
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 1 of 43

The Regular Meeting of the Governing Body was called to order by Mayor Michele Dale at 6:30 p.m.

Adequate Notice Statement

Mayor Dale read the following statement:

Pursuant to the provisions of the Open Public Meetings Act (N.J.S.A. 10:4-8) adequate notice of this Regular Meeting was advertised in the Herald News in and The Record in its issue of January 10, 2023, and posted on the bulletin board in the main corridor of the Town Hall and on file in the Office of the Township Clerk.

Please also make note of all fire and emergency exits – located to the left, right and rear of this room – for use in case of an emergency. Thank you.

Agenda No. I

Pledge of Allegiance

Mayor Dale led all in attendance in a salute to the flag.

Agenda No. II

Roll Call

Present: Councilmembers Ada Erik, Michael Chazukow, Marilyn Lichtenberg,
Kevin Goodsir, Matthew Conlon, David Marsden

Absent:

Also Present: Mayor Michele Dale, Township Administrator William Senande,
Township Attorney Ed Pasternak

Agenda No. III

Reading of or Approval of Unapproved Minutes

May 3, 2023 Regular Meeting Minutes

Motion to approve the minutes.

Moved: Erik Seconded: Lichtenberg
Voted Aye: Chazukow, Lichtenberg, Goodsir, Conlon, Marsden
Voted Nay: None
Motion carried:

Agenda No. IV

Meetings

June 14, 2023 Regular Meeting
July 12, 2023 Regular Meeting
August 9, 2023 Regular Meeting

Agenda No. V

Proclamations

None.

Agenda No. VI

Presentations

None.

Agenda No. VII

Executive Session

Agenda No. VII 1

~ Resolution 2023 –196 ~

MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Township Council of the Township of West Milford on the 17th day of May 2023 that:

1. Prior to the conclusion of this **Regular Meeting**, the Governing Body shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
 - () b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
 - () b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
 - () b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 3 of 43

Councilman Marsden mentioned that there had been an injury last year and suggested that if anyone sees ATV activity to call it in to the police through the dispatch non-emergency number. Perhaps patterns will form such as time of day for the activity and something can be done.

Councilwoman Lichtenberg will be planting flowers and cleaning up the area at Veterans Park and asked that anyone wishing to help please do so. The cleanup is Sunday May 21, at 9:30 a.m.

Mayor Dale indicated that this a continual problem and asked the Administrator to remind the police department of the complaints. Administrator Senande said that it is an ongoing problem and that part of the issue is that it is hard to catch them. Mayor Dale indicated that the police were not allowed to chase.

Agenda No. VIII

Discussion Items / Official Communications

None.

Agenda No. IX

Action Items – Finance Matters

Agenda No. IX 1

~ Ordinance 2023 – 011 ~

ORDINANCE TO EXCEED THE CALENDAR YEAR 2023 MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.50% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Township Council of the Township of West Milford in the County of Passaic finds it advisable and necessary to increase its CY 2023 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township Council hereby determines that a 1.00% increase in the budget for said year, amounting to \$277,445.25 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the Township Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of West Milford, in the County of Passaic, a majority of the full authorized membership of this Governing Body affirmatively concurring, that, in the CY 2023 budget year, the final appropriations of the Township of West Milford shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.50%, amounting to \$971,058.38, and that the CY 2023 municipal budget for the Township of West Milford be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Introduced: April 19, 2023
Adopted: May 17, 2023
Effective Date: June 6, 2023

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
 Date of Meeting: May 17, 2023
 Time of Meeting: 6:30 p.m.
 Minute Page No: Page 4 of 43

This Ordinance was introduced on April 19, 2023 and the Notice of Public Hearing was published in the Herald News on or about April 25, 2023. The Governing Body will open the meeting to the public to speak on this ordinance only.

Seeing no one wished to speak Councilwoman Erik made a motion to close the public portion. Seconded by Councilman Conlon.

Motion to Adopt Ordinance 2023-011.

 Moved: Erik Seconded: Conlon
 Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Conlon, Marsden
 Voted Nay: None
 Motion carried:

Agenda No. IX 2

~ Ordinance 2023 – 012 ~

BOND ORDINANCE APPROPRIATING \$4,557,500 AND AUTHORIZING THE ISSUANCE OF \$3,899,000 BONDS OR NOTES OF THE TOWNSHIP, FOR VARIOUS IMPROVEMENTS OR PURPOSES AUTHORIZED TO BE UNDERTAKEN BY THE TOWNSHIP OF WEST MILFORD, IN THE COUNTY OF PASSAIC, NEW JERSEY

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST MILFORD, IN THE COUNTY OF PASSAIC, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), **AS FOLLOWS:**

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized as general improvements to be made or acquired by The Township of West Milford, in the County of Passaic, New Jersey. For the said several improvements or purposes stated in said Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriations made for said improvements or purposes, said sums being inclusive of all appropriations heretofore made therefor and amounting in the aggregate to \$4,557,500 including the aggregate sum of \$196,160 as the several down payments for said improvements or purposes required by law and more particularly described in said Section 3 and now available therefor by virtue of provision in a previously adopted budget or budgets of the Township for down payment or for capital improvement purposes and including also in the case of the improvement or purpose described in paragraph (a) of said Section 3, the sum of \$462,340 received or expected to be received by the Township from the New Jersey Department of Transportation as a grant-in-aid of financing said improvement or purpose.

Section 2. For the financing of said improvements or purposes, including for the purpose of applicable United States Treasury regulations the reimbursement of expenditures heretofore or hereafter made therefor, and to meet the part of said \$4,557,500 appropriations not provided for by application hereunder of said down payments and grant, negotiable bonds of the Township are hereby authorized to be issued in the principal amount of \$3,899,000 pursuant to the Local Bond Law of New Jersey. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Township in a principal amount not exceeding \$3,899,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

Section 3. The improvements hereby authorized and the several purposes for the financing of which said obligations are to be issued, the appropriation made for and estimated cost of each such purpose, and the estimated maximum amount of bonds or notes to be issued for each such purpose, are respectively as follows:

IMPROVEMENT OR PURPOSE	APPROPRIATION & ESTIMATED COST	EST. MAXIMUM AMOUNT OF BONDS & NOTES
(a) Improvement of Clinton Road in and by the Township from Passaic County Bridge #177 to Stephens Road by the construction or reconstruction therein of a roadway pavement at least equal in useful life or durability to a roadway pavement of Class B construction (as used or referred to in Section 40A:2 22 of said Local Bond Law), together with all sidewalks, curbing, structures, appurtenances, milling, drainage improvements, equipment, work and materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications therefor on file or to be filed in the office of the Township Clerk and hereby approved, the \$865,000 appropriation hereby made therefor being inclusive of the amount of \$462,340 received or expected to be received by the Township from the New Jersey Department of Transportation as a grant-in-aid of financing said improvement	\$865,000	\$383,400

