not available) that has a contributory drainage area of 50 acres or more, the applicants must provide one of the following to determine the Local Design Flood Elevation:
 - a. A copy of an unexpired NJDEP Flood Hazard Area Verification plus one foot of freeboard above the currently adopted NJDEP Design Flood Elevation and freeboard, and any additional freeboard as required by ASCE 24; or
 - b. A determination of the Flood Hazard Area Design Flood Elevation using Method 5 or Method 6 (as described in N.J.A.C. 7:13) plus one foot of freeboard above the currently adopted NJDEP Design Flood Elevation and freeboard and any additional freeboard as required by ASCE 24. Any determination using these methods must be sealed and submitted according to Section 105.2-3.
- 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 above the currently adopted NJDEP Design Flood Elevation and 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

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Area Design Flood Elevation with an additional 2 feet of freeboard above the currently adopted NJDEP Design Flood Elevation and freeboard and in accordance with ASCE 24.

- 5) Class III Critical Facilities - For proposed development of new and substantially improved Flood Design Class III 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 1 foot of freeboard above the currently adopted NJDEP Design Flood Elevation and freeboard, and in accordance with ASCE 24.

SECTION 103 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

103.1 Floodplain Administrator Designation. The person currently appointed by the City Council of the City of Lambertville is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate 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

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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 The City of Lambertville 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 another 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,

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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.

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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. **103.12 reserved.**~~

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

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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 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. To provide uniformity in all determinations, the market value of the structure shall be the tax assessed value plus any percentage used by the tax assessor in determining that value.
- (2) Determine and include the costs of all ordinary maintenance and minor work, as discussed in Section 102.2, 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. This determination requires the evaluation of current permits issued for improvements and repairs over the previous year prior to the permit application or substantial damage determination as specified in the definition of substantial improvement.
- (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 in writing 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.

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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

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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. reserved~~
- (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. reserved~~
- (8) Existing and proposed alignment of any proposed alteration of a watercourse.
- (9) Floodproofing certifications, Breakaway Wall Certifications, Operations and Maintenance Plans, Warning and Evacuation Plans and other documentation required pursuant to FEMA publications.

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

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

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

105.3 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 105.4 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

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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 105.4 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: reserved~~
- (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).

105.4 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.

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- 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 Zoning Board of Adjustments shall hear and decide requests for variances. The Zoning Board of Adjustments 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 Zoning Board of Adjustments 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 through the Floodplain Administrator 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 105.3(1) of these regulations.

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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

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\$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 \$2000 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.

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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

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confinement buildings, poultry houses, dairy operations, similar livestock operations and any structure that represents more than a minimal investment must meet the elevation or dry-floodproofing requirements of 44 CFR 60.3(c)(3).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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ENCROACHMENT – The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

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

FLOOD OR FLOODING

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

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

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

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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.

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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 City Council of the City of Lambertville 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

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- 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

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community must maintain. Any LOMR-F should be noted on the community's master flood map and filed by panel number in an accessible location.

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

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

LOCAL DESIGN FLOOD ELEVATION (LDFE) – The elevation reflective of the most recent available preliminary flood elevation guidance FEMA has provided as depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM which is also inclusive of freeboard specified by the New Jersey Flood Hazard Area Control Act and Uniform Construction Codes and any additional freeboard specified in a community's ordinance. In no circumstances shall a project's LDFE be lower than a permit-specified Flood Hazard Area Design Flood Elevation or a valid NJDEP Flood Hazard Area Verification Letter plus the freeboard as required in ASCE 24 and the effective FEMA Base Flood Elevation.

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

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

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

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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 the tax assessment value adjusted to approximate market value by a factor provided by the Tax Assessor employed by the City of Lambertville.**

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

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

ORDINARY MAINTENANCE AND MINOR WORK – This term refers to types of work excluded from construction permitting under N.J.A.C. 5:23 in the March 5, 2018 New Jersey Register. Some of these types of work must be considered in determinations of substantial improvement and substantial damage in regulated floodplains under 44 CFR 59.1. These types of work include but are not limited to replacements of roofing, siding, interior finishes, kitchen cabinets, plumbing fixtures and piping, HVAC and air conditioning equipment, exhaust fans, built in appliances, electrical wiring, etc. Improvements necessary to correct existing violations of State or local health, sanitation, or code enforcement officials which are the minimum necessary to assure safe living conditions and improvements of historic structures as discussed in 44 CFR 59.1 shall not be included in the determination of ordinary maintenance and minor work.

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

REPETITIVE LOSS – **Any flood-related damage sustained by a structure on two separate occasions during any 10 year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds \$1500.**

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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

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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-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. The period of accumulation includes all work done or proposed within one year of the application to repair, restore or improve the structure. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. This term also includes structures which have incurred “repetitive loss” or “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

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- b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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

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

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

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

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

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

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

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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 105.3(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 105.3(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.

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 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.

401.3 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.

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

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

401.6 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.

401.7 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.

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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.

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:

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- (1) Be located and constructed to minimize flood damage;
- (2) Meet the limitations of Section 105.3(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 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

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- 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 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;
 - f. For new construction or substantial improvements, enclosures shall be less than 295 square feet in size.
 - g. For all repetitive loss properties, as defined in this ordinance and where technically feasible, electrical, heating, ventilation, plumbing and air-conditioning equipment, generators, and other service facilities shall be elevated to one foot above the currently adopted NJDEP Design Flood Elevation and freeboard, and any additional freeboard as required by ASCE 24

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

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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 105.3(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 105.3(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 105.3(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.

- (1) For any railroad, roadway, or parking area proposed in a flood hazard area, the travel surface shall be constructed at least one foot above the Flood Hazard Area Design Elevation in accordance with N.J.A.C. 7:13.
- (2) Roads and watercourse crossings that encroach into regulated floodways or riverine waterways with base flood elevations where floodways have not been designated, including roads, bridges, culverts, low- water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, shall meet the requirements of Section 105.3(1) of these regulations.

