

**REGULAR MEETING
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

June 27, 2023

The Regular Meeting of the Governing Body of the Borough of Bloomingdale was held in the Council Chambers of the Municipal Building (101 Hamburg Tpke) on the above date. Mayor John D’Amato called the meeting to order at 7:00 PM.

Mayor led the **Salute to the Flag**.

Official Roll Call: (taken by the Deputy Clerk)

In Attendance: Mayor John D’Amato
Councilman Dominic Catalano
Councilman Richard Dellaripa
Councilman John Graziano
Councilwoman Dawn Hudson
Councilwoman Evelyn Schubert
Councilman Ray Yazdi

Deputy Clerk, Terry Sauer
Administrative Assistant, Aimee Greenspan
Business Administrator, Michael Sondermeyer
Borough Attorney, Jonathan Testa

PUBLIC NOTICE STATEMENT

Mayor D’Amato stated: *This Meeting is called pursuant to the provisions of the Open Public Meetings Law. Adequate notice of this meeting was advertised in the Herald News on January 9, 2023; copies were provided to the local news media and posted continuously in the Municipal Building. A copy of this notice is available to the public and is on file in the office of the Municipal Clerk.*

Per State Fire Code, I am required to acknowledge that there are two emergency exits in this Council Chambers. The main entrance which you entered through and a secondary exit to the left of where I am seated. If there is an emergency, walk orderly to the exits, exit through the door, down the stairs and out the building. If there are any questions, please raise your hand now.

PRESENTATION

Mayor D’Amato and Borough Administrator Sondermeyer thanked Theresa Sauer for her years of service to the Borough. Ms. Sauer was presented with flowers and joined by her family. She will retire from the Borough effective June 30, 2023.

EARLY PUBLIC COMMENT

Motion was made by HUDSON to open the meeting for public comment; seconded by YAZDI and carried on voice vote all voting AYE.

Linda Huntley, 86 Van Dam Ave, Bloomingdale
Made the following inquiries:

- What happened with the previously hired CFO (D. Gallagher) *The Mayor explained that she chose to stay with her former/current employer*
- The bills list shows payment to Supersonic DJ’s even though the event was postponed. *The Mayor said that he will not be paid until after we use his service in the near future, the check will be pulled*

Since there was no one else from the public who wished to speak HUDSON made a motion to close the meeting for public comment, seconded by YAZDI carried on voice vote, all in favor voting AYE.

REPORTS (PROFESSIONALS, DEPT HEADS, COMMITTEES, LIAISONS, MAYOR):

**Councilwoman Schubert
(Senior Committee, Library Board, BBYC & Tri-Boro First Aid Liaison):**

- Tri-Boro
 - Dueling Piano 9/22 6 p.m. Firemen’s Hall \$65/pp
 - First Aid calls 153 and reported to 121 of them
 - 32 paid service/47 Butler/50 Kinnelon/10 Mutual Aid
 - Butler/Bloomingtondale Parade
 - Need Volunteers
- Library Events:
 - Collecting plastic through 10/22 (212 lbs. as of the last meeting)
 - Mystery Book Club 6/6
 - Closed on 7/22 for the car show
 - Will be attending the Sloan Park Festival on 9/8
 - Will be attending Bloomingtondale Celebration Day on 9/23
- BBYC:
 - Taking signups
 - Mandatory Cheering Choreography
 - Everything can be found on the website
- Seniors:
 - New calendar is up w/ events such as aerobics and movie night
 - ECO Tour
 - Open to all Bloomingtondale residents
 - Serves lunch

Councilwoman, Dawn Hudson (BOH Liaison)

- Public Events
 - fireworks to be rescheduled
 - Sloan Park Festival is Sept. 8th
 - 9/11 Candlelight Vigil
 - ‘iPhone Tips and Tricks’ for seniors, seniors can reach out to her with questions

Councilman, Dominic Catalano (Planning Board Liaison)

- Planning Board meeting is tomorrow, 6/28

Business Administrator, Michael Sondermeyer:

- Provided the following updates:
 - *Tennis courts are paved*
 - *Hilltop is working on the sewer*
 - *Looking for a new CFO*
 - *Main St. valves will start next week*
 - *Referral to the interim CFO, listed on the agenda, by the auditor*

CONSENT AGENDA

(Adoption of Resolutions No. 2023-6.33 – 2023-6.43)

Motion: Dominic Catalano

Second: Ray Yazdi

Roll Call Vote: CATALANO (YES), DELLARIPA (YES), GRAZIANO (YES), HUDSON (YES), SCHUBERT (YES), YAZDI (YES)

**RESOLUTION NO. 2023-6.33
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGTONDALE**

*Accepting, Approving and/or Adopting the Consent Agenda of the
June 27, 2023, Regular Meeting*

WHEREAS, the Borough Council of the Borough of Bloomingdale has determined that to increase efficiency, the Consent Agenda shall be adopted with one resolution, and

NOW THEREFORE BE IT RESOLVED that the following resolutions, placed on this agenda by consent, require no discussion and the same having been previously reviewed by each Governing Body member, be and are hereby adopted in their entirety by the Council of the Borough of Bloomingdale.

- A. Motion to approve Block Party Application #2-2023:** Rafkind Rd. (August 5th, 2023)
- B. Resolution No. 2023-6.34:** Appointment of Registrar to fill vacancy (B. Smith)
- C. Resolution No. 2023-6.35:** Appointment of Deputy Registrar (J. Azcona)
- D. Resolution No. 2023-6.36:** Redemption of TTL
- E. Resolution No. 2023-6.37:** Tax Refund [Special Assessment Overpayment]
- F. Resolution No. 2023-6.38:** Authorize Exit Agreement (D. Mollineaux)
- G. Resolution No. 2023-6.39:** Temporary QPA (J. Azcona)
- H. Resolution No. 2023-6.40:** Hire of Additional Seasonal DPW Help (S. Barnard)
- I. Resolution No. 2023-6.41:** Appoint EDC member (M. French)
- J. Resolution No. 2023-6.42:** Resolution to Rescind Reso 2023-6.21, Reso 2023-6.22 & Reso 2023-6.23
- K. Resolution No. 2023-6.43:** Appointment of Supervisory Pension Certifying Officer (J. Kozimor)

PENDING ITEMS

- A. Second/Final Reading & Public Hearing:**
Ordinance No. 23-2023: Repeal & Add New Ch. 30 (Floodplain Management Regulations)

The Deputy Clerk, Terry Sauer, read the Public Notice statement.

Councilwoman Hudson moved that the Ordinance be read by title; seconded by Yazdi and carried on voice vote – all members present voting AYE

The Deputy Clerk read the following Ordinance by title:

**ORDINANCE FOR ADOPTION OF THE FLOODPLAIN
MANAGEMENT REGULATIONS OF
THE BOROUGH OF BLOOMINGDALE**

ORDINANCE 23-2023

AN ORDINANCE BY THE BOROUGH COUNCIL AMENDING THE BOROUGH OF BLOOMINGDALE, COUNTY OF PASSAIC, STATE OF NEW JERSEY CODE OF ORDINANCES TO REPEAL CHAPTER 30 “FLOOD HAZARD PROTECTION”; TO ADOPT A NEW CHAPTER 30 ENTITLED “THE FLOODPLAIN MANAGEMENT REGULATIONS”, 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 the Borough of Bloomingdale 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, Borough of Bloomingdale was accepted for participation in the National Flood Insurance Program on March 10, 1972, and the Borough Council of the Borough of Bloomingdale desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59, 60, 65 and 70 ,necessary for such participation; and

WHEREAS, Borough of Bloomingdale 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, Borough of Bloomingdale is required, pursuant to N.J.S.A. 40:49-5, to enforce zoning codes that secure safety from floods and contain certain provisions that apply to the development of lands; and

WHEREAS, Borough of Bloomingdale 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).

WHEREAS, the Borough Code currently sets forth regulations and standards related to flood hazard protections within the Borough of Bloomingdale; and

WHEREAS, in order to be in compliance with the newly issued state and federal regulations, it is recommended that Chapter 30 be repealed in its entirety and replaced with a new Chapter 30 as set forth below; and

WHEREAS, this Ordinance specifically repeals and replaces Chapter 30 “Flood Hazard Protection”, which includes portions of 1966 Code § 27-1 through 27-22; Ordinance Nos. 2-78, 6-87, 8-79 and 17-85; Ordinance No. 19-2007, § 1.1 through 1.4, 2.0, 3.1 through 3.6, 4.1 through 4.4, 5.1 through 5.3; and Ordinance No. 12-2016; and

WHEREAS, the Borough Engineer has reviewed the proposed changes and is in agreement with same; and

WHEREAS, the Borough Council of the Borough of Bloomingdale has reviewed and accepted the recommended changes as being in the best interest of the Borough of Bloomingdale.

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Bloomingdale, in the County of Passaic, and State of New Jersey, 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): Repeal Chapter 30 “Flood Hazard Protection” in its entirety and replace with a new Chapter 30 entitled “Floodplain Management Regulations.”

Chapter 30. Floodplain Management Regulations

SECTION 30.9 DEFINITIONS

§30.9.1 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.

§30.9.2 Definitions

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

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

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

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

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

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

ACCESSORY STRUCTURE – Accessory structures are also referred to as appurtenant structures. An accessory structure is a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For example, a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings.

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

AREA OF SHALLOW FLOODING – A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined

channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. AREA OF SPECIAL FLOOD HAZARD – see SPECIAL FLOOD HAZARD AREA

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

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

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

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

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

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

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

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

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

BUILDING – Per the FHACA, “Building” means a structure enclosed with exterior walls or fire walls, erected and framed of component structural parts, designed for the housing, shelter, enclosure, and support of individuals, animals, or property of any kind. A building

may have a temporary or permanent foundation. A building that is intended for regular human occupation and/or residence is considered a habitable building.

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

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

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

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

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

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

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

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

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

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

FLOOD OR FLOODING

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

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

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

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

FLOODPLAIN OR FLOOD PRONE AREA – Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

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

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

FLOODPROOFING CERTIFICATE – Certification by a licensed design professional that the design and methods of construction for floodproofing a non-residential structure are in

accordance with accepted standards of practice to a proposed height above the structure's lowest adjacent grade that meets or exceeds the Local Design Flood Elevation. A completed floodproofing certificate is required at permit application.