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of:
 Date of Meeting:
 Time of Meeting:
 Minute Page No:

Governing Body Regular Meeting
 May 17, 2023
 6:30 p.m.
 Page 5 of 43

(b) Acquisition by purchase of new and additional fire-fighting equipment for use by volunteer Fire Company #4 of the Township for the preservation of life and property in the Township, including one (1) tanker truck, together with all equipment, attachments and accessories necessary therefor or incidental thereto, all as shown on and in accordance with the specifications therefor on file or to be filed in the office of the Township Clerk and hereby approved	1,000,000	952,300
(c) Improvement of various roads in and by the Township by the construction or reconstruction therein of a roadway pavement at least equal in useful life or durability to a roadway pavement of Class B construction (as used or referred to in Section 40A:2-22 of said Local Bond Law), including, without limitation, Algonquian Way for its entire length, Appletree Lane for its entire length, Burlington Drive for its entire length, Clermont Road for its entire length, Crawford Street for its entire length, Daretown Road for its entire length, Dover Road for its entire length, Elberon Road for its entire length, Fox Court for its entire length, Grandview Lane for its entire length, Hillside Lane for its entire length, Lake Shore Drive (South) from Longhouse Drive to Fanwood Court, Newton Drive for its entire length, Orbit Road for its entire length, Ormond Road for its entire length, Raven Court for its entire length, Ryan Court for its entire length, Stanley Street for its entire length, Teo Terrace for its entire length, Torne Mountain Road for its entire length, Truro Road South for its entire length, Truro Road West for its entire length, Valleyview Lane for its entire length, Weedon Drive for its entire length and Yorkshire Avenue for its entire length,, together with all sidewalks, curbing, crack sealing, guide rail installation, structures, appurtenances, milling, drainage improvements, equipment, work and materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications therefor on file or to be filed in the office of the Township Clerk and hereby approved	1,550,000	1,476,100
(d) Acquisition by purchase and installation, as necessary, of new and additional equipment, including without limitation, one (1) generator for use at the Recreation Center of the Township and one (1) utility tractor with flail for use by the Department of Public Works of the Township, together with all appurtenances, attachments and accessories necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications therefor on file or to be filed in the office of the Township Clerk and hereby approved	332,500	316,600
(e) Substantial reconditioning of an ambulance for use by the volunteer West Milford First Aid Squad, including all equipment, attachments and accessories necessary therefor or incidental thereto, all as shown on and in accordance with the specifications therefor on file or to be filed in the office of the Township Clerk and hereby approved	235,000	223,000
(f) Improvement of municipally-owned properties and facilities in and by the Township including initial design and study costs associated with cleaning the stream near Bradrick Lane to alleviate flooding, removal of and installation of new underground fuel storage tanks, and installation of a septic tank at Town Hall, together with for all the aforesaid all landscaping, engineering, designs, site work, equipment, work, and materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications therefor on file or to be filed in the office of the Township Clerk and hereby approved	575,000	547,600
Totals	\$4,557,500	\$3,899,000

Except as otherwise stated in paragraph (a) above with respect to the said grant-in-aid of financing the purpose described in said paragraph, the excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the said down payment for said purpose.

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The said purposes described in Section 3 of this bond ordinance are not current expenses and each is a property or improvement which the Township may lawfully acquire or make as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said purposes within the limitations of said Local Bond Law and taking into consideration the respective amounts of the said obligations authorized for the several purposes, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 10.81 years.

(c) The supplemental debt statement required by said Local Bond Law has been duly made and filed in the office of the Township Clerk and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the Township as defined in said Local Bond Law is increased by the authorization of the bonds and notes provided for in this bond ordinance by \$3,899,000, and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) Amounts not exceeding \$400,000 in the aggregate for interest on said obligations, costs of issuing said obligations, engineering costs and other items of expense listed in and permitted under Section 40A:2-20 of said Local Bond Law may be included as part of the costs of said

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 6 of 43

improvements and are included in the foregoing estimate thereof (and, in particular, such costs have been included in the improvement described in Section 3(c) of this bond ordinance).

Section 5. The funds from time to time received by the Township on account of the \$462,340 grant referred to in Section 1 of this bond ordinance shall be used for financing the improvement or purpose described in paragraph (a) of Section 3 of this bond ordinance by application thereof either to direct payment of the costs of said improvements or purposes, or to payment or reduction of the authorization of the obligations of the Township authorized therefor by this bond ordinance. Any such funds so received may, and all such funds so received which are not required for direct payment of the costs of said improvements or purposes shall, be held and applied by the Township as funds applicable only to the payment of obligations of the Township authorized by this bond ordinance.

Section 6. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer, the acting chief financial officer or the treasurer (the "Chief Financial Officer"), provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. §40A:2-8. The Chief Financial Officer is hereby authorized to sell part or all of the notes at no less than par from time to time at public or private sale at not less than par and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the dates of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body of the Township at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, interest rate and maturities of the notes sold, the price obtained and the name of the purchaser.

Section 7. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this bond ordinance. Said obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable property within the Township for the payment of said obligations and interest thereon without limitation of rate or amount.

Section 8. The capital budget or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith and the resolutions promulgated by the Local Finance Board showing all detail of the amended capital budget or temporary capital budget and capital program as approved by the Director, Division of Local Government Services, are on file with the Township Clerk and are available for public inspection.

Section 9. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by said Local Bond Law.

Introduced: April 19, 2023
Adopted: May 17, 2023
Effective Date: June 6, 2023

This Ordinance was introduced on April 19, 2023 and the Notice of Public Hearing was published in the Herald News on or about April 25, 2023. The Governing Body will open the meeting to the public to speak on this ordinance only.

Seeing no one wished to speak Councilwoman Erik made a motion to close the public portion.
Seconded by Councilwoman Lichtenberg.

Motion to Adopt Ordinance 2023-012.

Moved: Erik Seconded: Lichtenberg
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Conlon, Marsden
Voted Nay: None
Motion carried:

Agenda No. IX 3

~ Resolution 2023 – 197 ~

**RESOLUTION OF THE TOWNSHIP OF WEST MILFORD COUNTY OF PASSAIC AND STATE OF
NEW JERSEY FOR SELF-EXAMINATION OF THE 2023 BUDGET RESOLUTION
(AS REQUIRED BY DCA)**

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 7 of 43

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7.2 through 7.5, the Township of West Milford has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the local government meets the necessary conditions to participate in the program for the 2023 budget year.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the Township of West Milford that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer's certification, the Governing Body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
 - a. Payment of interest and debt redemption charges
 - b. Deferred charges and statutory expenditures
 - c. Cash deficit of preceding year
 - d. Reserve for uncollected taxes
 - e. Other reserves and non-disbursement items
 - f. Any inclusions of amounts required for school purposes.
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).
3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:
 - a. All estimates of revenue are reasonable, accurate and correctly stated,
 - b. Items of appropriation are properly set forth
 - c. In itemization, form, arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.
5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.
6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

Approved: May 17, 2023

Motion to Adopt Resolution 2023-197.