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 105.3(1) of these regulations.

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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

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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 on **{insert date}**.

[Jurisdiction to add signature blocks.]

9) ORDINANCES SECOND READING/PUBLIC HEARING

ORDINANCE NUMBER 32-2022: *An Ordinance to Amend the Salary & Wage Ordinances to Include the Following New Positions: MS4-Tier A Coordinator, Public Works Laborer Part-Time*

City of Lambertville

ORDINANCE NUMBER 32-2022

“AN ORDINANCE TO AMEND THE SALARY RANGE FOR THE OFFICIALS AND EMPLOYEES OF THE CITY OF LAMBERTVILLE, COUNTY OF HUNTERDON, STATE OF NEW JERSEY”

BE IT ORDAINED by the Mayor and Council of the City of Lambertville, County of Hunterdon, State of New Jersey as follows:

SECTION ONE: The following shall be the range of compensation for the officials and employees of the City of Lambertville not covered by separate bargaining units:

- Municipal Stormwater Program Coordinator, Salary Range: \$1,00 - \$10,000.00
- Municipal Stormwater Program Coordinator, Assistant: Salary Range: \$2,500 - \$5,000
- Public Works Laborer Part-Time, Salary Range: \$15.00 – 18.50 per hour

INTRODUCED: November 17, 2022

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ADOPTED: December 15, 2022

ORDINANCE NUMBER 33-2022: An Ordinance to Amend the Lambertville City Code, 2014, Chapter VII to include a Handicapped Parking Space in Front of 142 South Main Street Requested by Pauline Rocco.

ORDINANCE NUMBER 33-2022

An Ordinance to Amend the Lambertville City Code 2014, Chapter 7, Section 4-7, Parking Restricted for Use by Handicapped Persons to Add Handicapped Parking in Front of 142 South Main Street

NOW THEREFORE BE IT RESOLVED that the application for a handicapped parking space in front of 142 South Main Street by Pauline Rocco is authorized as follows:

in Front of 142 South Main Street

INTRODUCED: November 17, 2022

PUBLIC HEARING AND ADOPTION: December 15, 2022

ORDINANCE NUMBER 34-2022: An Ordinance of the City of Lambertville re-authorizing the sale of City-owned real property no longer necessary for a public purpose and establishing the procedures therefore, concerning Block 1070, Lot 13 on the tax maps of the City, more commonly known as 150 Swan Street.

ORDINANCE NUMBER 34-2022

An Ordinance of the City of Lambertville re-authorizing the sale of City-owned real property no longer necessary for a public purpose and establishing the procedures therefore, concerning Block 1070, Lot 13 on the tax maps of the City, more commonly known as 150 Swan Street.

WHEREAS, the City of Lambertville (the "City"), a municipal corporation of the State of New Jersey, owns real property shown on the City Tax Maps as Block 1070, Lot 13, more commonly known as 150 Swan Street (the "Property"); and

WHEREAS, the City has taken inventory of the vacant lots it owns within the City that are under-sized, without capital improvements, and not necessary for public use; and

WHEREAS, the City has identified the Property as not necessary for public use, and determined that the sale of such Property will return it to the tax rolls of the City, thereby creating revenue for the City; and

WHEREAS, the Governing Body of the City (the "Governing Body") has determined that it is in the best interests of the City to offer the Property for sale pursuant to N.J.S.A. 40:12-1, et seq.; and

WHEREAS, in consequence, the Governing Body has determined that it is in the best interests of the City to offer the Property for sale to the highest bidder pursuant to N.J.S.A. 40A:12-1 et seq., the New Jersey Local Lands and Buildings Law ("LLBL"); and

WHEREAS, N.J.S.A. 40A:12-13 within the LLBL authorizes, among other things, the City to sell municipally owned real property or capital improvement not needed for public use at public auction and sale to a private person, upon specified terms and conditions; and

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WHEREAS, on May 19, 2022, the Governing Body adopted Ordinance Number 10-2022, which authorized the sale of the Property to the highest bidder at public auction and sale; and

WHEREAS, on August 4, 2022, the City conducted a public auction for sale of the Property, and did not receive any bids; and

WHEREAS, based on the foregoing, the Governing Body desires to re-authorize the sale of the Property to the highest bidder at public auction and sale (the "Purchaser"), all consistent with the terms and conditions set forth herein below.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Lambertville, as follows:

1. The aforementioned Recitals are incorporated herein as though fully set forth at length.
2. The following conditions apply to the within action by the Governing Body:
 - A. A sign shall be posted on the Property advising that the Property is for sale.
 - B. The public sale, if not canceled, shall take place by open public sale at auction to the highest bidder at a date and time set forth in the public notice to be published in accordance with the requirements of N.J.S.A. 40A:12-13(a) and as more particularly described in subsection M., below.
 - C. The City shall have the right to remove the Property from the auction for any reason whatsoever until the time of the auction. Notice of such removal will be posted prior to the commencement of the auction.
 - D. The Property shall be sold subject to 2022 taxes, pro-rated from the date of sale.
 - E. The City may, at its discretion, reject all bids.
 - F. Potential Bidders are advised: (1) to conduct all necessary title searches prior to the date of the sale; (2) that the description of the Property is intended as a general guide only and may not be accurate; (3) no representations of any kind are made by the City as to the condition of the Property which is being sold in its present condition, "as is"; (4) that the sale is made subject to all applicable laws, statutes, regulations, and ordinances of the United States, State of New Jersey, and the City of Lambertville.
 - G. At the conclusion of the auction, the successful bidder shall provide a deposit of 10% of the bid by certified check or money order and shall execute an Agreement of Sale. Said Agreement of Sale shall be binding upon the high bidder until such time that the Governing Body either: (1) does not accept the bid in which case bidders deposit will be returned; or (2) accepts the bid whereupon the City shall execute the Agreement of Sale and both parties shall be held bound by the terms and conditions contained therein. The balance of the purchase price shall be paid at closing which shall occur not later than sixty (60) days following the acceptance of the bid by the City. The purchaser shall be entitled to possession immediately following closing of title.
 - H. At the conclusion of the auction, the successful bidder shall also provide a deposit of \$500.00 dollars by certified check or money order as a deposit on all applicable fees and City costs related to the sale of the property.
 - I. In the event the City is unable to convey clear and marketable title, insurable at regular rates by a title insurance company licensed to do business in the State of New Jersey, the City will forthwith return to the purchaser any and all deposit moneys previously submitted by the

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purchaser, and neither party shall have any further rights against the other. The acceptance of a deed by the purchaser from the City shall extinguish any claims that said purchaser may have against the City in connection with the quality of title conveyed.