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

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

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

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

HARDSHIP – As related to Section 30.16 of this ordinance, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Borough Council of the Borough of Bloomingdale requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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

HISTORIC STRUCTURE – Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved State program as determined by the Secretary of the Interior; or

2. Directly by the Secretary of the Interior in States without approved programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ORDINARY MAINTENANCE AND MINOR WORK – This term refers to types of work excluded from construction permitting under N.J.A.C. 5:23 in the March 5, 2018 New Jersey Register. Some of these types of work must be considered in determinations of substantial improvement and substantial damage in regulated floodplains under 44 CFR 59.1. These types of work include but are not limited to replacements of roofing, siding, interior finishes, kitchen cabinets, plumbing fixtures and piping, HVAC and air

conditioning equipment, exhaust fans, built in appliances, electrical wiring, etc. Improvements necessary to correct existing violations of State or local health, sanitation, or code enforcement officials which are the minimum necessary to assure safe living conditions and improvements of historic structures as discussed in 44 CFR 59.1 shall not be included in the determination of ordinary maintenance and minor work.

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

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

RESIDENTIAL – Pursuant to the ASCE 24:

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

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

SPECIAL FLOOD HAZARD AREA – The greater of the following: (1) Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, shown on the FIRM as Zone V, VE, V1-3-, A, AO, A1-30, AE, A99, or AH; (2) Land and the space above that land, which lies below the peak water surface elevation of the flood hazard area design flood for a particular water, as determined using the methods set forth in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13; (3) Riparian Buffers as determined in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13. Also referred to as the **AREA OF SPECIAL FLOOD HAZARD**.

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

- a. **For other than new construction or substantial improvements, under the Coastal Barrier Resources Act (CBRA)**, this is the date the building permit was issued, provided that the actual start of construction, repair, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent

construction of a building on site, such as the pouring of a slab or footing, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- b. For the purposes of determining whether proposed construction must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change, the Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

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

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

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

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

SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent (50%) 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 ten-year period, the cumulative cost of which equals or exceeds 50 percent (50%) of the market value of the structure before the “start of construction” of the improvement. The period of accumulation includes the first improvement or repair of each structure that is permanent subsequent to the effective date of this ordinance. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. This term also includes structures which have incurred “repetitive loss” or “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

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

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

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

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

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

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

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

SECTION 30.10 SCOPE AND ADMINISTRATION

§30.10.1 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 Borough of Bloomingdale (hereinafter “these regulations”).

§30.10.2 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 30.11 of these regulations.

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

- (1) Protect human life and health.
- (2) Prevent unnecessary disruption of commerce, access, and public service during times of flooding.
- (3) Manage the alteration of natural floodplains, stream channels and shorelines;
- (4) Manage filling, grading, dredging and other development which may increase flood damage or erosion potential.
- (5) Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards.
- (6) Contribute to improved construction techniques in the floodplain.
- (7) Minimize damage to public and private facilities and utilities.
- (8) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas.
- (9) Minimize the need for rescue and relief efforts associated with flooding.
- (10) Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.
- (11) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.

- (12) Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 Code of Federal Regulations, Section 59.22.

§30.10.4 Coordination with Building Codes. Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the Borough of Bloomingdale administer and enforce the State building codes, the Borough Council of the Borough of Bloomingdale 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.

§30.10.5 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 30.12.15 of this ordinance.

§30.10.6 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.

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

§30.10.8 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 under N.J.S.A. 40:49-5, imprisonment for a term not exceeding ninety (90) days or a period of community service not exceeding 90 days.

Each day in which a violation of an ordinance exists shall be considered to be a separate and distinct violation subject to the imposition of a separate penalty for each day of the violation as the Court may determine except that the owner will be afforded the opportunity to cure or abate the condition during a 30 day period and shall be afforded the opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the 30 day period, a fine of not more than \$2000 under N.J.S.A. 40:49-5 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.

§30.10.8.1 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.

§30.10.9 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 30.11 APPLICABILITY

§30.11.1 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.

§30.11.2 Establishment of Flood Hazard Areas. The Borough of Bloomingdale was accepted for participation in the National Flood Insurance Program on **March 10, 1972**.

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 Borough Clerk’s Office, Borough of Bloomingdale Municipal Building located at 101 Paterson Hamburg Turnpike, Bloomingdale, New Jersey.

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, Passaic County, New Jersey (All Jurisdictions)" dated April 17, 2020, and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 102.2(1) whose effective dates are September 28, 2007 and April 17, 2020 are hereby adopted by reference.

Table 30.11.2 (1)

Map Panel #	Effective Date	Suffix
34031C0129	April 17, 2020	G
34031C0136	September 28, 2007	F
34031C0137	September 28, 2007	F
34031C0138	April 17, 2020	G
34031C0139	April 17, 2020	G
34031C0143	April 17, 2020	G
34031C0181	April 17, 2020	G

- 2) **Federal Best Available Information.** The Borough of Bloomingdale 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 30.11.2 (2)

Map Panel #	Preliminary Date
<i>None as of the date of this ordinance.</i>	

- 3) **Other Best Available Data.** Borough of Bloomingdale shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the Borough of Bloomingdale. 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 30.11.2 (1) and (2), above. This information shall be used for floodplain regulation purposes only.
- 4) **State Regulated Flood Hazard Areas.** For State regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the “Flood Hazard Area Control Act Design Flood Elevation”, as defined in Section 30.9, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the Special Flood Hazard Areas (SFHAs) as identified by FEMA. The following is a list of New Jersey State studied waters in this community under the FHACA, and their respective map identification numbers.

Table 30.11.2 (3) List of State Studied Waters

Name of Studied Water	File Name	Map Number
Posts Bk, Posts Bk Trib	BDALE001	4 of 4
Pequannock Rv, Cold Spring Bk	BDALE002	2 of 4
Stone House Brook, Pequannock River, Van Dam Brook, Van Dam Tributary, Oakwood Lake Brook	BDALE003	3 of 4
Cold Spring Brook	BDALE004	1a of 4
Cold Spring Brook	BDALE005	1b of 4
Stone House Brook, Pequannock River, Van Dam Brook, Van Dam Tributary, Oakwood Lake Brook	BDALE006	3a of 4
Pequannock River, Wanaque River, Post Brook	G0000039	O-9
Wanaque River	J0000054	28
Wanaque River	J0000055	27
Post Brook, Post Brook Branch No 2	J0000078	4
Post Brook, Post Brook Branch No 1	J0000079	3
Pequannock River	J0000102	23
Post Brook Branch #3	J0000105	20
Post Brook & Branches 3 & 4	J0000106	19
Pequannock River - UNT	BDALE009p	03p
Pequannock River	BDALE010p	04p
Pequannock River	BDALE011p	05p
Cold Spring Brook	BDALE012p	06pr
Cold Spring Brook	BDALE013p	07pr
Cold Spring Brook	BDALE014p	08pr
Cold Spring Brook	BDALE015p	09pr
Cold Spring Brook	BDALE016p	10pr
Cold Spring Brook	BDALE017p	11pr

Name of Studied Water	File Name	Map Number
Oakwood Lake Brook	BDALE018p	12pr
Oakwood Lake Brook	BDALE019p	13pr
Van Dam Brook	BDALE020p	14pr
Van Dam Brook	BDALE021p	15pr
Van Dam Brook	BDALE022p	16pr
Van Dam Tributary	BDALE023p	17pr
Tributary No. 1 to Posts Brook	BDALE024p	18pr
Posts Brook tributary	BDALE025p	19pr
Tributary No. 1 to Posts Brook	BDALE026p	20pr
Tributary No. 1 to Posts Brook	BDALE027p	21pr
Posts Brook Tributary	BDALE028p	22pr
Pequannock River	G0000075p	04P
Pequannock River	G0000076p	03P
Pequannock River	G0000077p	02PR
Pequannock River	G0000078p	01P
Tributary No. 2 to Posts Brook	G0000079p	22PR
Tributary No. 1 to Posts Brook	G0000080p	21PR
Posts Brook tributary No. 1	G0000081p	20PR
Posts Brook tributary No. 1	G0000082p	19PR
Posts Brook tributary No. 1	G0000083p	18PR
Van Dam tributary	G0000084p	17PR
Van Dam Brook	G0000085p	16PR
Van Dam Brook	G0000086p	15PR
Van Dam Brook	G0000087p	14PR
Oakwood Lake Brook	G0000088p	13PR
Cold Spring Brook	G0000090p	11PR
Cold Spring Brook	G0000091p	10PR
Cold Spring Brook	G0000092p	09PR
Cold Spring Brook	G0000093p	08PR
Cold Spring Brook	G0000094p	07PR
Cold Spring Brook	G0000095p	06PR
Pequannock River	G0000096p	05P
Pequannock River	G0000097p	04P
Pequannock River	G0000098p	03P
Pequannock River	G0000099p	02P
Pequannock River	G0000100p	01P
Pequannock River	G0000107p	06P
Posts Brook	J0000042p	40
Posts Brook	J0000088p	37

§30.11.3 Establishing the Local Design Flood Elevation (LDFE).

The Local Design Flood Elevation (LDFE) is established in the flood hazard areas determined in Section 30.11.2, 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 30.11.2, above plus one (1) foot or as described by N.J.A.C. 7:13 of freeboard; or
- 2) For any undelineated watercourse (where mapping or studies described in 30.11.2 (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 (1) foot of freeboard and any additional freeboard as required by ASCE 24; or
 - b. A determination of the Flood Hazard Area Design Flood Elevation using Method 5 or Method 6 (as described in N.J.A.C. 7:13) plus one (1) foot of freeboard and any additional freeboard as required by ASCE 24. Any determination using these methods must be sealed and submitted according to Section 30.14.2 – 30.14.3.
- 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 (1) foot of freeboard. If no depth number is specified, the Local Design Flood Elevation is three (3) feet above the highest adjacent grade.
 - 4) Class IV Critical Facilities - For any proposed development of new and substantially improved Flood Design Class IV Critical Facilities, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional two (2) feet of freeboard in accordance with ASCE 24.
 - 5) Class III Critical Facilities - For proposed development of new and substantially improved Flood Design Class III Critical Facilities in coastal high hazard areas, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional one (1) foot of freeboard in accordance with ASCE 24.

SECTION 30.12 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

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

§30.12.2 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 30.16 of these regulations.

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

§30.12.4 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 30.11 of these regulations.
- (2) Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.
- (3) Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
- (4) Determine whether additional flood hazard data shall be obtained or developed.
- (5) Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.
- (6) Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 30.12.15 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 30.16 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 30.15 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 30.16 of these regulations.
- (13) Cite violations in accordance with Section 30.26 of these regulations.
- (14) Notify the Federal Emergency Management Agency when the corporate boundaries of the Borough of Bloomingdale have been modified.
- (15) Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in Section 30.11.2.

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

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

§30.12.7 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 Sections 30.11.2 and 30.11.3 respectively. This information shall be provided to the Construction Official and

documented according to Section 30.12.16.

§30.12.8 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.

§30.12.9 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.

§30.12.10 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.

§30.12.11 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.

§30.12.12 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.

§30.12.13 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.

§30.12.14 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.