Moved: Erik Seconded: Lichtenberg
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Conlon, Marsden
Voted Nay: None
Motion carried:

Agenda No. IX 4

~ Resolution 2023 – 198 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE ADOPTION OF THE 2023 MUNICIPAL BUDGET

WHEREAS, the Township Council has completed its review of the General Fund Budget, revised the proposal from the Administration where it deemed necessary and held the required public hearings.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Milford of the County of Passaic that the budget herein before set forth is hereby adopted and shall constitute an appropriation for the purposes stated of the sums therein set forth as appropriations, and authorization of the amount of:

- (a) \$22,204,605.00 (Item 2 below) for municipal purposes, and
- (b) _____ (Item 3 below) for school purposes in Type 1 School Districts only (N.J.S.A. 18A:9-2) to be raised by taxation; and
- (c) _____ (Item 4 below) to be added to the certificate of amount to be raised by taxation for local school purposes in Type II School Districts only (N.J.S.A. 18A:9-3) and certification

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
 Date of Meeting: May 17, 2023
 Time of Meeting: 6:30 p.m.
 Minute Page No: Page 8 of 43

- to the County Board of taxation of the following summary of general revenues and appropriations.
- (d) \$547,512.00 (Sheet 43) Open Space, Recreation, Farmland and Historic Preservation Trust Fund Levy
 - (e) _____ (Sheet 44) Arts and Culture Trust Fund Levy
 - (f) \$1,279,024.00 (Item 5 below) Minimum Library Tax

RECORDED VOTE

	(Erik Chazukow (Lichtenberg	Abstained (None
Ayes	(Goodsir (Conlon (Marsden	Nays (None Absent (None

SUMMARY OF REVENUES

1 General Revenues			
Surplus Anticipated		08-100	\$ 3,681,788.00
Miscellaneous Revenues Anticipated		13-099	\$ 9,038,999.00
Receipts from Delinquent Taxes		15-499	\$ 1,100,000.00
2 AMOUNT TO BE RAISED BY TAXATION FOR MUNICIPAL PURPOSES (Item 6(a), Sheet 11)		07-190	\$ 22,204,605.00
3 AMOUNT TO BE RAISED BY TAXATION FOR SCHOOLS IN TYPE I SCHOOL DISTRICTS ONLY:	07-195		
Item 6, Sheet 42			
Item 6(b), Sheet 11 (N.J.S.A. 40A:4-14)	07-191		
4 To Be Added TO THE CERTIFICATE FOR AMOUNT TO BE RAISED BY TAXATION FOR SCHOOLS IN TYPE II SCHOOL DISTRICTS ONLY:			
Item 6(b), Sheet 11 (N.J.S.A. 40A:4-14)			
5 AMOUNT TO BE RAISED BY TAXATION FOR MINIMUM LIBRARY TAX	07-192		\$ 1,279,024.00
Total Revenues	13-299		\$ 37,304,416.00

SUMMARY OF APPROPRIATIONS

6 GENERAL APPROPRIATIONS:			
Within "CAPS"			
(a&b) Operations including Contingent		34-201	\$ 25,272,502.00
(e) Deferred Charges and Statutory Expenditures – Municipal		34-209	\$ 3,470,613.00
(g)Cash Deficit		46-885	
Excluded from "CAPS"			
(a) Operations – Total Operations Excluded from "CAPS"		34-305	\$ 1,896,131.00
(c)Capital Improvements		44-999	\$ 465,000.00
(d) Municipal Debt Service		45-999	\$ 3,874,977.00
(e)Deferred Charges – Municipal		46-999	\$ 25,193.00
(f)Judgements		37-480	
(n)Transferred to Board of Education for Use of Local Schools (NJSA 40:48-17.1 & 17.3)		29-405	
(g)Cash Deficit		46-885	
(k)For Local District School Purposes		29-410	
(m)Reserve for Uncollected taxes		50-899	\$ 2,300,000.00
7 SCHOOL APPROPRIATIONS – TYPE I SCHOOL DISTRICTS ONLY (N.J.S.A. 40A:4-13)	07-195		
Total Appropriations	34-499		\$ 37,304,416.00

It is hereby certified that the within budget is a true copy of the budget finally adopted by resolution of the Governing Body on the 17th day of May, 2023. It is further certified that each item of revenue and appropriation is set forth in the same amount and by the same title as appeared in the 2023 approved budget and all amendments thereto, if any, which have been previously approved by the Director of Local Government Services.

Adopted: May 17, 2023

Councilman Conlon indicated that a great deal of work went into creating this budget and commended everyone on a cooperative, taxpayer sympathetic, job well done.

Motion to Adopt Resolution 2023-198.

Moved: Erik Seconded: Lichtenberg
 Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Conlon, Marsden
 Voted Nay: None
 Motion carried:

Agenda No. IX 5

~ Resolution 2023 – 199 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE ADOPTION OF THE 2023 SOLID WASTE BUDGET

WHEREAS, the Township Council has completed its review of the Solid Waste Budget ,revised the proposal from the Administration where it deemed necessary, and held the required public hearings.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 10 of 43

administer and enforce the State building codes, and such building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas; and

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

WHEREAS, the Township of West Milford is required, pursuant to N.J.S.A.58:16A-57, within 12 months after the delineation of any flood hazard area, to adopt rules and regulations concerning the development and use of land in the flood fringe area which at least conform to the standards promulgated by the New Jersey Department of Environmental Protection (NJDEP).

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Council of the Township of West Milford that the following floodplain management regulations are hereby adopted.

SECTION 1. These regulations specifically repeal and replace the following ordinance(s) and regulation(s): Repeal Chapter 158 and replace with Chapter 158 Titled “Flood Damage Prevention”.

Chapter 158: FLOOD DAMAGE PREVENTION

ARTICLE I SCOPE AND ADMINISTRATION

§ 158.1 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 Township of West Milford (hereinafter “these regulations”).

§ 158.2 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 Article II of these regulations.

§ 158.3 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:

- A. Protect human life and health.
- B. Prevent unnecessary disruption of commerce, access, and public service during times of flooding.
- C. Manage the alteration of natural floodplains, stream channels and shorelines;
- D. Manage filling, grading, dredging and other development which may increase flood damage or erosion potential.
- E. Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards.
- F. Contribute to improved construction techniques in the floodplain.
- G. Minimize damage to public and private facilities and utilities.
- H. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas.
- I. Minimize the need for rescue and relief efforts associated with flooding.
- J. Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.
- K. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.
- L. Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 Code of Federal Regulations, Section 59.22.

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

§ 158.5 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

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 11 of 43

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 158.26 of this ordinance.