J. The Property herein sold is subject to any existing encumbrances, liens, easements, zoning ordinances, other restrictions of record, such facts as an accurate survey would reveal and any present or future assessments for the construction of improvements benefiting said property. The City makes no representations as to the presence of any environmental conditions on the Property and the purchaser assumes the risk of any such condition, all Property being sold “as is.”

K. All conveyances by the City shall be made by Quitclaim Deed.

L. Acceptable bids shall be confirmed by resolution of the Governing Body no later than the first regular meeting of the Governing Body following the date of receipt.

M. This Ordinance shall constitute and serve as the public notice to be published in a newspaper circulating in the City at least once a week for two (2) consecutive weeks, the last publication being not earlier than seven (7) days prior to the date set forth for the public sale.

N. In the event the successful bidder fails to close on the Property, the bidder shall forfeit the ten percent (10%) deposit.

O. The Governing Body reserves the right to withdraw this offer to sell, or upon completion of the bidding to accept or reject any or all bids for said Property or to waive any informality in relation thereto.

3. If any section, subsection, provision, clause, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such adjudication shall not affect the remaining sections, subsections, provisions, clauses, or portions, which shall be deemed severable therefrom, and construed to give effect to the remaining provisions.

4. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance, are hereby replaced and/or repealed to the extent of such inconsistency.

5. This Ordinance shall take effect at the time and in the manner provided by law.

ORDINANCE NUMBER 35-2022: An Ordinance of the City of Lambertville Amending Chapter X, Section 10-7 of the City Code Entitled: Rental of Housing Units and Chapter XI Entitled Fire Prevention.

City of Lambertville

ORDINANCE NUMBER 35-2022

**AN ORDINANCE OF THE CITY OF LAMBERTVILLE AMENDING CHAPTER X,
SECTION 10-7 OF THE CITY CODE ENTITLED “RENTAL OF HOUSING UNITS”
AND CHAPTER XI ENTITLED “FIRE PREVENTION”**

§ 10-7RENTAL OF HOUSING UNITS. [1]

Editor's Note: Ordinance No. 2010-23 Superseded Ordinance Nos. 2006-06 and 2007-07.

§ 10-7.1Definitions.

[Ord. No. 2010-23]

As used in this section, the following terms shall have the meanings indicated:

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ADULT TENANT

Shall mean a person over the age of 18 years not previously occupying a dwelling unit.

BUILDING

Shall mean any building or structure, or part thereof, used for human habitation, use, or occupancy and includes any accessory buildings and appurtenances belonging thereto or usually enjoyed therewith.

CERTIFICATE OF INSURANCE

In accordance with Senate, No. 1368, Business Owners and Rental Unit Owners to maintain certain liability insurance policies. The owner of a multi-family home of four or fewer units, one of which is owner occupied, shall annually register the certificate insurance demonstrating compliance with section 1 of S1368.

DWELLING

Shall mean a building or structure or part thereof containing one or more dwelling units which are to be leased or rented to a person other than the owner or provided to any occupant as compensation for services rendered to the Landlord or any third party. A dwelling shall not include a State licensed group home operated by a non-profit corporation or public entity.

DWELLING UNIT

Shall mean any room or group of rooms or any part thereof located within a building containing habitable space and forming a single housekeeping unit with facilities which are used or designed to be used for living, sleeping, cooking, and eating for a single family or the functional equivalent thereof.

The provisions of N.J.S.A. 40:49-5.1 and N.J.A.C. 5:28-1.11, are hereby adopted as the standard governing supplied utilities, facilities and other physical things and conditions to make buildings and dwellings, both residential and nonresidential, safe, sanitary and fit for human habitation, occupancy or use.

DWELLING, STANDARDS TO BE APPLIED

For all dwellings in the City of Lambertville the following standards are adopted by reference:

HABITABLE SPACE

Shall mean the space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space in similar areas are not considered habitable space.

ZONING OFFICER AND/OR FIRE OFFICIAL

Shall mean the person authorized by this section to issue Notice of Violations or Summons to enforce compliance with this section and to investigate and/or inspect complaints and possible unsafe conditions and includes the, Zoning Official, Fire Official, Construction Official, and any Police Officer of the City of Lambertville.

LANDLORD

Shall mean the owner or owners of the freehold of the premises or lessor estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, or their duly authorized agents, firm or corporation in control of a building, dwelling, apartment house or habitable space of premises.

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OCCUPANT

Shall mean any person, including minors, who reside or intends to reside in a dwelling unit.

RENTAL HOUSING OFFICER

Shall mean the person authorized by this section to issue permits and conduct inspections and shall include the Construction Official, the Police Director or his designee and the Zoning Officer of the City of Lambertville.

TENANT

Shall mean any person, including minors, who reside in a dwelling unit on a continuous basis for more than 30 days.

VACANT DWELLING UNIT

Shall mean a dwelling unit where the previous tenants have vacated, or where more adult tenants than permitted by the Annual Landlord Registration in accordance with Chapter **11** of the City Code, seek to occupy the dwelling unit.