§30.12.15 Substantial improvement and substantial damage determinations. When buildings and structures are damaged due to any cause including but not limited to man-made, structural, electrical, mechanical, or natural hazard events, or are determined to be unsafe as described in

N.J.A.C. 5:23; and for applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, ordinary maintenance and minor work, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Construction Official, shall:

- (1) Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- (2) Determine and include the costs of all ordinary maintenance and minor work, as discussed in Section 30.10.5, performed in the floodplain regulated by this ordinance in addition to the costs of those improvements regulated by the Construction Official in substantial damage and substantial improvement calculations.
- (3) Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.
- (4) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage. This determination requires the evaluation of previous permits issued for improvements and repairs over a period of ten (10) years prior to the permit application or substantial damage determination as specified in the definition of substantial improvement. This determination shall also include the evaluation of flood related damages over a 10-year period to determine if the costs of repairs at the times of each flood constitutes a repetitive loss as defined by this ordinance.
- (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.

§30.12.16 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.

§30.12.17 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 30.13 PERMITS

§30.13.1 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.

§30.13.2 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 30.14 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.

§30.13.3 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.

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

§30.13.5 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 30.14 SITE PLANS AND CONSTRUCTION DOCUMENTS

§30.14.1 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

30.14.2.

- (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 30.14.2(3) of these regulations.
- (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A zones, new buildings shall be located landward of the reach of mean high tide.
- (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose. The applicant shall provide an engineering certification confirming that the proposal meets the flood storage displacement limitations of N.J.A.C. 7:13.
- (7) Extent of any proposed alteration of sand dunes.
- (8) Existing and proposed alignment of any proposed alteration of a watercourse.
- (9) Floodproofing certifications, V Zone and Breakaway Wall Certifications, Operations and Maintenance Plans, Warning and Evacuation Plans and other documentation required pursuant to FEMA publications.

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

§30.14.2 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.

§30.14.3 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 30.14.4 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 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 30.14.4 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.
- (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).

§30.14.4 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 30.15 INSPECTIONS

§30.15.1 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.

§30.15.2 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.

§30.15.3 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 30.22.2 shall be submitted to the Construction Official on an Elevation Certificate.
- 2) **Lowest horizontal structural member.** In V zones and Coastal A zones, upon

placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 30.22.2 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 30.22.2.
- 4) **Final inspection.** Prior to the final inspection, certification of the elevation required in Section 30.22.2 shall be submitted to the Construction Official on an Elevation Certificate.

§30.15.4 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 30.16 VARIANCES

§30.16.1 General. The **Planning Board** shall hear and decide requests for variances. The Planning Board shall base its determination on technical justifications submitted by applicants, the considerations for issuance in Section 30.16.5, the conditions of issuance set forth in Section 30.16.6, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The Planning Board has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations.

§30.16.2 Historic structures. A variance to the substantial improvement requirements of this ordinance is authorized provided that the repair or rehabilitation of a historic structure is completed according to N.J.A.C. 5:23-6.33, Section 1612 of the International Building Code and R322 of the International Residential Code, the repair or rehabilitation will not preclude the structure's continued designation as a historic structure, the structure meets the definition of the historic structure as described by this ordinance, and the variance is the minimum necessary to preserve the historic character and design of the structure.

§30.16.3 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.

§30.16.4 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 30.14.3(1) of these regulations.

§30.16.5 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.

§30.16.6 Conditions for issuance. Variances shall only be issued upon:

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

SECTION 30.17 SUBDIVISIONS AND OTHER DEVELOPMENTS

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

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

§30.17.2 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 30.18 SITE IMPROVEMENT

§30.18.1 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 30.14.3(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 30.14.3(1) is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with Section 30.22.2 of this ordinance and the floodway requirements of N.J.A.C. 7:13.

§30.18.2 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.

§30.18.3 Sewer facilities. All new and replaced sanitary sewer facilities, private sewage treatment plants (including all pumping stations and collector systems) and on-site waste disposal systems shall be designed in accordance with the New Jersey septic system regulations contained in N.J.A.C. 14A and N.J.A.C. 7:9A, the UCC Plumbing Subcode (N.J.A.C. 5:23) and Chapter 7, ASCE 24, to minimize or eliminate infiltration of floodwater into the facilities and discharge from the facilities into flood waters, or impairment of the facilities and systems.

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

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

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

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

§30.18.8 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 30.19 MANUFACTURED HOMES

§30.19.1 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).

§30.19.2 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 30.22.2.

§30.19.3 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.

§30.19.4 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.

§30.19.5 Enclosures. Fully enclosed areas below elevated manufactured homes shall comply with the requirements of Section 30.22.2.

§30.19.6 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 30.22.2 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 30.22.2, 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 30.20 RECREATIONAL VEHICLES

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

§30.20.2 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.

§30.20.3 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 30.22.2 for habitable buildings and Section 30.19.3.

SECTION 30.21 TANKS

§30.21.1 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 30.22 OTHER DEVELOPMENT AND BUILDING WORK

§30.22.1 General requirements for other development and building work. All development and building work, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in these regulations or the Uniform Construction Code (N.J.A.C. 5:23), shall:

- (1) Be located and constructed to minimize flood damage;
- (2) Meet the limitations of Section 30.14.3(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 30.11.3;
- (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 30.11.3 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.

§30.22.2 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 30.9) located in flood hazard areas shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 30.11.3, 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 30.11.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate; or
 - ii. Together with the attendant utility and sanitary facilities, be designed so that below the Local Design Flood Elevation, the structure:
 - 1. Meets the requirements of ASCE 24 Chapters 2 and 7; and
 - 2. Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is certified by that individual in a Floodproofing Certificate, and is confirmed by an Elevation Certificate.
 - e. All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:
 - i. 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;
 - ii. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is

- non-residential and the requirements of 30.22.2(1)(d)(ii) are met;
- iii. Be constructed to meet the requirements of ASCE 24 Chapter 2;
 - iv. Have openings documented on an Elevation Certificate; and
 - v. Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the Office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C.7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including pre-construction earth movement, removal of vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:
 1. The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
 2. The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;
 3. The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;

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

§30.22.4 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 30.14.3(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 30.16 of this ordinance.

§30.22.5 Retaining walls, sidewalks, and driveways. Retaining walls, sidewalks and driveways that involve placement of fill in floodways shall meet the requirements of Section 30.14.3(1) of these regulations and N.J.A.C. 7:13.

§30.22.6 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 30.14.3(1) of these regulations. Above-ground swimming pools are prohibited in floodways by N.J.A.C. 7:13.

§30.22.7 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 30.14.3(1) of these regulations.

SECTION 30.23 TEMPORARY STRUCTURES AND TEMPORARY STORAGE

§30.23.1 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.

§30.23.2 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.

§30.23.3 Floodway encroachment. Temporary structures and temporary storage in floodways shall meet the requirements of Section 30.14.3(1) of these regulations.

SECTION 30.24 UTILITY AND MISCELLANEOUS GROUP U

§30.24.1 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.

§30.24.2 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 30.11.3.

§30.24.3 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 30.11.3 and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.

§30.24.4 Enclosures below base flood elevation. Fully enclosed areas below the design flood elevation shall be constructed in accordance with Section 30.22.2 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.

§30.24.5 Flood-damage resistant materials. Flood-damage-resistant materials shall be used below the Local Design Flood Elevation determined in Section 30.11.3.

§30.24.6 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 30.11.3.

Exception: Electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall be permitted to be located below the Local Design Flood Elevation provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the Local Design Flood Elevation in compliance with the flood-resistant construction requirements of ASCE 24. Electrical wiring systems shall be permitted to be located below the Local Design Flood Elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

SECTION 30.25 VIOLATIONS

§30.25.1 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.

§30.25.2 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.

§30.25.3 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.

30.25.4 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 not more than \$2000.00 under N.J.S.A. 40:49-5 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 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. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

ATTEST:

BOROUGH OF BLOOMINGDALE
COUNTY OF PASSAIC
STATE OF NEW JERSEY

Theresa Sauer, Deputy Clerk

By: _____
John D’Amato, Mayor

PUBLIC NOTICE

**ORDINANCE NO. 23-2023
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

AN ORDINANCE BY THE BOROUGH COUNCIL AMENDING THE BOROUGH OF BLOOMINGDALE, COUNTY OF PASSAIC, STATE OF NEW JERSEY CODE OF ORDINANCES TO REPEAL CHAPTER 30 “FLOOD HAZARD PROTECTION”; TO ADOPT A NEW CHAPTER 30 ENTITLED “THE FLOODPLAIN MANAGEMENT REGULATIONS”, TO ADOPT FLOOD HAZARD MAPS; TO DESIGNATE A FLOODPLAIN ADMINISTRATOR; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at an Official Meeting of the Governing Body of the Borough of Bloomingdale, County of Passaic, State of New Jersey held in the Municipal Building on June 13, 2023, and the same

shall come up for final passage at an Official Meeting of the Governing Body to be held on June 27, 2023 at 7PM, at which time any persons interested shall be given the opportunity to be heard concerning said Ordinance. Copies of this Ordinance are available in the Clerk’s Office located at 101 Hamburg Turnpike, Bloomingdale, New Jersey.

Purpose/Summary of Ordinance No. 23-2023:

WHEREAS, in order to be in compliance with the newly issued state and federal regulations, it is recommended that Chapter 30 be repealed in its entirety and replaced with a new Chapter 30.

Theresa Sauer, Deputy Clerk

Public Hearing:

At this time YAZDI made a motion to open the Public Hearing for comment; seconded by HUDSON and carried on a voice vote all voting AYE.

Linda Huntley, 86 Van Dam Avenue, Bloomingdale:
Made the following inquires:

- Wanted to know what the change was. Borough Admin and Borough Attorney noted the whole chapter was adjusted to follow state policy, all municipalities are required to adopt the new regulations.

Since there was no one else who wished to speak HUDSON made a motion to close the public hearing; motion was seconded by CATALANO and carried on voice vote all members voting AYE; none were opposed.

Adoption:

YAZDI made motion for adoption; the motion was seconded by CATALANO and carried per the following roll call vote: DELLARIPA (YES), GRAZIANO (YES), HUDSON (YES), SCHUBERT (YES), YAZDI (YES), CATALANO (YES)

B. Second/Final Reading & Public Hearing:
Ordinance No. 24-2023: Amend Ch. 11 (Cert of Occupancy)

The Deputy Clerk, Terry Sauer, read the Public Notice statement.

Councilman Yazdi moved that the Ordinance be read by title; seconded by Dellaripa and carried on voice vote – all members present voting AYE

The Deputy Clerk read the following Ordinance by title:

**ORDINANCE NO 24-2023
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF PASSAIC AND STATE OF NEW JERSEY, AMENDING CHAPTER 11 “BUILDING AND HOUSING”, SECTION 11-1.6 “CERTIFICATE OF CONTINUED OCCUPANCY FOR COMMERCIAL, INDUSTRIAL AND RESIDENTIAL PREMISES” OF THE CODE OF THE BOROUGH OF BLOOMINGDALE

WHEREAS, the Borough Code currently sets forth standards and requirements associated with the issuance of certificates of continued occupancy; and

WHEREAS, the Borough Ordinance Review Committee has reviewed the Code and recommended certain changes be made in order to provide more information to the Borough with regard to businesses; and

WHEREAS, the Borough Council has reviewed and accepted the recommended changes as being in the best interest of the Borough.