§ 158.6 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.

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

§ 158.8 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 \$2,000, 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 \$2,000 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.

§ 158.8.1 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.

§ 158.9 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.

ARTICLE II APPLICABILITY

§ 158.10 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.

§ 158.11 Establishment of Flood Hazard Areas. The Township of West Milford was accepted for participation in the National Flood Insurance Program on January 16, 1984.

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

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
 Date of Meeting: May 17, 2023
 Time of Meeting: 6:30 p.m.
 Minute Page No: Page 12 of 43

are on file at the West Milford Town Hall Emergency Management Office 1480 Union Valley Road, West Milford, New Jersey 07480.

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

- A. **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 Rate Map for Passaic County, New Jersey (All Jurisdictions)” dated April 17, 2020 and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 158.11(A) whose effective dates are September 28, 2007 and April 17, 2020 are hereby adopted by reference.

Table 158.11(A)

Map Panel #	Effective Date	Suffix	Map Panel #	Effective Date	Suffix
34031C0015	9/28/2007	F	34031C0107	9/28/2007	F
34031C0016	9/28/2007	F	34031C0110	4/17/2020	G
34031C0017	9/28/2007	F	34031C0111	4/17/2020	G
34031C0018	9/28/2007	F	34031C0112	4/17/2020	G
34031C0019	9/28/2007	F	34031C0116	4/17/2020	G
34031C0028	9/28/2007	F	34031C0117	9/28/2007	F
34031C0036	9/28/2007	F	34031C0118	4/17/2020	G
34031C0037	9/28/2007	F	34031C0119	4/17/2020	G
34031C0038	9/28/2007	F	34031C0126	9/28/2007	F
34031C0039	4/17/2020	G	34031C0127	9/28/2007	F
34031C0041	9/28/2007	F	34031C0128	4/17/2020	G
34031C0042	9/28/2007	F	34031C0129	4/17/2020	G
34031C0043	4/17/2020	G	34031C0131	9/28/2007	F
34031C0084	9/28/2007	F	34031C0136	9/28/2007	F
34031C0092	4/17/2020	G	34031C0138	4/17/2020	G
34031C0105	9/28/2007	F			

- B. **Federal Best Available Information.** The Township of West Milford shall utilize Federal flood information 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 158.11(B)

Map Panel #	Preliminary Date	Map Panel #	Preliminary Date
None as of the date of this ordinance			

- C. **Other Best Available Data.** The Township of West Milford shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the Township of West Milford. 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 Sections 158.11(A) and 158.11(B) above. This information shall be used for floodplain regulation purposes only.
- D. **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 Article IX, 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 158.11(C) List of State Studied Waters

Name of Studied Water	File Name	MAP Number
Pequannock River	G0000075p	04P

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of:
 Date of Meeting:
 Time of Meeting:
 Minute Page No:

Governing Body Regular Meeting
 May 17, 2023
 6:30 p.m.
 Page 13 of 43

Name of Studied Water	File Name	MAP Number
Burnt Meadow Brook	J0000032p	50
West Brook	J0000036p	46
Pequannock River	J0000082p	43
Pequannock River	J0000083p	42
West Brook	J0000085p	41
West Brook Branch 7	J0000085p	41
Posts Brook Branch 4	J0000086p	40
West Brook	J0000086p	40
Posts Brook Branch 3	J0000087p	38
Posts Brook	J0000087p	38
Posts Brook	J0000088p	37
Belcher Creek Branch #2	J0000089p	36
Morsetown Brook	J0000090p	35
Morsetown Brook	J0000091p	34
Morsetown Brook	J0000092p	33
Morsetown Brook	J0000092p	33
Belcher Creek Branch 1	J0000093p	32
Morsetown Brook	J0000093p	32
Green Brook	J0000094p	31
Belcher Creek Branch 1	J0000094p	31
Green Brook	J0000095p	30
Cooley Brook	J0000096p	29
Belcher Creek	J0000097p	28
Belcher Creek	J0000098p	27
Long House Creek	J0000099p	26
Long House Creek	J0000099p	26
Greenwood Lake	J0000099p	26
Long House Creek	J0000100p	25
Pequannock River, Cold Spring Brook	BDALE002	2 of 4
Belcher Creek, Belcher Creek Branch #1	J0000001	12
Belcher Creek	J0000002	11
Greenwood Lake	J0000003	10
Greenwood Lake	J0000004	9
Greenwood Lake	J0000005	8
Long House Creek	J0000006	7
Long House Creek	J0000007	6
Long House Creek	J0000008	5
Long House Creek	J0000009	4
Long House Creek	J0000010	3
Burnt Meadow Brook, Branch #5	J0000056	26
West Brook	J0000059	23
Wanaque River	J0000061	21
Pequannock River	J0000101	24
Pequannock River	J0000102	23
West Brook, Branch #7	J0000103	22
Post Brook, West Brook	J0000104	21
Post Brook Branch #3	J0000105	20
Post Brook & Branches 3 & 4	J0000106	19
Morsetown Brook	J0000107	18
Morsetown Brook	J0000108	17
Cooley Brook, Green Brook	J0000109	16
Belcher Creek	J0000110	15

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of:
 Date of Meeting:
 Time of Meeting:
 Minute Page No:

Governing Body Regular Meeting
 May 17, 2023
 6:30 p.m.
 Page 14 of 43

Name of Studied Water	File Name	MAP Number
Belcher Creek, Belcher Creek Branch #2	J0000111	14
Belcher Creek	J0000112	13
Pequannock River	R0000076	Plate 1
Pequannock River	R0000077	Plate 2
Pequannock River	R0000078	Plate 3
Pequannock River	R0000079	Plate 4
Pequannock River	R0000080	Plate 5
Tributary NO. 5-1 to The Rockaway River	R0000095	Plate 20

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

The Local Design Flood Elevation (LDFE) is established in the flood hazard areas determined in Section 158.11, 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:

- A. For a delineated watercourse, the elevation associated with the Best Available Flood Hazard Data Area determined in Section 158.11, above plus one foot or as described by N.J.A.C. 7:13 of freeboard; or
- B. For any undelineated watercourse (where mapping or studies described in 158.11(A) and 158.11(B) 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:
 - (1) A copy of an unexpired NJDEP Flood Hazard Area Verification plus one foot of freeboard and any additional freeboard as required by ASCE 24; or
 - (2) A determination of the Flood Hazard Area Design Flood Elevation using Method 5 or Method 6 (as described in N.J.A.C. 7:13) plus one foot of freeboard and any additional freeboard as required by ASCE 24. Any determination using these methods must be sealed and submitted according to Sections 158.35 & 158.36.
- C. AO Zones – For Zone AO areas on the municipality’s FIRM (or on preliminary flood elevation guidance from FEMA), the Local Design Flood Elevation is determined from the FIRM panel as the highest adjacent grade plus the depth number specified plus one foot freeboard. If no depth number is specified, the Local Design Flood Elevation is three (3) feet above the highest adjacent grade.
- D. Class IV Critical Facilities - For any proposed development of new and substantially improved Flood Design Class IV Critical Facilities, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 2 feet of freeboard in accordance with ASCE 24.
- E. Class III Critical Facilities - For proposed development of new and substantially improved Flood Design Class III Critical Facilities in coastal high hazard areas, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 1-foot freeboard in accordance with ASCE 24.