[Amended 12-19-2019 by Ord. No. 28-2019]

§ 10-7.2 Annual Landlord Registration Required.

[Ord. No. 2010-23; amended 12-19-2019 by Ord. No. 28-2019]

Within 90 days of the effective date of this section, adopted October 18, 2010, every landlord in the City of Lambertville shall make application for, and file with the Office of the Municipal Clerk an Annual Landlord Registration in accordance with Chapter **11** of the City Code, for every building containing one or more dwelling units occupied by one or more tenants. Thereafter the Annual Landlord Registration in accordance with Chapter **11** of the City Code, shall be renewed annually each March 1st. All Annual Landlord Registration, in accordance with Chapter **11** of the City Code, received after April 1st of each year shall be considered late and are subject to applicable late fees.

§ 10-7.3 Application for Annual Landlord Registration; Affidavit of No Change.

[Ord. No. 2010-23; Ord. No. 04-2014; amended 12-19-2019 by Ord. No. 28-2019]

a.

Application, Information Required. An application form for an Annual Landlord Registration shall be available from the Office of the Municipal Clerk and shall not be deemed complete unless the applicant provides the following for each building containing one or more dwelling units rented to one or more tenants owned by the landlord in the City:

1.

Name, address and phone number of the landlord.

2.

Address of building ("building") and dwelling unit number or other identifying information for the dwelling unit.

3.

Number of dwelling units in the building.

4.

For each dwelling unit in the building:

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(a)

Identify the unit number or other identifying information.

(b)

Set forth the gross floor area in square feet of each room occupied for sleeping purposes.

(c)

Set forth the total gross floor area in square feet of habitable rooms.

(d)

Total number of tenants permitted in the dwelling unit.

(e)

Total number of occupants who are to reside in the dwelling unit.

(f)

The date tenancy commenced or will commence.

5.

Proof of current payment of property taxes, assessments against property, sewer charges, or other municipal charges, or assessments pursuant to N.J.S.A. 40:52-1.2.

6.

Payment of Registration Fees.

7.

A certification from the landlord that the dwelling unit to be rented complies with this section.

8.

A certification from the landlord that he/she will not authorize more than the maximum permitted tenants to occupy the dwelling unit.

9.

In the event of a change in landlord of the dwelling unit, a new Annual Landlord Registration in accordance with Chapter **11** of the City Code, shall be filed with the City Clerk.

10.

Proof of approval to operate as a multi dwelling such as Board of Adjustment approval or proof of operation prior to the adoption of the 1971 Zoning Ordinances.

11.

In the event of a change in tenants, a new Annual Landlord Registration in accordance with Chapter **11** of the City Code, must be completed within 10 days of the occurrence.

12.

SDCMFX Inspection which requires smoke detector and carbon monoxide fire extinguisher certification.

13.

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Submission of a current lead hazard evaluation by a DCA certified lead hazard evaluation contractor of the landlord's choosing. Certification shall be in compliance with the current Lead Hazard Law *P.L.2021, c.182*, and shall state there is no lead hazard in the premise at the time of the evaluation. A Lead-Safe Certificate shall be issued by the City upon receipt of clean certification from the lead hazard evaluation contractor. The fee for the certificate shall be \$100 and shall be valid for a maximum of two years. All residential rental units shall obtain a Lead-Safe Certificate from the City on or before July 1, 2024 in compliance with State Law.

(a) This requirement applies to all single family, two-family, and multi-family rental properties that were built before 1978. Multi-family units that are inspected through the State are exempt from the local requirement. Residences that have been certified Lead-Free, not just Lead-Safe, are also exempt.

(b) Continuing inspections shall be completed and results submitted to the City prior to any change in tenant or every three years, whichever is sooner unless there is a current valid 'Lead-Safe' certificate for the property.

b.

Renewals with no changes; Affidavit. Landlords who have experienced no changes to the application filed the previous year, may certify the information (items a.1 through a.12) is correct and has not changed by completing an affidavit of the full application.¹¹

*Editor's Note: The Landlord Registration Application and the Affidavit of No Change for Landlord Registration can be found at the end of this Section **10-7**.*

§ 10-7.4 Annual Landlord Registration Required.

[Ord. No. 2010-23; amended 12-19-2019 by Ord. No. 28-2019]

No landlord shall permit a tenant to occupy, let or sublet to a tenant, nor shall any person or persons lease or occupy any vacant dwelling unit, without receiving a Landlord Registration Certificate which certifies that the dwelling unit complies with the provisions of the most current revision of the Zoning Ordinance, this section and any other applicable laws and regulations.

§ 10-7.5 Procedure Upon Increase of Occupants.

[Ord. No. 2010-23]

a.

Every landlord shall have the obligation to monitor any increase in the number of tenants in each dwelling unit and prevent any increase in tenants that exceeds the number of tenants permitted in the Landlord Registration Certificate. In addition, the landlord shall have the obligation to alert the Rental Housing Officer within 10 days of increase in the number of tenants in a dwelling unit above that permitted in the approved Annual Landlord Registration in accordance with Chapter **11** of the City Code.

[Amended 12-19-2019 by Ord. No. 28-2019]

b.

Every tenant shall have the obligation to notify the landlord of any increase in the number of tenants within 10 days of the arrival of a new tenant.

c.

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Neither the tenant nor the landlord shall permit more tenants to occupy the dwelling unit than the maximum number of tenants set forth in the approved Annual Landlord Registration in accordance with Chapter **11** of the City Code.

[Amended 12-19-2019 by Ord. No. 28-2019]

§ 10-7.6 Limitations of Occupancy.

[Ord. No. 2010-23; amended 12-19-2019 by Ord. No. 28-2019]

The maximum number of persons which may inhabit a dwelling unit shall be computed as follows and certified in the Annual Landlord Registration in accordance with Chapter **11** of the City Code:

a.

Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor area for each occupant thereof.

b.

Dwelling units shall not be occupied by more occupants than permitted by the minimum occupancy area requirements.

c.