NOW THEREFORE BE IT ORDAINED, by the Council of the Borough of Bloomingdale, in the County of Passaic, and State of New Jersey, as follows:

SECTION 1. Chapter 11 “Building and Housing”, Section 11-1.6 “Certificate of Continued Occupancy for Commercial, Industrial and Residential Premises” shall be amended to read as follows:

§ 11-1.6 Certificate of Continued Occupancy for Commercial, Industrial and Residential Premises.

- a. No person shall occupy or use any portion of a commercial, industrial or residential building after such building or portion thereof has been vacated or sold, or which there has been a change of occupancy, until the owner/landlord shall have applied for and secured a certificate of occupancy therefor from the Construction Official or his designee of the Borough.
- b. Upon receipt by the Construction Official of an application for a certificate of continued occupancy and payment of the requisite fee, the Construction Official shall conduct an inspection of the premises in question to insure compliance with applicable building, health, safety and fire codes, regulations, ordinances and statutes of the Borough of Bloomingdale and the State of New Jersey. With respect to any change in occupancy and/or ownership of any commercial, manufacturing or industrial property in any zone, the Zoning Officer shall have the discretion to determine whether a full review and approval by the Planning Board should be made prior to the issuance of a Certificate of Continued Occupancy. The Zoning Officer’s review shall be based on the following application items:
 - 1. Nature of the business of the new occupant.
 - 2. Days and hours of operation.
 - 3. Interior and exterior renovations planned.
 - 4. Exterior signage planned.
 - 5. Number of employees.
 - 6. Exterior storage planned.
 - 7. Parking plan schematic, to include ingress, egress, number and size of spaces.
 - 8. Sidewalk or driveway apron installation and/or repair planned.
- c. The Construction Official shall issue a certificate of continued occupancy upon his inspection and satisfaction that no violations of the aforementioned codes, regulations, ordinances and statutes exist, and if the Zoning Officer has determined Planning Board approval is not required.
- d. If violations are found to exist, there shall be no new occupancy or use of the premises until compliance with this section has been obtained.
- e. The Construction Official shall provide a form to be completed by each applicant. A fee of \$200 shall be paid for residential single-family dwellings. A fee of \$100 per unit shall be paid for commercial, industrial, multifamily or residential rental units.
- f. The Construction Official may waive the inspection and the above fee if an inspection of the same premises has been made within 60 days, and there has been

no physical change to the property. Application review and Planning Board determination by the Zoning Officer shall not be waived.

- g. All payments for a continued certificate of occupancy shall be made in cash or cashier’s check to the Borough of Bloomingdale.

All other portions of this Chapter not addressed herein shall remain unchanged.

SECTION 2. All ordinances or parts of ordinances of the Borough of Bloomingdale inconsistent herewith are repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.

SECTION 4. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

ATTEST:

BOROUGH OF BLOOMINGDALE
COUNTY OF PASSAIC
STATE OF NEW JERSEY

Theresa Sauer, Deputy Clerk

By: _____
John D’Amato, Mayor

PUBLIC NOTICE
ORDINANCE NO. 24-2023
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE

AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF PASSAIC AND STATE OF NEW JERSEY, AMENDING CHAPTER 11 “BUILDING AND HOUSING”, SECTION 11-1.6 “CERTIFICATE OF CONTINUED OCCUPANCY FOR COMMERCIAL, INDUSTRIAL AND RESIDENTIAL PREMISES” OF THE CODE OF THE BOROUGH OF BLOOMINGDALE

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at an Official Meeting of the Governing Body of the Borough of Bloomingdale, County of Passaic, State of New Jersey held in the Municipal Building on June 13, 2023, and the same shall come up for final passage at an Official Meeting of the Governing Body to be held on June 27, 2023 at 7PM, at which time any persons interested shall be given the opportunity to be heard concerning said Ordinance. Copies of this Ordinance are available in the Clerk’s Office located at 101 Hamburg Turnpike, Bloomingdale, New Jersey.

Purpose/Summary of Ordinance No. 24-2023:
WHEREAS, the Borough Ordinance Review Committee has reviewed the Code and recommended certain changes be made in order to provide more information to the Borough with regard to businesses. The recommendation includes amending Ch. 11 “Building and Housing”, section 11-1.6 ‘Certificate of Continued Occupancy for Commercial, Industrial and Residential Premises.

Theresa Sauer, Deputy Clerk

Public Hearing:

At this time HUDSON made a motion to open the Public Hearing for comment; seconded by YAZDI and carried on a voice vote all voting AYE.

Brian Spellman – 6 Second Street, Bloomingdale NJ
Made the following inquires:

- Questioned the ordinance, however the inquiry was not related to this ordinance [questions were in relation to the Municipal Business Registration Program; comments were held]

Since there was no one else who wished to speak DELLARIPA made a motion to close the public hearing; motion was seconded by YAZDI and carried on voice vote all members voting AYE; none were opposed.

Adoption:

HUDSON made motion for adoption; the motion was seconded by YAZDI and carried per the following roll call vote: GRAZIANO (YES), HUDSON (YES), SCHUBERT (YES), YAZDI (YES), CATALANO (YES), DELLARIPA (YES)

C. Second/Final Reading & Public Hearing:
Ordinance No. 25-2023: Amend Ch. 12 (Affordable Housing)

The Deputy Clerk, Terry Sauer, read the Public Notice statement.

Councilman Yazdi moved that the Ordinance be read by title; seconded by Catalano and carried on voice vote – all members present voting AYE

The Deputy Clerk read the following Ordinance by title:

**ORDINANCE NO 25-2023
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

**AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, COUNTY OF
PASSAIC, STATE OF NEW JERSEY, TO REPEAL CHAPTER 12 “LOW AND
MODERATE HOUSING” AND TO ESTABLISH A NEW CHAPTER 12 ENTITLED
“AFFORDABLE HOUSING”**

WHEREAS, the Borough herein updates its affordable housing regulations to be consistent with the Uniform Housing Affordability Control rules (N.J.A.C. 5:80-26.1), COAH’s substantive rules (N.J.A.C. 5:93), and the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.); and

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Bloomingdale, in the County of Passaic and State of New Jersey as follows:

SECTION 1: Chapter 12 entitled “Low and Moderate Housing” is hereby repealed and replaced in its entirety with “Affordable Housing” and shall be added to the Code to read as follows:

Section 12-1 “Affordable Housing”

§ 12-1.1 Affordable Housing Obligation: General Program Purposes, Procedures

- a. This section of the Borough Code sets forth regulations regarding the low and moderate income housing units in the Borough consistent with the provisions known as the “Substantive Rules of the New Jersey Council on Affordable Housing”, N.J.A.C. 5:93 et seq., the Uniform Housing Affordability Controls (“UHAC”), N.J.A.C. 5:80-26.1 et seq., except where modified by the requirements for very-low income housing as established in P.L. 2008, c.46 (the "Roberts Bill", codified at N.J.S.A. 52:27D-329.1), such that the statutory requirement to provide very-low income units equal to 13% of affordable units

approved and constructed after July 17, 2008, to be affordable to households at 30% of the regional median income, overrides the UHAC requirement that 10% of all low- and moderate-income units must be affordable at 35% of the regional median income, and the Borough's constitutional obligation to provide a fair share of affordable housing for low and moderate income households.

- b. This Ordinance is intended to assure that very-low, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very- low, low- and moderate-income households shall occupy these units. This Ordinance shall apply to all inclusionary developments and 100% affordable developments (including those funded with low-income housing tax credit financing) except where inconsistent with applicable law.

§ 12-1.2 Definitions. As used herein the following terms shall have the following meanings:

- Act
The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).
- Adaptable
Constructed in compliance with the technical design standards of the Barrier Free Subcode (N.J.A.C. 5:23-7).
- Administrative agent
The entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:91, N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq.
- Affirmative marketing
A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.
- Affordability average
The average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.
- Affordable
A sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:93-7.4; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.
- Affordable housing development
A housing development of which all or a portion of which consists of restricted units.
- Affordable housing development
A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.
- Affordable housing program(s)
Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.
- Affordable unit
A housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:93, and/or funded through an affordable housing trust fund.

Agency

The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

Age-restricted unit

A housing unit designed to meet the needs of, and exclusively for, the residents of an age- restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80% of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

Alternative living arrangement

A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes, but is not limited to: transitional facilities for the homeless, Class A, B, C, D, and E boarding homes as regulated by the New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

Assisted living residence

A facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

Certified household

A household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

COAH

The Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

DCA

The State of New Jersey Department of Community Affairs.

Developer

Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

Development

The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

Development Fee

Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:93-8.

Equalized Assessed Value

The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through 54:1-35c).

Fair Share Plan

The plan that describes the mechanisms, strategies and the funding sources, if any, by which the Borough proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:93-5.

Housing Element

The portion of the Borough's Master Plan, required by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-28b(3) and the Act, that includes the information required by N.J.A.C. 5:93-5.1 and establishes the Borough's fair share obligation.

Inclusionary development

A development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

Low-income household

A household with a total gross annual household income equal to 50% or less of the median household income.

Low-income unit

A restricted unit that is affordable to a low-income household.

Market-rate units

Housing not restricted to low- and moderate-income households that may sell or rent at any price.

Median income

The median income by household size for the applicable county, as adopted annually by COAH or approved by the NJ Superior Court.

Moderate-income household

A household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

Moderate-income unit

A restricted unit that is affordable to a moderate-income household.

Non-exempt sale

Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

Random selection process

A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

Regional asset limit
The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by adopted/approved Regional Income Limits.

Rehabilitation
The repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

Rent
The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

Restricted unit
A dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

Special master
An expert appointed by a judge to make sure that judicial orders are followed. A master's function is essentially investigative, compiling evidence or documents to inform some future action by the court.

UHAC
Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

Very-low income household
A household with a total gross annual household income equal to 30% or less of the median household income.

Very-low income unit
A restricted unit that is affordable to a very-low income household.

§ 12-1.3 Administration of Affordable Units. The following requirements shall apply to all new or planned developments that contain low- and moderate- income housing units.