ARTICLE III DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

§ 158.13 Floodplain Administrator Designation. The Zoning/Code Enforcement Officer is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees.

§ 158.14 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 Article VII of these regulations.

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

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

- A. Review all permit applications to determine whether proposed development is located in flood hazard areas established in Article II of these regulations.
- B. 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.
- C. Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 15 of 43

- D. Determine whether additional flood hazard data shall be obtained or developed.
- E. Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.
- F. Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 158.26 of these regulations.
- G. 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.
- H. 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 Article VII of these regulations.
- I. 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.
- J. 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).
- K. Inspect development in accordance with Article VI of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
- L. Prepare comments and recommendations for consideration when applicants seek variances in accordance with Article VII of these regulations.
- M. Cite violations in accordance with Article VIII of these regulations.
- N. Notify the Federal Emergency Management Agency when the corporate boundaries of the Township of West Milford have been modified.
- O. Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in Section 158.11.

§ 158.17 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.

§ 158.18 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.

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

- A. Obtain, review, and reasonably utilize data available from a Federal, State, or other source, or
- B. 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.
- C. 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 158.11 and 158.12 respectively. This information shall be provided to the Construction Official and documented according to Section 158.27.

§ 158.20 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)

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 16 of 43

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.

§ 158.21 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.

§ 158.22 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.

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

§ 158.23 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.

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

§ 158.24 Alterations in coastal areas. The excavation or alteration of sand dunes is governed by the New Jersey Coastal Zone Management (CZM) rules, N.J.A.C. 7:7. Prior to issuing a flood damage prevention permit for any alteration of sand dunes in coastal high hazard areas and Coastal A Zones, the Floodplain Administrator shall require that a New Jersey CZM permit be obtained and included in the flood damage prevention permit application. The applicant shall also provide documentation of any engineering analysis, prepared by a licensed professional engineer that demonstrates that the proposed alteration will not increase the potential for flood damage.

§ 158.25 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.

§ 158.26 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:

- A. 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.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 17 of 43

- B. Determine and include the costs of all ordinary maintenance and minor work, as discussed in Section 158.5, 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.
- C. 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.
- D. 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 5 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.
- E. 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.

§ 158.27 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.

§ 158.28 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.

ARTICLE IV PERMITS

§ 158.29 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.

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

- A. Identify and describe the development to be covered by the permit.
- B. 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.
- C. Indicate the use and occupancy for which the proposed development is intended.
- D. Be accompanied by a site plan and construction documents as specified in Article V of these regulations, grading and filling plans and other information deemed appropriate by the Floodplain Administrator.
- E. State the valuation of the proposed work, including the valuation of ordinary maintenance and

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 18 of 43

minor work.

F. Be signed by the applicant or the applicant's authorized agent.

§ 158.31 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.

§ 158.32 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.

§ 158.33 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.

ARTICLE V SITE PLANS AND CONSTRUCTION DOCUMENTS

§ 158.34 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:

- A. 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.
- B. 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 158.35.
- C. 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 158.35(C) of these regulations.
- D. 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.
- E. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- F. 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.
- G. Extent of any proposed alteration of sand dunes.
- H. Existing and proposed alignment of any proposed alteration of a watercourse.
- I. Flood proofing certifications, V Zone and Breakaway Wall Certifications, Operations and Maintenance Plans, Warning and Evacuation Plans and other documentation required pursuant to FEMA publications.
- J. 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.

§ 158.35 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:

- A. 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.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 19 of 43

- B. 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.
- C. 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.

§ 158.36 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:

- A. 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 158.37 of these regulations and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
- B. 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.
- C. 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 158.37 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.
- D. 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.
- E. 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).

§ 158.37 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.

ARTICLE VI INSPECTIONS

§ 158.38 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.

§ 158.39 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.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 20 of 43

§ 158.40 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.

- A. **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 158.74 shall be submitted to the Construction Official on an Elevation Certificate.
- B. **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 158.74 shall be submitted to the Construction Official on an Elevation Certificate.
- C. **Installation of attendant utilities** (electrical, heating, ventilating, air-conditioning, and other service equipment) and sanitary facilities elevated as discussed in Section 158.74.
- D. **Final inspection.** Prior to the final inspection, certification of the elevation required in Section 158.74 shall be submitted to the Construction Official on an Elevation Certificate.

§ 158.41 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.

ARTICLE VII VARIANCES

§ 158.42 General. The Zoning Board of Adjustment shall hear and decide requests for variances. The Zoning Board of Adjustment shall base its determination on technical justifications submitted by applicants, the considerations for issuance in Section 158.46, the conditions of issuance set forth in Section 158.47, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The Zoning Board of Adjustment has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations.

§ 158.43 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.

§ 158.44 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.

§ 158.45 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 158.36(A) of these regulations.

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

- A. The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
- B. The danger to life and property due to flooding or erosion damage.
- C. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.
- D. The importance of the services provided by the proposed development to the community.
- E. 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.
- F. The compatibility of the proposed development with existing and anticipated development.
- G. The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 21 of 43

- H. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- I. 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.
- J. 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.

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

- A. 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.
- B. 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.
- C. 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.
- D. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. 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.

ARTICLE VIII VIOLATIONS

§ 158.48 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.

§ 158.49 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.

§ 158.50 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.

§ 158.51 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 of not more than \$2,000.00 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.

ARTICLE IX DEFINITIONS

§ 158.52 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.

§ 158.53 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

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 22 of 43

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 flood proofed to or above the Base Flood Elevation (BFE) as any other nonresidential building. Under some circumstances it may be appropriate to wet-flood proof 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-flood proofing 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

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 23 of 43

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.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 24 of 43

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 flood proofing 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 flood proofing 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.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 25 of 43

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

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

HISTORIC STRUCTURE – Any structure that is:

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

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

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

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

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

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

LETTER OF MAP REVISION - A Letter of Map Revision (LOMR) is FEMA's modification to an effective Flood Insurance Rate Map (FIRM). Letter of Map Revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 26 of 43

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

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 27 of 43

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.
- C. 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.
- D. 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

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 28 of 43

external dimensions of the building.

- E. 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 it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition, or other improvement of a structure taking place over a 5 year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The period of accumulation includes the first improvement or repair of each structure that is permanent. 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 – Flood proofing 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 flood proofing 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.