Maximum Occupancy. The maximum number of tenants inhabiting a building rented for residential purposes shall be stated in the approved Annual Landlord Registration in accordance with Chapter **11** of the City Code.

§ 10-7.7 Minimum Standards for Room Occupancy: Light, Ventilation, Bath and Kitchen Requirements, and Decks.

[Ord. No. 2010-23]

a.

Light and Ventilation. Every room containing habitable space must have at least one window capable of being opened or other opening directly upon a street, yard, court or other open space. The total area of such opening shall be not less than 12% of the floor area of such room and in no case less than 12 square feet.

b.

Bathroom and Kitchen. Each dwelling unit shall contain a full bathroom (including a water closet, lavatory and either a bathtub or shower) and a kitchen meaning an area for the preparation of food (including a stove and sink).

c.

Maximum Deck, Balcony or Porch Space. The maximum allowable number of people on any deck, balcony or porch shall be one person per nine square feet in accordance with the maximum standing room space allowed as per the New Jersey Uniform Construction Code, N.J.A.C. 5:23-1.1 et seq.

d.

Structures that preexisted the adoption of the 1971 Zoning Ordinance may continue to be used as a dwelling unit notwithstanding they do not meet the requirements of this section, provided their continued use is permitted by and the Uniform Fire Safety Code, N.J.S.A. 52:27D-192 et seq., and New Jersey Uniform Fire Safety Code, N.J.A.C. 5:70-1.1 et seq. (jointly referred to as "Uniform Fire Safety Code"). The Landlord shall submit a written request with the application for the Rental

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Certificate of occupancy for such continued use along with a written explanation as to how compliance with the Uniform Fire Safety Code creates practical difficulties.

§ 10-7.8 Violation of Occupancy Requirements, Inspections, Enforcement.

[Ord. No. 2010-23]

a.

It shall be unlawful and in violation of this section for a landlord, owner or a tenant of a dwelling unit to allow a greater number of people than the permitted maximum number of tenants listed in the Annual Landlord Registration in accordance with Chapter **11** of the City Code, to rent or occupy any dwelling unit.

[Amended 12-19-2019 by Ord. No. 28-2019]

b.

It shall also be unlawful and in violation of this section for a tenant, landlord or an owner to allow a number of people greater than the maximum number of people permitted to occupy the deck, balcony or porch of said dwelling unit to occupy the deck, balcony or porch of said dwelling unit.

c.

The following officials are authorized to issue summons for violations of this section to any owner, landlord or tenant found to be in violation of this section: Zoning Official, Fire Official, Construction Official, and any Police Officer of the City of Lambertville.

d.

Inspections. The Fire Official and the Construction Official may make inspections to determine the condition of dwellings containing a dwelling unit to be rented to a tenant prior to the issuance of an approved Annual Landlord Registration in accordance with Chapter **11** of the City Code. For the purpose of making inspections, they are authorized to enter and examine any dwelling, dwelling unit, rooming unit or premises at such reasonable hours as the circumstances of the case permit with the permission of an occupant, tenant, owner or landlord. In the event entry is denied, then, upon advice of the municipal attorney, recourse to a court of competent jurisdiction shall be pursued.

[Amended 12-19-2019 by Ord. No. 28-2019]

§ 10-7.9 Unlawful Activities.

[Ord. No. 2010-23]

It shall be unlawful and in violation of this section for a landlord or owner of a dwelling unit or tenant of a dwelling unit or apartment:

a.

To permit or allow people to reside in a dwelling unit in a number in excess of the number of people for which sleeping accommodations are provided in accordance with this section.

b.

To lease or rent a dwelling unit where the number of tenants exceeds the total number of sleeping accommodations as set forth in subsection **10-7.6**.

c.

To knowingly permit a number of people, greater than the maximum number of occupants or tenants permitted, to occupy a dwelling unit.

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d.

For the landlord to fail to file an Annual Landlord Registration in accordance with Chapter **11** of the City Code, as required by Subsection **10-7.2** for each building owned by him in the City of Lambertville containing a dwelling unit.

[Amended 12-19-2019 by Ord. No. 28-2019]

e.

To violate any other provisions of the New Jersey State Housing Code, N.J.A.C. 5:28-1.1 et seq., and/or the Uniform Fire Safety Code.

f.

To enter into a lease agreement without at least one tenant being an adult, and requiring all adult tenants to sign the lease.

g.

To violate any subsection of this section.

h.

Filing a false certification.

§ 10-7.10 Reporting of Violations.

[Ord. No. 2010-23; amended 12-19-2019 by Ord. No. 28-2019]

It shall be the legal duty of each holder of an Annual Landlord Registration in accordance with Chapter **11** of the City Code, to immediately report any breaches of the peace or violations of this section which he may know or believes to have occurred on the leasehold premises, which report shall be made to the Fire Official, Construction Official or the Police Department of the City of Lambertville by the most expedient means.

§ 10-7.11 Violation for False Information.

[Ord. No. 2010-23]

Any person who is found to have submitted false information, documentation or identification in connection with an application for a Landlord's Registration Statement shall pay a minimum fine of \$250, plus court costs for the first offense, second offense a minimum of \$1,225 and third offense or more \$2,000 for each document containing false information, documentation or identification. Any person who submits a false certification or documentation shall be subject to criminal prosecution, in addition to the penalties contained herein. In addition to the foregoing, a certificate of occupancy that is issued on the basis of information or documentation that is knowingly false or fraudulent when made, shall be subject to revocation pursuant to and in accordance with the provisions herein.

§ 10-7.12 Fees.

[Ord. No. 2010-23; amended 12-19-2019 by Ord. No. 28-2019]

There shall be an annual fee of \$75.00 to file an Annual Landlord Registration in accordance with Chapter **11** of the City Code, for each building containing one or more dwelling units.

A late fee of \$50 shall be applied to all registrations or renewals filed after April 1 of each year.