- a. Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low and moderate income units whether developed in a single phase development, or in a multi-phase development:

Maximum Percentage of Low- Market-Rate Units <u>Completed</u>	Minimum Percentage of and Moderate- Income <u>Units Completed</u>
25	0
25+1	10
50	50
75	75
90	100
100	

- b. Design. In inclusionary developments, low- and moderate- income units shall be integrated with the market units.
- c. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

d. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

1. The fair share obligation shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.
2. In each affordable housing development, the total number of units and within each bedroom distribution shall have at least 50% of the restricted units for low-income households, with at least 13% affordable to very-low-income households.
3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - (b) At least 30% of all low- and moderate-income units shall be two bedroom units;
 - (c) At least 20% of all low- and moderate-income units shall be three bedroom units; and
 - (d) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
4. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

e. Accessibility Requirements:

1. The first floor of all new restricted townhouse dwelling units and all restricted multistory dwelling units attached to at least one (1) other dwelling unit shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
 - (b) All restricted townhouse dwelling units and all restricted multistory dwelling units attached to at least one (1) other dwelling unit shall have the following features:
 - (a) An adaptable toilet and bathing facility on the first floor;
 - (b) An adaptable kitchen on the first floor;
 - (c) An interior accessible route of travel on the first floor;
 - (1) An interior accessible route of travel shall not be required between stories within an individual unit;
 - (e) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and

- (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Borough has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
- (1) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - (2) To this end, the builder of restricted units shall deposit funds within the Borough of Bloomingdale's affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - (3) The funds deposited under paragraph (2) herein, shall be used by the Borough for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (4) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough of Bloomingdale.
 - (5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough of Bloomingdale's affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.
 - (6) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

f. Maximum Rents and Sales Prices.

1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and by the Superior Court, utilizing the regional income limits established.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate- income units shall be affordable to households earning no more than 52% of median income.

3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.
 - (a) At least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be met:
 - (a) A studio or efficiency unit shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be met:
 - (a) A studio or efficiency unit shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household; and
 - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

Income limits for all units for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:

- (a) Regional income limits shall be established for the Region 1 based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in Region 1. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very-low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
 - (b) The income limits calculated each year shall be the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for the relevant fiscal year, and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
 - (c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
10. The rent levels of very-low-, low- and moderate-income units may be

increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

11. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.
- g. Condominium and Homeowners Association Fees.
1. For any affordable housing unit that is part of a condominium association and/or homeowner's association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100% of the market rate fee.
- h. Affordable Unit Controls and Requirements
1. The requirements of this section apply to all developments that contain affordable housing units, including any currently unanticipated future developments that will provide low- and moderate- income housing units.
- i. Affirmative Marketing.
1. The Borough shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
 2. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 1 and covers the period of deed restriction.
 3. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 1, comprised of Bergen, Hudson, Passaic and Sussex Counties
 4. The Administrative Agent designated by the Borough shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the municipality.
 5. The Borough shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, , the Morris County Chapter of the NAACP, Newark NAACP, East Orange NAACP, Housing Partnership for Morris County, Community Access Unlimited, Inc., Northwest New Jersey Community Action Program, Inc. (NORWESCAP), Homeless Solutions of Morristown,

and the Supportive Housing Association, and shall, as part of its regional affirmative marketing strategies during its implementation of this plan, provide notice to those organizations of all available affordable housing units. The Borough also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.

5. In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
6. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
7. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough of Bloomingdale.

j. Occupancy Standards.

1. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - (a) Provide an occupant for each bedroom;
 - (b) Provide separate bedrooms for parents and children;
 - (c) Provide children of different sexes with separate bedrooms; and
 - (d) Prevent more than two persons from occupying a single bedroom.
2. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

k. Selection of Occupants of Affordable Housing Units.

1. The administrative agent shall use a random selection process to select occupants of low- and moderate- income housing.
2. A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26 et seq.

l. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years, until the municipality takes action to release the controls on affordability.
2. Rehabilitated owner-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
3. The affordability control period for a restricted ownership unit shall

commence on the date the initial certified household takes title to the unit.

4. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
5. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

m. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

1. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:
2. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
3. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
4. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
5. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

n. Buyer Income Eligibility.

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
2. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's certified monthly income.

o. Limitations on indebtedness secured by ownership unit; subordination.

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
 2. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C.5:80-26.6(b).
- p. Control Periods for Restricted Rental Units.
1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years, until the municipality takes action to release the controls on affordability.
 - (a) Restricted rental units created as part of developments receiving nine percent (9%) Low Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period.
 2. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
 3. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Gloucester. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
 4. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
 - (a) Sublease or assignment of the lease of the unit;
 - (b) Sale or other voluntary transfer of the ownership of the unit;
or
 - (c) The entry and enforcement of any judgment of foreclosure.
- q. Price Restrictions for Rental Units; Leases.
1. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
 2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express

written approval of the Administrative Agent.

3. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
- r. Tenant Income Eligibility.
1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - (a) Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
 - (b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
 - (c) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
 2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - (a) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (b) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (c) The household is currently in substandard or overcrowded living conditions;
 - (d) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (e) The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
 3. The applicant shall file documentation sufficient to establish the existence of the circumstances in (b)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

s. Conversions.

1. Each affordable housing unit created through the conversion of a non-residential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit.

t. Alternative Living Arrangements.

1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
 - (a) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
 - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80- 26.3).
2. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
3. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§ 12-1.4 Municipal Housing Liaison.

- a. The position of Municipal Housing Liaison for the Borough of Bloomingdale is hereby established. The Municipal Housing Liaison shall be appointed by duly adopted resolution of the Borough Mayor and Council and be subject to the approval by the Superior Court.
- b. The Municipal Housing Liaison must be either a full-time or part-time employee of the Borough of Bloomingdale.
- c. The Municipal Housing Liaison must meet the requirements for qualifications, including initial and periodic training found in N.J.A.C. 5:93.
- d. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Bloomingdale, including the following responsibilities which may not be contracted out to the Administrative Agent:
 1. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 2. The implementation of the Affirmative Marketing Plan and affordability controls.
 3. When applicable, supervising any contracting Administrative Agent.
 4. Monitoring the status of all restricted units in the Borough of

Bloomington's Fair Share Plan;

5. Compiling, verifying and submitting annual reports as required by the Superior Court;
6. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
7. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Superior Court.

§ 12-1.5 Administrative Agent.

- a. The Borough shall designate by resolution of the Borough Mayor and Council, , one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:93 and UHAC.
- b. Developers of affordable housing units shall utilize the Borough's appointed administrative agent for the administration of affordable units, unless specifically authorized to do otherwise by the Borough Mayor and Council or Planning or Zoning Board. All administration costs, including those of the administrative agent, shall be paid by the developer.
- c. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Superior Court. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- d. The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
 1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Superior Court;
 2. Affirmative Marketing;
 3. Household Certification;
 4. Affordability Controls;
 5. Records retention;
 6. Resale and re-rental;
 7. Processing requests from unit owners; and
 8. Enforcement, although the ultimate responsibility for retaining controls on the units rests with the municipality.
 9. The Administrative Agent shall, as delegated by the Borough Mayor and Council, have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

§ 12-1.6 Enforcement of Affordable Housing Regulations.

- a. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- b. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
 - (a) A fine of not more than \$500.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - (b) In the case of an Owner who has rented his or her low- or moderate- income unit in violation of the regulations governing affordable housing units, payment into the Borough of Bloomingdale Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (c) In the case of an Owner who has rented his or her low- or moderate- income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
 2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.
- c. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- d. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and

moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

- e. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate- income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- f. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- g. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- h. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

§ 12-1.7 Appeals. Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed in writing with the Borough Council.

Section 12-2 “Mandatory Development Fee”

§ 12-2.1 Purpose

This article establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (N.J.S.A. 52:27D-329.2), the Statewide Non-Residential

Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), and the Borough's 2021 Settlement Agreement with Fair Share Housing Center (ESX-L-2778-18). Fees collected pursuant to this article shall be used for the purpose of providing very-low, low- and moderate-income housing in accordance with a Court-approved spending plan.

§ 12-2.2 Basic Requirements

- a. The Borough of Bloomingdale shall not spend development fees in a manner that is inconsistent with its approved Spending Plan.

§ 12-2.3 Definitions

The following terms when used in this Ordinance shall have the meaning given in this Section.

Affordable Housing Development shall mean a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipally sponsored construction project or a 100% affordable housing development.

COAH or the Council shall mean the New Jersey Council on Affordable Housing established under the Fair Housing Act, or any successor agency charged with the administration of the Act.

Court shall mean the Superior Court of New Jersey, Law Division.

Developer shall mean the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

Development Fee shall mean money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Borough, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, et seq., and regulated by applicable COAH Rules.

Equalized Assessed Value shall mean the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through c).

Green Building Strategies shall mean strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

§ 12-2.4 Residential Development Fees

- a. Imposed Fees.
 - 1. Within all residential zoning districts, developers shall pay a development fee of 1% of the equalized assessed value of any eligible residential activity.
 - 2. Nonresidential development in residential districts shall pay such fees as are set forth for nonresidential districts.
 - 3. If a "d" variance is granted pursuant to N.J.S.A. 40:55D-70d(5), then the additional residential units realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of 6% rather than the development fee of 1%. However, if the zoning on a site has changed during the two year period preceding the filing of the "d" variance application, the density for the purposes of calculating the bonus development fee shall be the highest density

permitted by right during the two year period preceding the filing of the "d" variance application.

- b. Eligible extractions, including extractions for residential developments.
 - 1. Developers of low and moderate-income units shall be exempt from paying development fees.
 - 2. Developers are also exempt from paying development fees for the development of the following specific uses: not-for-profit uses; Federal, State and municipal government uses; churches and other places of worship; and public schools.
 - 3. Developers who expand an existing nonresidential structure or change to a more intense use shall pay a development fee. The development fee shall be calculated based on the increase in the equalized assessed value of the improved structure.
 - 4. Developers who have received preliminary or final approval prior to the effective date of this section shall be exempt from paying a development fee unless the developer seeks a substantial change in the approval.
 - 5. Developers who expand, enlarge or improve existing single family or two-family residences are exempt from paying development fees.

§ 12-2.5 Non-Residential Development Fees

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

2. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
3. Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
4. A developer of a nonresidential development exempted from the nonresidential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy for the nonresidential development, whichever is later.
5. If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Borough of Bloomingdale as a lien against the real property of the owner.