ARTICLE X SUBDIVISIONS AND OTHER DEVELOPMENTS

§ 158.54 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:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electric and water systems are located and constructed to minimize or eliminate flood damage.
- C. 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.

§ 158.55 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:

- A. The flood hazard area, including floodways, coastal high hazard areas, and Coastal A Zones,

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 29 of 43

- and base flood elevations, as appropriate, shall be delineated on tentative subdivision plats.
- B. Residential building lots shall be provided with adequate buildable area outside the floodway.
 - C. The design criteria for utilities and facilities set forth in these regulations and appropriate codes shall be met.

ARTICLE XI SITE IMPROVEMENT

§ 158.56 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 158.36(A) 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 158.36(A) is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with Section 158.74 of this ordinance and the floodway requirements of N.J.A.C. 7:13.

§ 158.56.1 Prohibited in floodways. The following are prohibited activities:

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

§ 158.57 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.

§ 158.58 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.

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

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

§ 158.61 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.

§ 158.62 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.

ARTICLE XII MANUFACTURED HOMES

§ 158.63 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).

§ 158.64 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 158.74.

§ 158.65 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.

§ 158.66 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

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 30 of 43

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.

§ 158.67 Enclosures. Fully enclosed areas below elevated manufactured homes shall comply with the requirements of Section 158.74

§ 158.68 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 158.74 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 158.74, 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).

ARTICLE XIII RECREATIONAL VEHICLES

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

§ 158.70 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.

§ 158.71 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 158.74 for habitable buildings and Section 158.65 for foundations.

ARTICLE XIV TANKS

§ 158.72 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.

ARTICLE XV OTHER DEVELOPMENT AND BUILDING WORK

§ 158.73 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:

- A. Be located and constructed to minimize flood damage;
- B. Meet the limitations of Section 158.36(A) of this ordinance when located in a regulated floodway;
- C. 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 158.12;
- D. Be constructed of flood damage-resistant materials as described in ASCE 24 Chapter 5;
- E. Have mechanical, plumbing, and electrical systems above the Local Design Flood Elevation determined according to Section 158.12 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:
 - (1) Specifically allowed below the Local Design Flood Elevation; and
 - (2) Designed, constructed, and installed to prevent floodwaters, including any backflow through the system from entering or accumulating within the components.
- F. Not exceed the flood storage displacement limitations in fluvial flood hazard areas in accordance with N.J.A.C. 7:13; and
- G. Not exceed the impacts to frequency or depth of offsite flooding as required by N.J.A.C. 7:13 in floodways.

§ 158.74 Requirements for Habitable Buildings and Structures.

- A. Construction and Elevation in A Zones not including Coastal A Zones.
 - (1) No portion of a building is located within a V Zone.
 - (2) 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.
 - (3) All new construction and substantial improvement of any habitable building (as defined in Article IX) located in flood hazard areas shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of:
Date of Meeting:
Time of Meeting:
Minute Page No:

Governing Body Regular Meeting
May 17, 2023
6:30 p.m.
Page 31 of 43

- conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 158.12, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.
- (4) All new construction and substantial improvements of non-residential structures shall:
- (a) 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 158.12, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate; or
 - (b) 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 Flood proofing Certificate, and is confirmed by an Elevation Certificate.
- (5) 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:
- (a) 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;
 - (b) 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 158.74(A)(4)(b) are met;
 - (c) Be constructed to meet the requirements of ASCE 24 Chapter 2;
 - (d) Have openings documented on an Elevation Certificate; and
 - (e) 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;

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

§ 158.76 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 158.36(A) 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 Article VII of this ordinance.

§ 158.77 Retaining walls, sidewalks, and driveways. Retaining walls, sidewalks and driveways that involve placement of fill in floodways shall meet the requirements of Section 158.36(A) of these regulations and N.J.A.C. 7:13.

§ 158.78 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 158.36(A) of these regulations. Above-ground swimming pools are prohibited in floodways by N.J.A.C. 7:13.

§ 158.79 Roads and watercourse crossings.

- A. 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.
- B. Roads and watercourse crossings that encroach into regulated floodways or

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 32 of 43

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 158.36(A) of these regulations.

ARTICLE XVI TEMPORARY STRUCTURES AND TEMPORARY STORAGE

§ 158.80 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.

§ 158.81 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.

§ 158.82 Floodway encroachment. Temporary structures and temporary storage in floodways shall meet the requirements of Section 158.36(A) of these regulations.

ARTICLE XVII UTILITY AND MISCELLANEOUS GROUP U

§ 158.83 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.

§ 158.84 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 158.12.

§ 158.85 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 158.12 and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.

§ 158.86 Enclosures below base flood elevation. Fully enclosed areas below the design flood elevation shall be constructed in accordance with Section 158.74 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.

§ 158.87 Flood-damage resistant materials. Flood-damage-resistant materials shall be used below the Local Design Flood Elevation determined in Section 158.12.

§ 158.88 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 158.12.

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 2. All Ordinances or parts of Ordinances inconsistent herewith are repealed or as such inconsistencies.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. The Township Clerk is directed to give notice at least ten (10) days prior to the hearing on the adoption of this Ordinance to the County Planning Board and to all others entitled pursuant to the

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 33 of 43

provisions of N.J.S.A. 40:55D-15. The Township Clerk is further directed to refer this Ordinance to the Township Planning Board, pursuant to N.J.S.A. 40:55D-64. Upon the adoption of this Ordinance, after public hearing, the Township Clerk is further directed to publish notice of the passage and to file a copy of this Ordinance, as finally adopted, with the Passaic County Planning Board, as required by N.J.S.A. 40:55D-16

SECTION 5. This Ordinance shall take effect after publication and passage according to law.

Introduced: April 19, 2023
Adopted: May 17, 2023
Effective Date: June 6, 2023

This Ordinance was introduced on April 19, 2023 and the Notice of Public Hearing was published in the Herald News on or about April 25, 2023. The Governing Body will open the meeting to the public to speak on this ordinance only.

Seeing no one wished to speak Councilwoman Erik made a motion to close the public portion.
Seconded by Councilman Conlon.

Motion to Adopt Ordinance 2023-013.

Moved: Conlon Seconded: Lichtenberg
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Conlon, Marsden
Voted Nay: None
Motion carried:

Agenda No. XII

New Business, Introduction of Ordinances, Resolutions

Mayor Dale asked to move Resolution 2023-200 through Resolution 2023-205 and Resolutions 2023-213 and 2023-214.