§ 10-7.13 Tenant Subject to Removal.

[Ord. No. 2010-23; amended 12-19-2019 by Ord. No. 28-2019]

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Any tenant renting premises in the City of Lambertville who occupies the premises prior to obtaining an approved Annual Landlord Registration in accordance with Chapter 11 of the City Code, shall be subject to immediate removal from the premises. Any costs associated with the removal and subsequent relocation of tenants that are incurred by the City of Lambertville shall be the responsibility of the landlord and/or tenant.

§ 10-7.14(Reserved)

§ 10-7.15Violations and Penalties.

[Ord. No. 2010-23]

a.

In addition to the penalties as set forth in subsection 10-7.11, any owner, agent, landlord, tenant and any person or corporation who shall violate any provision of this section or fail to comply therewith or with any of the requirements thereof, shall be liable for one or more of the following: imprisonment in the County Jail for any term not exceeding 90 days; by a period of community service not exceeding 90 days; a fine not less than \$100 nor more than \$2,000. Each and every day such violation continues shall be deemed a separate and distinct violation. Each violation of this chapter shall be a separate and distinct violation. The imposition of a fine in amount greater than \$1,250 upon an owner for violation of this section shall provide for thirty-day period in which the owner shall be afforded the opportunity to cure or abate the condition and shall also be afforded the opportunity for a hearing in the Municipal Court for an independent determination concerning the violation. Subsequent to the expiration of the thirty-day period, a fine greater than \$1,250 (up to a maximum of \$2,000 may be imposed if the Court has not determined otherwise, or, upon reinspection of the property it is determined that the abatement has not been substantially completed. (N.J.S.A. 40:49-5)

b.

Refusal of Entry. Anyone who knowingly refuses entry or access to any lawfully authorized Zoning Officer and/or Fire Official of the City of Lambertville for the purpose of inspection pursuant to this section or who unreasonably interferes with such inspection shall be subject to a fine of not more than \$250 for each offense.

§ 10-7.16Severability.

[Ord. No. 2010-23]

If any paragraph, subsection, sentence, clause, phrase or portion of this section is for any reason held invalid or unconstitutional by any Court or administrative agency 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 paragraphs or sections hereof.

INTRODUCTION AND FIRST READING: December 1, 2022

PUBLIC HEARING AND SECOND READING: December 15, 2022

ORDINANCE NUMBER 36-2022: An Ordinance to Amend the Lambertville City Code, 2014, Amending Chapter VII, Section 7-8, Loading Zones, to Add a Loading Zone on Bridge Street, on the South West Side of the Bridge and Main Street Corner.

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ORDINANCE NUMBER 36-2022

An Ordinance to Amend the Lambertville City Code, 2014, Amending Chapter VII, Section 7-8, Loading Zones, to Add a Loading Zone on Bridge Street, on the Eastern Most Parking Space on the South Side of Bridge Street at the Bridge and Main Street Corner.

NOW THEREFORE BE IT RESOLVED that Chapter VII, Section 7-8 of the Lambertville City Code, 2014, is hereby amended to add a loading zone on the eastern most parking space on the south side of Bridge Street at the Bridge and Main Street corner from 9 a.m. to 5 p.m. Sunday through Saturday.

INTRODUCTION AND FIRST READING: November 17, 2022

PUBLIC HEARING AND SECOND READING: December 15, 2022

ORDINANCE NUMBER 37-2022: *An Ordinance to Amend the Lambertville City Zoning Ordinances, Application Fees and Escrow Deposits*

Application Type	Current Escrow Fee	Proposed Escrow Fee
~Informal Plan: all fees collected for an informal review will be credited toward fees for review of a formal application	\$1,000.00	No Change
Minor Subdivision or Sketch Plat	\$1,500.00	\$3,000.00
Preliminary Major Subdivision Plat	\$2,000.00	\$4,000.00
Final Major Subdivision Plat	\$1,000.00	\$2,500.00
Site Plan Waiver Review	\$500.00	\$1,200.00
Informal Site Plan: all fees for informal review shall be a credit towards fees for a formal application	\$1,000.00	No Change
Minor Site Plan	\$1,500.00	\$3,000.00
Sign Review	\$0.00	\$1,000.00
Preliminary Site Plan	\$2,500.00	\$5,000.00
Final Site Plan	\$2,000.00	\$4,000.00
Hardship Variance	\$200.00	\$500.00
Residential 1 & 2 Family Variance	\$1,000.00	\$2,500.00
Other Variance	\$1,000.00	\$3,000.00
Use Variance	\$2,000.00	\$4,000.00

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Appeals	\$1,000.00	No Change
Interpretation	\$1,000.00	No Change
Non-Conforming Use Certificate	\$1,500.00	No Change
Issuance of Permit for a Building in Certain Locations	\$2,000.00	No Change
Request for Rezoning	\$3,000.00	\$5,000.00
Conditional Use Permit	\$1,000.00	\$2,500.00
Boundary Line Adjustment	\$2,000.00	\$4,000.00

ORDINANCE NUMBER 38-2022: An Ordinance to Amend the Lambertville City Code 2014, Adding Chapter 18, Special Regulations for Major Motion Pictures

ORDINANCE NUMBER 38-2022

An Ordinance to Amend the Lambertville City Code, 2014, Adding Chapter 18, Special Regulations for Major Motion Pictures

- 18-1. SHORT TITLE**
- 18-2. SPECIAL REGULATIONS FOR MAJOR MOTION PICTURES**
- 18-3. PERMIT REQUIRED**
- 18-4. ISSUANCE OF PERMITS**
- 18-5. INTERFERENCE WITH PUBLIC ACTIVITY; NOTICE OF FILMING**
- 18-6. REFUSAL TO ISSUE PERMIT; EMPLOYMENT OF LAMBERTVILLE POLICE OFFICERS AND ELECTRICIAN**
- 18-7. APPEALS**
- 18-8. WAIVER OF REQUIREMENTS OF CHAPTER BY MAYOR**
- 18-9. COPIES OF PERMIT; INSPECTIONS**
- 18-10. REIMBURSEMENT OF CERTAIN COSTS**
- 18-11. SPECIAL REGULATIONS FOR MAJOR MOTION PICTURES**
- 18-12. FEES**
- 18-13. VIOLATIONS AND PENALTIES**

§18-1. Special Regulations for Major Motion Pictures

§18-2. Definitions.