§ 12-2.6 Collection procedures

- a. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority or entity shall notify or direct its staff to notify the construction official responsible for the issuance of a building permit.
- b. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e. The construction official responsible for the issuance of a final certificate of occupancy shall notify the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f. Within 10 business days of a request for the scheduling of a final inspection,

the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

- g. Should the Borough of Bloomingdale fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6).
- h. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at the issuance of the certificate of occupancy. No certificate of occupancy shall be issued to the developer until all remaining developer fees have been paid in full.
- i. Appeal of development fees
 - 1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by Bloomingdale Borough. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - 2. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by Bloomingdale Borough. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§ 12-2.7 Affordable Housing Trust Fund

- a. There is hereby created a separate, interest-bearing Housing Trust Fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- b. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - 1. Payments in lieu of on-site construction of affordable units;
 - 2. Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - 3. Rental income from municipally operated units;

4. Repayments from affordable housing program loans;
 5. recapture funds;
 6. proceeds from the sale of affordable units; and
 7. Any other funds collected in connection with the Borough of Bloomingdale's affordable housing program.
- c. In the event of a failure by the Borough of Bloomingdale to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved spending plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services ("LGS"), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Bloomingdale, or, if not practicable, then within the County.
1. Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the noncompliant condition(s), and upon a finding of continuing and deliberate noncompliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.
- d. All interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

§ 12-2.8 Use of Funds

- a. The expenditure of all funds shall conform to a spending plan approved by the Superior Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address Bloomingdale Borough's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; regional housing partnership programs; conversion of existing nonresidential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved spending plan.
- b. Funds shall not be expended to reimburse Bloomingdale Borough for past housing activities.

- c. At least 30% of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of the median income for Housing Region, in which Bloomingdale is located.
 - 1. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the spending plan.
 - 2. Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The specific programs to be used for very-low-income affordability assistance shall be identified and described within the spending plan.
 - 3. Payments in lieu of constructing affordable housing units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d. The Borough of Bloomingdale may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
- e. No more than 20% of all revenues collected from development fees may be expended on administration, including but not limited to salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.
 - 1. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses.
 - 2. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

§ 12-2.9 Monitoring

- a. The Borough of Bloomingdale shall provide annual reporting of Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, COAH or Local Government Services or other entity designated by the State of New Jersey, and Fair Share Housing Center, as well as posting it to the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, COAH or Local Government Services, or any other forms endorsed by the Special Master and Fair Share Housing Center

§ 12-2.10 Ongoing collection of fees

- a. The ability of the Borough of Bloomingdale to impose, collect and expend development fees shall be permitted through the expiration of the repose period covered by its judgment of compliance and shall continue thereafter so long as Bloomingdale Borough has filed an adopted Housing Element and Fair Share Plan with the Court or with a designated state administrative agency, has petitioned for a judgment of compliance from the Court or for substantive certification or its equivalent from a state administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its development fee ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

- b. If the Borough of Bloomingdale fails to renew its ability to impose and collect development fees after the expiration of its judgment of compliance and repose, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320).

- c. After the expiration of the judgment of compliance and repose, if the Borough does not pursue or obtain continued authorization, Bloomingdale Borough shall not impose a residential development fee on a development that receives preliminary or final site plan approval, retroactively impose a development fee on such a development, or expend any of its collected development fees.

SECTION 2: Severability

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Borough of Bloomingdale declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

SECTION 3: Effective Date.

This ordinance shall take effect immediately upon passage and publication according to law.

ATTEST:

BOROUGH OF BLOOMINGDALE
COUNTY OF PASSAIC
STATE OF NEW JERSEY

Theresa Sauer, Deputy Clerk

By: _____
John D’Amato, Mayor

PUBLIC NOTICE

**ORDINANCE NO. 25-2023
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, COUNTY OF PASSAIC, STATE OF NEW JERSEY, TO REPEAL CHAPTER 12 “LOW AND MODERATE HOUSING” AND TO ESTABLISH A NEW CHAPTER 12 ENTITLED “AFFORDABLE HOUSING”

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at an Official Meeting of the Governing Body of the Borough of Bloomingdale, County of Passaic, State of New Jersey held in the Municipal Building on June 13, 2023, and the same shall come up for final passage at an Official Meeting of the Governing Body to be held on June 27, 2023 at 7PM, at which time any persons interested shall be given the opportunity to be heard concerning said Ordinance. Copies of this Ordinance are available in the Clerk’s Office located at 101 Hamburg Turnpike, Bloomingdale, New Jersey.

Purpose/Summary of Ordinance No. 25-2023:

WHEREAS, the Borough herein updates its affordable housing regulations to be consistent with the Uniform Housing Affordability Control rules (N.J.A.C. 5:80-26.1), COAH’s substantive rules (N.J.A.C. 5:93), and the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.)

Theresa Sauer, Deputy Clerk

Public Hearing:

At this time HUDSON made a motion to open the Public Hearing for comment; seconded by YAZDI and carried on a voice vote all voting AYE. Since there was no one who wished to speak YAZDI made a motion to close the public hearing; motion was seconded by DELLARIPA and carried on voice vote all members voting AYE; none were opposed.

Adoption:

HUDSON made motion for adoption; the motion was seconded by YAZDI and carried per the following roll call vote: HUDSON (YES), SCHUBERT (YES), YAZDI (YES), CATALANO (YES), DELLARIPA (YES), GRAZIANO (YES)

D. Second/Final Reading & Public Hearing:

Ordinance No. 33-2023: Authorize Conveyance of Snowplow(s) to the Borough of Oakland

The Deputy Clerk, Terry Sauer, read the Public Notice statement.

Councilwoman Hudson moved that the Ordinance be read by title; seconded by Yazdi and carried on voice vote – all members present voting AYE

The Deputy Clerk read the following Ordinance by title:

**ORDINANCE NO. 33-2023
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, COUNTY OF PASSAIC, STATE OF NEW JERSEY, AUTHORIZING THE CONVEYANCE OF THE BOROUGH’S TWO (2) SNOW PLOWS TO THE BOROUGH OF OAKLAND FOR TOTAL CONSIDERATION OF \$12,000

WHEREAS, the Borough of Bloomingdale (“Borough”) is the fee simple owner of two (2) Western Plow Pro Plus snow plows, previously utilized by the Borough Department of Public Works and currently not in use (“Property”); and

WHEREAS, the Borough Council of the Borough of Bloomingdale has, after careful consideration, made a determination that the Property is not now needed for the Borough’s public purposes and should be conveyed to the Borough of Oakland for public purposes; and

WHEREAS, the Borough is authorized to convey the Property to the Borough of Oakland pursuant to the Local Lands and Buildings Law, N.J.S.A. 40A:12-13 et seq.; and

WHEREAS, the Borough negotiated with the Borough of Oakland to convey the Property for public purposes (“Agreement”), which Agreement is subject to the approval of the Borough Council; and

WHEREAS, the Agreement sets forth the terms and conditions of the conveyance of the Property by the Borough to the Borough of Oakland, and calls for a sale price of six thousand dollars (\$6,000) each, a total of twelve thousand dollars (\$12,000), to be paid to the Borough of Bloomingdale; and

WHEREAS, the Borough Council desires hereby to authorize and approve the execution of the Agreement by the Borough of Bloomingdale Mayor and Clerk, and further desires to authorize the Borough Administrator and Borough Attorney to take all required actions to arrange to close this transaction on behalf of the Borough at the earliest possible time; and

WHEREAS, the Borough Council has determined that such a conveyance of the Property to the Borough of Bloomingdale shall serve the general health and welfare of the residents of the Borough of Bloomingdale.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Bloomingdale, in the County of Passaic, and State of New Jersey, as follows:

SECTION 1. The Borough Council hereby declares that the Borough’s two (2) Western Plow Pro Plus snow plows are neither used presently nor needed in the future for the Borough’s public purposes.

SECTION 2. The Borough Council does hereby, pursuant to N.J.S.A. 40A:12-13(b)(1), authorize a private sale of the Property, for the total consideration of \$12,000, to the Borough of Oakland.

SECTION 3. The Mayor, Borough Administrator, Borough Attorney, Borough Clerk, and/or such other Borough Officials as the law may provide, are hereby authorized to prepare and execute such documents as may be required to effectuate the private sale authorized by this Ordinance and the transfer of title to the Property to the Borough of Oakland, which documents shall be subject to the review and approval by the Borough of Bloomingdale Attorney.

SECTION 4. The conveyance of the Property is strictly “as is”. No representation is made by the Borough of Bloomingdale as to the utility, usability or, generally, the condition of the Property.

SECTION 5. If any article, section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, and they shall remain in full force and effect.

SECTION 6. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Bloomingdale, the provisions hereof shall be determined to govern.

SECTION 7. This Ordinance shall take effect immediately upon final passage and publication according to law.

ATTEST:

BOROUGH OF BLOOMINGDALE
COUNTY OF PASSAIC
STATE OF NEW JERSEY

Theresa Sauer, Deputy Clerk

By: _____
John D'Amato, Mayor

PUBLIC NOTICE

**ORDINANCE NO. 33-2023
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, COUNTY OF PASSAIC, STATE OF NEW JERSEY, AUTHORIZING THE CONVEYANCE OF THE BOROUGH'S TWO (2) SNOWPLOWS TO THE BOROUGH OF OAKLAND FOR TOTAL CONSIDERATION OF \$12,000

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at an Official Meeting of the Governing Body of the Borough of Bloomingdale, County of Passaic, State of New Jersey held in the Municipal Building on June 13, 2023, and the same shall come up for final passage at an Official Meeting of the Governing Body to be held on June 27, 2023 at 7PM, at which time any persons interested shall be given the opportunity to be heard concerning said Ordinance. Copies of this Ordinance are available in the Clerk's Office located at 101 Hamburg Turnpike, Bloomingdale, New Jersey.

Purpose/Summary of Ordinance No. 33-2023:

WHEREAS, the Borough of Bloomingdale is the fee simple owner of two (2) Western Plow Pro Plus snow plows, previously utilized by the Borough Department of Public Works and currently not in use. The Borough Council of the Borough of Bloomingdale has, after careful consideration, made a determination that the Property is not now needed for the Borough's public purposes and should be conveyed to the Borough of Oakland for public purposes pursuant to the Local Lands and Buildings Law, N.J.S.A. 40A:12-13 et seq. The sales price is \$6,000/each for a total of \$12,000 to be paid to the Borough.

Theresa Sauer, Deputy Clerk

Public Hearing:

At this time HUDSON made a motion to open the Public Hearing for comment; seconded by YAZDI and carried on a voice vote all voting AYE.

Linda Huntley, 86 Van Dam Ave, Bloomingdale, NJ:

Made the following inquires:

- She questioned why the Borough is selling the plows. Mayor, Business Administrator, Linda and another resident audience member held discussion.

Since there was no one who wished to speak HUDSON made a motion to close the public hearing; motion was seconded by CATALANO and carried on voice vote all members voting AYE; none were opposed.