Agenda No. XII 1

~ Resolution 2023 – 200 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE EXECUTION OF A MEMORANDUM OF AGREEMENT WITH THE WEST MILFORD BOARD OF EDUCATION FOR THE LEASE OF A SCHOOL BUS FOR USE IN THE BUBBLING SPRINGS DAY CAMP PROGRAM

WHEREAS, the Township of West Milford is desirous of using one (1) fifty-four (54) passenger school bus (hereinafter referred to as the "School Bus") that is owned by the West Milford Board of Education to use in connection with the Township's Bubbling Springs Day Camp Program in West Milford, NJ; and

WHEREAS, the West Milford Board of Education agrees to lease the School Bus to the Township from June 26, 2023 to August 18, 2023 in accordance with a Memorandum of Agreement filed in the Office of the Township Clerk; for 39 days at a rate of \$10.00 per day for a total of \$ 390.00; and

WHEREAS, the Township of West Milford and the West Milford Board of Education have successfully engaged in this lease/loan program for a number of years.

NOW, THEREFORE BE IT RESOLVED, that the proper officers be and are hereby authorized and directed to execute a Memorandum of Agreement for the lease of one school bus from the Board of Education to the Township of West Milford for use for the Township's Bubbling Springs Day Camp Program from June 26, 2023 to August 18, 2023.

Adopted: May 17, 2023

Motion to adopt Resolution 2023-200.

Moved: Lichtenberg Seconded: Conlon
Voted Aye: Chazukow, Lichtenberg, Goodsir, Conlon, Marsden
Voted Nay: None
Motion carried:

Agenda No. XII 2

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 34 of 43

~ Resolution 2023 – 201 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING RESOLUTION 2023-159 TO INCLUDE LEAF AS LEASING AGENT AND SON-RISE DOCUMENT SOLUTIONS FOR MAINTENANCE PROVIDER FOR ONE COPYSTAR CS- 2554CI COLOR DIGITAL SYSTEM MACHINE B

WHEREAS, by virtue of Resolution 2023-159 adopted on April 19, 2023 the Township Council did authorize Son-Rise Document Solutions a lease/purchase agreement for one Copystar CS-2554CI color digital system machine B for the West Milford Community Services & Recreation department; and

WHEREAS, lease payments must be made to LEAF as the leasing agent and Son Rise Document Solutions for the maintenance agreement; and

WHEREAS, Resolution 2023-159 did authorize the lease/purchase agreement not to exceed \$10,590.00 at a rate of \$176.50 per month for sixty months in an amount not to exceed \$2,118.00 annually; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds for this lease/purchase agreement, said funds are to be encumbered from account number 01-201-28-372-431.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Township Council hereby authorizes to change payment remittance to LEAF, PO Box 742647, Cincinnati Ohio 45274-2647 as leasing agent.

Adopted: May 17, 2023

Agenda No. XII 3

~ Resolution 2023 – 202 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING A MONTH-TO-MONTH CARETAKER AGREEMENT WITH LOIS REED HAGEMAIER TO SERVE AS CARETAKER OF WESTBROOK PARK

WHEREAS, the Township of West Milford previously authorized caretaker agreements for Westbrook Park; and

WHEREAS, the Department of Community Services & Recreation has recommended that Lois Reed Hagmaier serve in this capacity.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Milford, in the County of Passaic, and State of New Jersey as follows:

1. The Mayor and Township Clerk be and are hereby authorized to execute a caretaker agreement with Lois Reed Hagmaier to serve as caretaker of Westbrook Park for the period May 17, 2023 through December 31, 2023 on a month-to-month basis.
2. Said agreement is contingent upon Ms. Hagmaier completing a successful interview with the Township Administrator and satisfactory completion of a background check in accordance with Township requirements for same.
3. The Chief Financial Officer shall receive a copy of the aforementioned agreement and make appropriate adjustments with respect to any 1099 reporting to the IRS.
4. This Resolution shall take effect immediately.

Adopted: May 17, 2023

Agenda No. XII 4

~ Resolution 2023 – 203 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC STATE OF NEW JERSEY AUTHORIZING PUBLIC SALE OF MUNICIPALITY OWNED PERSONAL PROPERTY AT A PUBLIC AUCTION TO BE HELD ONLINE AT MUNICIBID.COM PURSUANT TO N.J.S.A 12A:2-328 SALE BY AUCTION AND N.J.S.A. 19:9-2.6 SALE OF SURPLUS PROPERTY

WHEREAS, pursuant to the provisions of N.J.S.A. 12A:2-328 AND N.J.S.A. 19:9-2.6, the Township of West Milford may sell any municipality-owned personal property at a public auction; and

WHEREAS, the sales are being conducted pursuant to the Division of Local Government Services' Local Finance Notice 2008-21: and

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 35 of 43

WHEREAS, N.J.S.A. 19:9-2.6 and the Division of Local Government Services' Notice 2008-9 outline specific advertising requirements to provide for transparency and public participation in such sales; and

WHEREAS, The Township has secured the services of municibid.com to organize and conduct all aspects of the swim team docks, ladders, kick plates, and starter blocks, auction; and

WHEREAS, prior to commencement of such sale, municibid.com shall confirm that the Township Administrator and the Department of Recreation is apprised of all necessary information to provide such public notice and the date of sale shall be such that there is sufficient time within the law to advertise in the Township's official newspaper.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of West Milford, County of Passaic, State of New Jersey, that the Township is hereby authorized to sell the municipality owned property as indicated on Attachment "A" Property Auction Manifest shown below on an online auction website entitled www.municibid.com.

BE IT FURTHER RESOLVED, that the terms and conditions entered into between municibid.com and the Township of West Milford are available at www.municibid.com and in the office of the Township Clerk; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded by the Township Clerk to the Division of Local Government Services, Department of Community Affairs, and that a notice will be published in the official newspaper in accordance with the requirements for same.

Adopted: May 17, 2023

Agenda No. XII 5

~ Resolution 2023 – 204 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY REQUESTING APPROVAL OF SPECIAL ITEM OF REVENUES AND APPROPRIATION

WHEREAS N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget and,

WHEREAS, the Director may also approve the insertion of any item of appropriation for an equal amount,

WHEREAS, the Township of West Milford wishes to amend its 2023 Budget to include an amount as revenue,

NOW THEREFORE, BE IT RESOLVED that the Governing body of the Township of West Milford hereby requests the Director of the Division of Local Government Services to approve the insertion of an item in the budget of the year 2023 which is now available as a revenue from:

Special Items of General Revenue Anticipated with Prior Written consent of the Director of Local Government Services:
Public and Private Revenues Off-Set with Appropriations:
 Strengthening Local Public Health Capacity Program Funding; \$274,080.00

BE IT FURTHER RESOLVED that a like sum be and the same is herby appropriated under the caption of:

General Appropriations
(A) Operations – Excluded from CAPS
 Public and Private Programs Offset by Revenue
 Strengthening Local Public Health Capacity Program Funding; \$274,080.00

BE IT FURTHER RESOLVED, that the Township Finance Department will electronically file with the State of NJ in accordance with LFN 2014-11.