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As used in this or her chapter, the following terms shall have the meanings indicated:

FILMING: The taking of still or motion pictures either on film or videotape or similar recording medium, for commercial or educational purposes intended for viewing on television, in theaters or for institutional uses. The provisions of this or her chapter shall not be deemed to include the "filming" of news stories within the City of Lambertville.

MAJOR MOTION PICTURE: Any film for which the budget is at least \$5,000,000 or recurrent weekly television series programming.

PUBLIC LANDS: Any and every public street, highway, sidewalk, square, public park or playground or any other public place within the City which is within the jurisdiction and control of the City of Lambertville.

§18-3. Permit required.

A. No person or organization shall film or permit filming on public or private land within the City of Lambertville without first having obtained a permit from the office of the City Clerk, which permit shall set forth the approved location of such filming and the approved duration of such filming by specific reference to day or dates. No permit shall authorize filming for more than three consecutive days in any one location and in no event shall filming at one location within the City exceed a total of six days in any one calendar year, regardless of the number of permits utilized in reaching this six-day maximum. Either or both of the three-consecutive-day and the six-day limitations may be extended only if the filming requested constitutes a major motion picture as defined by §18-2 of this chapter. Said permit must be readily available for inspection by City officials at all times at the site of the filming.

B. All permits shall be applied for and obtained from the office of the City Clerk during normal business hours. Applications for such permits shall be in a form approved by the City Clerk and be accompanied by a permit fee in the amount established by this chapter in §18-13 herein.

C. If a permit is issued and, due to inclement weather or other good cause, filming does not in fact take place on the dates specified, the City Clerk may, at the request of the applicant, issue a new permit for filming on other dates subject to full compliance with all other provisions of this chapter. No additional fee shall be paid for this permit.

§18-4. Issuance of permits.

A. No permits will be issued by the City Clerk unless applied for prior to 10 business days before the requested shooting date; provided, however, that the Mayor may waive the ten-day period if, in his or her judgment, the applicant has obtained all related approvals and adjacent property owners or tenants do not need to be notified.

B. No permit shall be issued for filming upon public lands unless the applicant shall provide the City with satisfactory proof of the following:

(1) : Proof of insurance coverage as follows:

(a) : For bodily injury to any one person in the amount of \$500,000 and any occurrence in the aggregate amount of \$1,000,000.

(b) : For property damage for each occurrence in the aggregate amount of \$300,000.

(2) : An agreement, in writing, whereby the applicant agrees to indemnify and save harmless the City of Lambertville from any and all liability, expense, claim for damages resulting from the use of public lands.

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(3) : The posting of cash of \$500 or a maintenance bond of \$500 running in favor of the City and protecting and ensuring that the location utilized will be left after filming, in a satisfactory condition, free of debris, rubbish and equipment, and that due observance of all City ordinances, laws and regulations will be followed. Within 21 days of the completion of the filming, the City will return the bond if there has been no damage to public property or public expense caused by the filming.

(4) : The hiring of an off-duty Lambertville police officer for the times indicated on the permit.

C. The holder of the permit shall take all reasonable steps to minimize interference with the free passage of pedestrians and traffic over public lands and shall comply with all lawful directives issued by the Lambertville Police Department with respect thereto.

§18-5. Interference with public activity; notice of filming.

A. The holder of a permit shall conduct filming in such a manner as to minimize the inconvenience or discomfort to adjoining property owners attributable to such filming and shall, to the extent practicable, abate noise and park vehicles associated with such filming pursuant the direction from the Lambertville Police Department.

B. The holder shall avoid any interference with previously scheduled activities upon public lands and limit, to the extent possible, any interference with normal public activity on such public lands. Where the applicant's production activity, by reason of location or otherwise, will directly involve and/or affect any businesses, merchants or residents, the holder shall provide these parties written notice of the filming at least seven days prior to the requested shooting date and be informed that objections may be filed with the City Clerk, said objections to form a part of applicant's application and be considered in the review of the same. The Clerk shall provide addresses for affected business, merchants and residents. Proof of service of notification to adjacent owners shall be submitted to the City Clerk within five days of the requested shooting date.

§18-6. Filming in residential zones.

Filming in residential zones shall be permitted Monday through Friday between the hours of 7:00 a.m. and 9:00 p.m., provided that all requests for night scenes shall be approved in the permit to be granted in accordance with §18-9 hereof. The setup, production and breakdown required by all filming shall be included in the hours as set forth herein.

§18-7. Refusal to issue permit; employment of Lambertville Police Officers and electrician.

A. The Mayor may refuse to issue a permit whenever determined by the Mayor , on the basis of objective facts and after a review of the application and a report thereon by the Police Department and by other City Departments involved with the proposed filming site, that filming at the location and/or the time set forth in the application would violate any law or ordinance or would unreasonably interfere with the use and enjoyment of adjoining properties, unreasonably impede the free flow of vehicular or pedestrian traffic or otherwise endanger the public's health, safety or welfare.

B. Further, the City reserves the right to require one or more on-site Lambertville Police Officers in situations where the proposed production may impede the proper flow of traffic, the cost of said patrolman to be borne by the applicant as a cost of production. Where existing electrical power lines are to be utilized by the production, an on-site New Jersey licensed electrician may be similarly required if the production company does not have a licensed New Jersey electrician on staff.

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§18-8. Appeals of Denial or Revocations.