Adoption:

YAZDI made motion for adoption; the motion was seconded by HUDSON and carried per the following roll call vote: SCHUBERT (YES), YAZDI (YES), CATALANO (YES), DELLARIPA (YES), GRAZIANO (YES), HUDSON (YES)

NEW BUSINESS

A. Adoption of Resolution No. 2023-6.44: Municipal Obligations

Motion: Ray Yazdi

Second: Rich Dellaripa

Roll Call Vote: YAZDI (YES), CATALANO (YES), DELLARIPA (YES), GRAZIANO (YES), HUDSON (YES), SCHUBERT (YES)

B. Adoption of Resolution No. 2023-6.45: Appointment of Municipal Treasurer (J. Azcona)
Motion: Ray Yazdi
Second: Dawn Hudson
Roll Call Vote: CATALANO (YES), DELLARIPA (YES), GRAZIANO (YES), HUDSON (YES), SCHUBERT (YES), YAZDI (YES)

C. Adoption of Resolution No. 2023-6.46: Appointment of Acting CFO on Interim Basis (R. Malcolm)
Motion: Rich Dellaripa
Second: Dominic Catalano
Roll Call Vote: DELLARIPA (YES), GRAZIANO (YES), HUDSON (YES), SCHUBERT (YES), YAZDI (YES), CATALANO (YES)

D. Re-Introduction of Bond Ordinance No. 21-2023: Special Assessment (Orchard & Wallace Sidewalks)

A motion was made by YAZDI to introduce the Ordinance by title; second and final reading/ public hearing will be on July 18, 2023 at 7PM; the motion was seconded by DELLARIPA and carried on the following voice vote: all members present voting AYE, in favor; none were opposed.

The Deputy Clerk read by Title:

BOND ORDINANCE PROVIDING FOR SIDEWALK IMPROVEMENTS ALONG ORCHARD STREET AND WALLACE AVENUE, IN AND BY THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF PASSAIC, STATE OF NEW JERSEY; APPROPRIATING \$250,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$237,500 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF AND THE SPECIAL ASSESSMENT OF THE COST THEREOF

E. Introduction of Ordinance No. 34-2023: Amend Ch. 19 Solid Waste Management

Council Discussion:

Councilman Graziano supports the intent of the proposed ordinance from the Ordinance review committee, however, would like to amend the draft to read as follows:

Section 3; 19-.61 Permitted Placement

Private contract flexible refuse containers shall be permitted in front yard areas, front-facing driveway areas, side yard and side-facing driveway area abutting a public thoroughfare for no more than ~~seven (7)~~ fourteen (14) days.

Motion to approve the amendment was made by: John Graziano

Second: Dawn Hudson

Voice Vote: all voted in favor; none were opposed

A motion was made by GRAZIANO to introduce the amended Ordinance by title; second and final reading/ public hearing will be on July 18, 2023 at 7PM; the motion was seconded by CATALANO and carried on the following voice vote: all members present voting AYE, in favor; none were opposed.

The Deputy Clerk read by Title:

AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF PASSAIC AND STATE OF NEW JERSEY, AMENDING CHAPTER 19 “SOLID WASTE MANAGEMENT” OF THE CODE OF THE BOROUGH OF BLOOMINGDALE

LATE PUBLIC COMMENT:

HUDSON opened the meeting to late public comment; seconded by YAZDI and carried on voice vote, all in favor voting AYE. Since there was no one who wished to speak, HUDSON moved that it be closed; second by YAZDI and carried on voice vote all members voting (AYE), none were opposed.

GOVERNING BODY SCHEDULE

- A. Regular Meeting – July 18, 2023 7 PM
- B. Regular Meeting – August 15, 2023 7 PM
- C. Workshop Meeting – September 5, 2023 7 PM
- D. Regular Meeting – September 19, 2023 7 PM

ADJOURNMENT:

Since there was no further business to be conducted, HUDSON moved to adjourn at 8:01PM; seconded by YAZDI and carried on voice vote with all Council Members voting AYE.

Drafted: Aimee Greenspan
Reviewed for Council Approval: Breeanna Smith, Municipal Clerk

June 27, 2023 RESOLUTIONS

**RESOLUTION NO. 2023-6.34
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

**RESOLUTION CONFIRMING APPOINTMENT OF
LOCAL REGISTRAR TO FILL VACANCY**

WHEREAS, effective June 30, 2023, the office of the Local Registrar will be deemed vacant upon the retirement of the current Local Registrar, Theresa Sauer; and

WHEREAS, Breeanna Smith maintains a Certified Municipal Registrar certificate, has served as the Borough’s Deputy Registrar and is qualified to perform the duties of Local Registrar; and

WHEREAS, the local Board of Health has appointed Breeanna Smith to serve the unexpired 3-year term, expiring December 31, 2023; and

WHEREAS, the unexpired term shall be effective from July 1, 2023 to December 31, 2023; and

WHEREAS, the Governing Body accepts the local authority's appointment for same; and

NOW THEREFORE BE IT RESOLVED by Mayor and Council of the Borough of Bloomingdale, County of Passaic, State of New Jersey that Breeanna Smith is hereby appointed the Local Registrar of the Borough of Bloomingdale to fill the unexpired term, expiring December 31, 2023.

Record of Council Vote on Passage

COUNCIL PERSON	AYE	NAY	Abstain	Absent	COUNCIL PERSON	AYE	NAY	Abstain	Absent
Catalano	X				Dellaripa	X			
Graziano	X				Schubert	X			
Hudson	X				Yazdi	X			

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Governing Body of the Borough of Bloomingdale at an Official Meeting held on June 27, 2023.

Theresa Sauer, Deputy Clerk
Borough of Bloomingdale

**RESOLUTION NO. 2023-6.35
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

**A RESOLUTION APPOINTING JASMIN AZCONA TO SERVE AS DEPUTY
REGISTRAR FOR THE BOROUGH OF BLOOMINGDALE**

WHEREAS, in accordance with the provisions of N.J.S.A. 26:8-17, the Registrar of Vital Statistics may appoint a Deputy Registrar if the Local Registrar deems such appointments to be necessary for the office to function efficiently and to provide quality service to the public; and

WHEREAS, the Governing Body of the Borough of Bloomingdale finds and declares there is a need to appoint a certified Deputy Registrar; and

WHEREAS, Jasmin Azcona maintains a Certified Municipal Registrar license and has agreed to serve as the Deputy Registrar in the absence of the Registrar &/or at the discretion of the Registrar; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Bloomingdale, County of Passaic, State of New Jersey as follows:

1. Jasmin Azcona is hereby appointed the Deputy Registrar for the Borough of Bloomingdale effective July 1, 2023.
2. This appointment is subject to all state laws and regulations and Ms. Azcona maintaining her Certified Municipal Registrar license.

Record of Council Vote on Passage

COUNCIL PERSON	AYE	NAY	Abstain	Absent	COUNCIL PERSON	AYE	NAY	Abstain	Absent
Catalano	X				Dellaripa	X			
Graziano	X				Schubert	X			
Hudson	X				Yazdi	X			

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Governing Body of the Borough of Bloomingdale at an Official Meeting held on June 27, 2023.

Theresa Sauer, Deputy Clerk
Borough of Bloomingdale

**RESOLUTION NO. 2023-6.36
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

Authorizing Redemption and Cancellation of Tax Title Lien Certificate #21-00010

WHEREAS, the Governing Body (“Governing Body”) of the Borough of Bloomingdale (“Borough”) finds and declares that, at the Borough Tax Sale held on December 28, 2022 a lien was sold on,
28 Van Dam Avenue, Bloomingdale, for delinquent year 2021 Tax, and

WHEREAS, the Governing Body further finds and declares that the foregoing property is also known as Block 5105, Lot 17, owned by Van Dam Realty LLC; and

WHEREAS, the Governing Body further finds and declares that the foregoing lien which was sold to BALA PARTNERS LLC for a premium of \$1,700.00 and

WHEREAS, the Governing Body further finds and declares that the owner, Van Dam Realty LLC has requested redemption of TTL #21-00001

WHEREAS, the Governing Body further finds and declares that, Van Dam Realty LLC has paid all monies, to the Borough of Bloomingdale;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Bloomingdale that the Borough Treasurer be and is hereby authorized to issue checks in the

amount of \$378.24 for the lien redemption and \$1700.00 for the premium, be made payable to BALA LLC PO Box 69239 for the redemption and cancellation of Tax Title Lien Certificate #21-00010

1099 = \$6.10

Record of Council Vote on Passage									
COUNCIL PERSON	AYE	NAY	Abstain	Absent	COUNCIL PERSON	AYE	NAY	Abstain	Absent
Catalano	X				Dellaripa	X			
Graziano	X				Schubert	X			
Hudson	X				Yazdi	X			

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Governing Body of the Borough of Bloomingdale at an Official Meeting held on June 27, 2023.

Theresa Sauer, Deputy Clerk

Borough of Bloomingdale

RESOLUTION NO. 2023-6.37

OF THE GOVERNING BODY

OF THE BOROUGH OF BLOOMINGDALE

Authorizing a Refund of Overpayments in Tax Office

WHEREAS, the Governing Body (“Governing Body”) of the Borough of Bloomingdale (“Borough”) finds and declares that Arthur D Harriet, did overpay on his Sidewalk Special Assessment for 29 Hamilton Street, Bloomingdale, NJ for on Block 5088 Lot 10;

WHEREAS, a refund of overpayment in the amount of \$1,026.26 is being returned to Arthur D. Harriet

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Borough that the Treasurer be authorized to issue refund check to the following:

Arthur D. Harriet

Address: 29 Hamilton Street

Bloomingdale, NJ 07403

Refund Amount: \$1026.26

Record of Council Vote on Passage									
COUNCIL PERSON	AYE	NAY	Abstain	Absent	COUNCIL PERSON	AYE	NAY	Abstain	Absent
Catalano	X				Dellaripa	X			
Graziano	X				Schubert	X			
Hudson	X				Yazdi	X			

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Governing Body of the Borough of Bloomingdale at an Official Meeting held on June 27, 2023.

Theresa Sauer, Deputy Clerk

Borough of Bloomingdale

RESOLUTION NO. 2023-6.38

OF THE GOVERNING BODY OF

THE BOROUGH OF BLOOMINGDALE

RESOLUTION OF THE BOROUGH OF BLOOMINGDALE, COUNTY OF PASSAIC AND STATE OF NEW JERSEY APPROVING AND AUTHORIZING EXIT AGREEMENT (AGREEMENT & RELEASE) BETWEEN THE BOROUGH OF BLOOMINGDALE AND DONNA M. MOLLINEAUX

WHEREAS, Donna M. Mollineaux, Chief Financial Officer, is planned to retire effective June 30, 2023 from the Borough of Bloomingdale; and

WHEREAS, Borough Council formally accepted notification of Donna Mollineaux’s retirement on January 17, 2023 (Resolution No. 2023-1.97); and

WHEREAS, accordingly, the Borough of Bloomingdale and Donna Mollineaux desire to enter into an Agreement and Release through which all terms and conditions of Donna Mollineaux retirement shall be addressed.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Bloomingdale, in the County of Passaic, and State of New Jersey hereby authorizes the Mayor, Municipal Clerk and other Borough officials as appropriate, to execute the Agreement and Release between the Borough of Bloomingdale and Donna Mollineaux, subject to final legal and administration approval.

Record of Council Vote on Passage									
COUNCIL PERSON	AYE	NAY	Abstain	Absent	COUNCIL PERSON	AYE	NAY	Abstain	Absent
Catalano	X				Dellaripa	X			
Graziano	X				Schubert	X			
Hudson	X				Yazdi	X			

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Governing Body of the Borough of Bloomingdale at an Official Meeting held on June 27, 2023.

Theresa Sauer, Deputy Clerk
Borough of Bloomingdale

RESOLUTION NO. 2023-6.39
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE

RESOLUTION APPOINTING JASMIN E. AZCONA AS TEMPORARY PURCHASING AGENT

WHEREAS, the Borough of Bloomingdale is a governmental entity in the State of New Jersey which follows the provisions of N.J.S.A. 40A:11-1 et seq., also known as the Local Public Contracts Law; and

WHEREAS, N.J.A.C. 5:34-5 et seq. establishes the qualifying criteria for the Qualified Purchasing Agent (“QPA”); and

WHEREAS N.J.S.A. 40A:11-3a permits an entity set a higher bid threshold if a QPA is appointed as well as granted the authorization to negotiate and award such contracts below the bid threshold; and

WHEREAS, effective June 30, 2023 the Borough’s purchasing agent holding the QPA certification position will become vacant; and

WHEREAS, pursuant to N.J.A.C. 5:32-4.4(a), the circumstances of a QPA vacancy authorize the Borough to appoint a person who does not hold a QPA certification as Temporary Purchasing Agent (“TPA”) for a period of one year; and

WHEREAS, pursuant to N.J.A.C. 5:32-4.4(b) during the term of appointment of a temporary purchasing agent, a contracting unit’s bid threshold may remain at the maximum allowed, so long as the governing body has passed a resolution authorizing such amount; and

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of Bloomingdale, County of Passaic, State of New Jersey hereby affirms and appoints Jasmin E. Azcona as ‘TPA’ from July 1, 2023 through June 30, 2024 pursuant to N.J.A.C. 5:32-4.4 to exercise the duties of a purchasing agent with specific relevance to the authority, responsibility and accountability of the purchasing activity of the Borough pursuant to N.J.A.C. 5:32-4.4.

Record of Council Vote on Passage									
COUNCIL PERSON	AYE	NAY	Abstain	Absent	COUNCIL PERSON	AYE	NAY	Abstain	Absent
Catalano	X				Dellaripa	X			
Graziano	X				Schubert	X			

Hudson	X				Yazdi	X			
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I hereby certify that the foregoing is a true copy of a Resolution adopted by the Governing Body of the Borough of Bloomingdale at an Official Meeting held on June 27, 2023.

Theresa Sauer, Deputy Clerk
Borough of Bloomingdale

**RESOLUTION NO. 2023-6.40
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

Authorization to Hire Seasonal Help at the DPW

WHEREAS, there exists a need for seasonal help within the Department of Public Works; and

WHEREAS, the Assistant Superintendent of the Department of Public Works, Frank Neuberger, recommends that authorization be given to hire the following individual, to work no more than 40 hours per week, not to exceed 11 weeks, at the rate of \$18.00 per hour:

Steven Barnard

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Bloomingdale that the aforementioned persons be hired as Seasonal Help for the Department of Public Works effective July 3, 2023.

Record of Council Vote on Passage

COUNCIL PERSON	AYE	NAY	Abstain	Absent	COUNCIL PERSON	AYE	NAY	Abstain	Absent
Catalano	X				Dellaripa	X			
Graziano	X				Schubert	X			
Hudson	X				Yazdi	X			

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Governing Body of the Borough of Bloomingdale at an Official Meeting held on June 27, 2023.

Theresa Sauer, Deputy Clerk
Borough of Bloomingdale

**RESOLUTION NO. 2023-6.41
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

Appointments to the Economic Development Commission

BE IT RESOLVED by the Governing Body of the Borough of Bloomingdale that they do provide, advice and consent to the Mayor’s appointment of the following to the Economic Development Commission members:

1. EDC, Member 5 years unexpired (12/31/25) Marisa French

Record of Council Vote on Passage

COUNCIL PERSON	AYE	NAY	Abstain	Absent	COUNCIL PERSON	AYE	NAY	Abstain	Absent
Catalano	X				Dellaripa	X			
Graziano	X				Schubert	X			
Hudson	X				Yazdi	X			

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Theresa Sauer, Deputy Clerk
Borough of Bloomingdale

RESOLUTION NO. 2023-6.42

**OF THE GOVERNING BODY OF THE
BOROUGH OF BLOOMINGDALE**

RESCINDING RESOLUTIONS NO. 2023-6.21, 2023-6.22 & 2023-6.23

WHEREAS, the Governing Body of the Borough of Bloomingdale previously authorized the hiring of Dorothy Gallagher to serve as Chief Financial Officer (‘CFO’), Qualified Purchasing Agent (‘QPA’) & Supervisory Pension Certifying Officer; and

WHEREAS, Ms. Gallagher has informed the Borough Administration that she no longer wishes to serve the Borough and withdraws her employment acceptance in all capacities; and

WHEREAS, the Governing Body desires to rescind Resolution No. 2023-6.21 Appointing Ms. Gallagher to serve as CFO & QPA, Resolution No. 2023-6.22 Appointing Ms. Gallagher to serve as Supervisory Pension Certifying Officer, and Resolution No. 2023-6.23 Authorizing Ms. Gallagher as a signatory on Borough bank accounts; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Bloomingdale, County of Passaic, State of New Jersey as follows:

1. Resolutions No. 2023-6.21, 2023-6.22 & 2023-6.23 are hereby rescinded.
2. This resolution shall affect immediately.

Record of Council Vote on Passage

COUNCIL PERSON	AYE	NAY	Abstain	Absent	COUNCIL PERSON	AYE	NAY	Abstain	Absent
Catalano	X				Dellaripa	X			
Graziano	X				Schubert	X			
Hudson	X				Yazdi	X			

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Governing Body of the Borough of Bloomingdale at an Official Meeting held on June 27, 2023.

Theresa Sauer, Deputy Clerk
Borough of Bloomingdale

**RESOLUTION NO. 2023-6.43
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

**RESOLUTION DESIGNATING A SUPERVISOR OF THE CERTIFYING OFFICER
FOR PENSION FUNDS**

WHEREAS, Chapter 52, P.L. 2011, N.J.S.A. 43:3C-15 establishes procedures and employer training requirements for the enrollment and/or transfer of employees into the State administered retirement systems; and

WHEREAS, there is a need to appoint a Supervisory Certifying Officer in order to perform the duties relating to matters concerning the New Jersey State administered Retirement Systems with respect to each of the employees of the Borough of Bloomingdale; and

WHEREAS, Jim Kozimor has completed the State mandated training requirements and is able to perform the duties of such.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Bloomingdale in the County of Passaic, State of New Jersey, as follows:

That Jim Kozimor is hereby designated as Supervisory Certifying Agent in the Borough of Bloomingdale for the Public Employees Retirement System and the Police and Fireman’s

Retirement System of the State of New Jersey, to serve in that position for and during the remainder of the calendar year of 2023, effective July 1, 2023.

Record of Council Vote on Passage

COUNCIL PERSON	AYE	NAY	Abstain	Absent	COUNCIL PERSON	AYE	NAY	Abstain	Absent
Catalano	X				Dellaripa	X			
Graziano	X				Schubert	X			
Hudson	X				Yazdi	X			

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Governing Body of the Borough of Bloomingdale at an Official Meeting held on June 27, 2023.

Theresa Sauer, Deputy Clerk
Borough of Bloomingdale

**RESOLUTION NO. 2023-6.45
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

**RESOLUTION TO APPOINT JASMIN AZCONA TO SERVE AS MUNICIPAL
TREASURER PER BOROUGH CODE CHAPTER 2-31**

WHEREAS, there is a need to appoint a Municipal Treasurer in the Finance Department to fill a vacancy; and

WHEREAS, the Municipal Treasurer shall assist the Chief Financial Officer (‘CFO’) in the work involved in the disbursement, accounting and reconciliation of funds received and disbursed, in the negotiations of loans and sale of bonds, investment of funds and preparation of payroll; and

WHEREAS, the term of the Municipal Treasurer shall be four years, which shall run from January 1 in the year in which the Municipal Treasurer is appointed; and

WHEREAS, since the vacancy, Jasmin Azcona has assisted the CFO and performed the duties of Municipal Treasurer; and

WHEREAS the Business Administrator recommends Jasmin Azcona be promoted to Municipal Treasurer; and

NOW THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Bloomingdale, does hereby authorize the following:

1. Jasmin Azcona shall be appointed to serve as Municipal Treasurer, effective July 1, 2023, as per Borough code 2-31.3 it will be a four (4) year term that started January 1, 2023 and expires December 31, 2026.
2. Jasmin Azcona shall also serve as the primary Human Resource Officer & IT Liaison.
3. The salary shall be \$92,000.00.

Record of Council Vote on Passage

COUNCIL PERSON	AYE	NAY	Abstain	Absent	COUNCIL PERSON	AYE	NAY	Abstain	Absent
Catalano	X				Dellaripa	X			
Graziano	X				Schubert	X			
Hudson	X				Yazdi	X			

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Governing Body of the Borough of Bloomingdale at an Official Meeting held on June 27, 2023.

Theresa Sauer, Deputy Clerk
Borough of Bloomingdale

RESOLUTION 2023-6.46

**OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

***APPOINTING RUBY MALCOLM AS CHIEF FINANCIAL OFFICER ON
AN INTERIM BASIS***

WHEREAS, the Borough of Bloomingdale has a need to appoint an acting Chief Financial Officer (“CFO”) on an interim basis; and

WHEREAS, Ms. Malcolm meets the statutory qualifications to hold the position; and

WHEREAS, the appointment of Ms. Malcolm as acting CFO shall be for a period of one hundred twenty (120) days unless a full time CFO is hired, or whichever is sooner, and at a rate of \$70.00 per hour, for maximum billing hours of 25 hours per week

NOW THEREFORE, BE IT RESOLVED by the Mayor and Borough Council of the Borough of Bloomingdale, in the County of Passaic and State of New Jersey, that the appointment of Ms. Malcolm as Acting Chief Financial Officer of the Borough as described hereinabove be and is hereby authorized.

BE IT FURTHER RESOLVED that a notice of this action shall be printed once in the Borough’s legal newspaper

Record of Council Vote on Passage

COUNCIL PERSON	AYE	NAY	Abstain	Absent	COUNCIL PERSON	AYE	NAY	Abstain	Absent
Catalano	X				Dellaripa	X			
Graziano	X				Schubert	X			
Hudson	X				Yazdi	X			

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Governing Body of the Borough of Bloomingdale at an Official Meeting held on June 27, 2023.

Theresa Sauer, Deputy Clerk
Borough of Bloomingdale