A. Any person aggrieved by a decision of the Mayor denying or revoking a permit or a person requesting relief pursuant to §18-9 may appeal to the City Council. A written notice of appeal setting forth the reasons for the appeal shall be filed with the City Clerk.

B. An appeal from the decision of the Mayor shall be filed within 10 days of the Mayor's decision. The City Council shall set the matter down for a hearing within 30 days of the day on which the notice of appeal was filed. The decision of the City Council shall be in the form of a resolution supporting the decision of the Mayor at the first regularly scheduled public meeting of the City Council after the hearing on the appeal, unless the appellant agrees in writing to a later date for the decision. If such a resolution is not adopted within the time required, the decision of the Mayor shall be deemed to be reversed, and a permit shall be issued in conformity with the application or the relief pursuant to §18-9 shall be deemed denied.

§18-9. Waiver of requirements of chapter by Mayor.

The Mayor may authorize filming other than during the hours herein described. In determining whether to allow an extension of hours under this section, the Mayor shall consider the following factors:

A. Traffic congestion at the location caused by vehicles to be parked on the public street.

B. Applicant's ability to remove film-related vehicles off the public streets.

C. When the applicant is requesting restrictions on the use of public streets or public parking during the course of the filming.

D. Nature of the film shoot itself; e.g., indoors or outdoors; day or night; on public or private lands.

E. Prior experience of the film company/applicant with the City, if any.

§18-10. Copies of permit; inspections.

Copies of the approved permit will be sent to the Police and Fire Departments before filming takes place and to the New Jersey Film Commission. The applicant shall permit City inspectors to inspect the site and the equipment to be used. The applicant shall comply with all safety instruction issued by City inspectors.

§18-11. Reimbursement of certain costs.

In addition to any other fees or costs mentioned in this chapter, the applicant shall reimburse the City for any lost revenue, such as parking meter revenue, repairs to public property or other revenues that the City was prevented from earning because of filming.

§18-12. Special regulations for major motion pictures.

A. When filming is requested with respect to a major motion picture, the approved location of such filming and approved duration of such filming by specific reference to day or dates may exceed three consecutive days and/or may exceed six days in duration if approved at the discretion of the Mayor following a favorable review of the factors set forth in §18-9 herein.

B. Any days necessary to be used for setup and preparation for a major motion picture filming may, in the discretion of the Mayor, be counted as a filming day where such setup is anticipated to involve one or more of the factors set forth in §18-9 hereof.

§18-13. Fees.

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The schedule of fees for the application and the issuance of permits authorized by this chapter are as follows:

A. Basic filming permit: \$150. Where an applicant requests a waiver of the provision of §18-4A requiring expedited processing of a permit application within 24 hours of the filming date, the basic filming permit fee for processing the application on an expedited basis shall be \$500.

B. Daily filming fee payable in addition to the basic filming permit: \$600 per day.

C. Daily filming fee payable for major motion picture: \$1,500 per day.

D. Filming permit for nonprofit applicants filming for educational purposes (no daily rate required): \$25.

§18-14. Violations and penalties.

Any person who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine not exceeding \$2,000, imprisonment in the county/municipal jail for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or any combination thereof as determined by the Municipal Court Judge. Each day on which a violation of an ordinance exists shall be considered a separate and distinct violation and shall be subject to imposition of a separate penalty for each day of the violation as the Municipal Court Judge may determine.

INTRODUCED FOR FIRST READING: December 1, 2022

PUBLIC HEARING AND SECOND READING: December 15, 2022

10) DISCUSSION ITEM:

- a) CLOSSON PROPERTY
- b) AFFORDABLE HOUSING
- c) PROJECT UPDATES: Waterways, Roadways
- d) CHURCH STREET: Church Street Residents: Request for the City to enforce one-way traffic on Church Street between Main and North Franklin Street.

11) COUNCIL COMMENTARY

12) CORRESPONDENCE

13) ANNOUNCEMENTS

- a) ANNUAL TREE LIGHTING: Saturday, December 10, 2022 beginning at 3 pm with music and activities. Santa is expected to arrive at 5 pm to help Mayor Nowick light the tree.
- b) ANNUAL MENORAH LIGHTING: December 21, 2022 at 6:30 pm at the corner of South Union and Bridge Street
- c) HOLIDAY SCHEDULE

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Friday, December 23, 2022 – all City Offices will be closed.

Monday, December 26, 2022 – all City Offices will be closed.

Monday, January 2, 2023 – All City Offices will be closed.

d) **CONVENIENCE CENTER HOURS**

Wednesdays: December 14, 2022 from 3 pm to 5 pm

Saturday, December 17, 2022 from 9 am to 12 noon

e) **Schedule of 2023 Reorganization Meetings**

Governing Body, Sunday, January 1, 2023 at 1:00 p.m.

Planning Board, Wednesday, January 4, 2023 at 7:00 p.m.

Library Board, Tuesday, January 10th, 2023 at 7:30 p.m. at the Lambertville Free Public Library located at 6 Lilly Street;

Historic Preservation Commission, Tuesday, January 10, 2023 at 7:30 p.m.

Parks & Recreation Commission, Wednesday, January 11, 2023 at 7:00 p.m.

Shade Tree Commission, Monday, January 23, 2023 at 7:30 p.m.

Environmental Commission, Wednesday, January 25, 2023 at 7:00 p.m.

Zoning Board of Adjustment, Thursday, January 26, 2023 at 7:30 p.m.

Broadband, Cable and Telephone Services Advisory Committee, Monday, January 30, 2022 at 7:00 p.m.

Lambertville Municipal Utilities Authority, Tuesday, February 7, 2023, 6 p.m. at the LMUA located on Station Court in the City

Office of Emergency Management, Thursday, February 9, 2022 at 2:30 pm

All meetings at held at the Phillip L. Pittore Justice Center located at 25 South Union Street in the City unless otherwise noted.

14) PUBLIC PARTICIPATION

15) ADJOURNMENT