Adopted: May 17, 2023

Agenda No. XII 6

~ Resolution 2023 – 205 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY REQUESTING APPROVAL OF SPECIAL ITEM OF REVENUES AND APPROPRIATION

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 36 of 43

WHEREAS N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget and,

WHEREAS, the Director may also approve the insertion of any item of appropriation for an equal amount,

WHEREAS, the Township of West Milford wishes to amend its 2023 Budget to include an amount as revenue,

NOW THEREFORE, BE IT RESOLVED that the Governing Body of the Township of West Milford hereby requests the Director of the Division of Local Government Services to approve the insertion of an item in the budget of the year 2023 which is now available as a revenue from:

Special Items of General Revenue Anticipated with Prior Written consent of the Director of Local Government Services:
Public and Private Revenues Off-Set with Appropriations:
NJDEP Stormwater Grant; \$25,000.00

BE IT FURTHER RESOLVED that a like sum be and the same is hereby appropriated under the caption of:

General Appropriations
(A) Operations – Excluded from CAPS
Public and Private Programs Offset by Revenue
NJDEP Stormwater Grant; \$25,000.00

BE IT FURTHER RESOLVED, that the Township Finance Department will electronically file with the State of NJ in accordance with LFN 2014-11.

Adopted: May 17, 2023

Agenda No. XII 7

~ Resolution 2023 – 213 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY REQUESTING APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION (NJDOT) FOR PEDESTRIAN IMPROVEMENTS TO WESTBROOK ROAD BETWEEN RIDGE ROAD AND THE WESTBROOK TEEN CENTER, INCLUDING WIDENING, RESURFACING AND STORMWATER COMPLIANCE

WHEREAS, the NJDOT is accepting applications for the fiscal year 2023 Local Transportation Project Fund; and

WHEREAS, the Township's Engineering Division has recommended that the following application be submitted for Pedestrian Improvements to Westbrook Road between Ridge Road and the Westbrook Teen Center, including widening, resurfacing and stormwater compliance; and

WHEREAS, the Township's Engineering Division submits the following application for consideration to the Township Council:

Project: Westbrook Road – Section 4	
Pedestrian Improvements to Westbrook Road between Ridge Road and the Westbrook Teen Center (0.8 miles), including Widening, Resurfacing and Stormwater Compliance	
Grant Application:	\$668,000
Township Contribution:	\$167,000
Estimated Cost for Entire Project:	\$835,000
Grant Application No.	LTPF—West Milford Township—
00171	

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Township Council of the Township of West Milford formally approve the grant application for the above stated project; and

BE IT FURTHER RESOLVED that the Township Engineering Division Agency Administrator is hereby authorized to submit the grant application as identified above to the New Jersey Department of Transportation through S.A.G.E. (System for Administering Grants Electronically) on behalf of the Township of West Milford; and

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 37 of 43

BE IT FURTHER RESOLVED that the Mayor and Township Clerk are hereby authorized to sign the grant agreement on behalf of the Township of West Milford and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Approved: May 17, 2023

Agenda No. XII 8

~ Resolution 2023 – 214 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, IN THE COUNTY OF PASSAIC STATE OF NEW JERSEY AMENDING RESOLUTION 2023-184 FROM NEWMARK KNIGHT FRANK VALUATION & ADVISORY LLC TO READ NEWMARK VALUATION & ADVISORY LLC FOR A PROFESSIONAL SERVICES CONTRACT WITHOUT COMPETITIVE BIDDING FOR APPRAISAL SERVICES AS TO THE NEWARK WATERSHED PROPERTIES

WHEREAS, the Township Council did adopt Resolution 2023-184 on May 3, 2023 awarding a contract to an inaccurate service provider name; and

WHEREAS, the correct service provider should be Newmark Valuation & Advisory, LLC located at 80 S. Jefferson Road, Whippany, NJ 07981, to secure such appraisal services for the Township; and

WHEREAS, in accordance with its proposal dated January 11, 2022 which is on file in the Clerk's Office the Township shall be subject to an appraisal fee of no more than \$15,000.00, inclusive of expenses and with further details as set forth within the proposal; and

WHEREAS, the Township of West Milford has a need to appoint a Professional Services Contract as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4 or 20.5 as appropriate; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et. seq.) requires that the resolution authorizing the award of contract for professional services without competitive bids and the contract itself must be available for public inspections; and

WHEREAS, Newmark Valuation & Advisory, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that the firm has not made any reportable contributions to a political or candidate committee in the Township of West Milford with the elected officials in the previous one year and that the contract will prohibit the firm of Newmark Valuation & Advisory LLC from making any reportable contribution through the term of the contract; and

WHEREAS, the Chief Financial Officer has certified the availability of funds pursuant to N.J.A.C. 5:30-5.4 from account 01-201-20-161-450 in an amount not to exceed \$15,000 without prior written consent from the Township Council; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Council of the Township of West Milford, in the County of Passaic and State of New Jersey, as follows:

1. The Township of West Milford hereby awards and authorizes the Mayor and Township Clerk to execute an agreement with Newmark Valuation & Advisory, LLC, located at 80 S. Jefferson Road, Whippany, NJ 07981, for professional services in accordance with its proposal of January 11, 2022 which is on file in the Clerk's Office.
2. This contract is awarded without competitive bidding as a professional service, in accordance with the provisions of the Local Public Contracts Law, and such services are performed by a person authorized by law to practice a recognized profession.
3. The total fee authorized for this contract is subject to the terms of the proposal and agreement.
4. Notice of this action shall be published once in the Township's official newspaper, as required by law.
5. A copy of this resolution is on file in the Township Clerk's Office

This Resolution shall take effect immediately.

Adopted: May 17, 2023

Moved: Lichtenberg Seconded: Conlon
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Conlon, Marsden
Voted Nay: None
Motion carried:

Councilwoman Erik made a motion for reconsideration of a previously denied resolution. Resolution 2023-169 regarding Canabhang LLC's Cannabis Business. Seconded by Councilman Conlon. Attorney

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
 Date of Meeting: May 17, 2023
 Time of Meeting: 6:30 p.m.
 Minute Page No: Page 38 of 43

Pasternak indicated it only takes two Councilmembers for this to be reconsidered and that the new resolution will be placed on the Agenda for the June 14, 2023 meeting.

Agenda No. XIII

Consent Agenda

~ Resolution 2023 – 206 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING PASSAGE OF CONSENT AGENDA

WHEREAS, the Mayor and Township Council of the Township of West Milford has reviewed the Consent Agenda consisting of various proposed Resolutions.

NOW, THEREFORE, BE IT RESOLVED, that the following Resolutions on the Consent Agenda are hereby approved:

Resolutions:

- a) **2023-207** – Recreation Refund
- b) **2023-208** – Refund Other Liens
- c) **2023-209** – Refund Over Payments
- d) **2023-210** – Reinstatement of Taxes

Adopted: May 17, 2023

Agenda No. XIII a

~ Resolution 2023 – 207 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE REFUND OF RECREATION FEES

BE IT RESOLVED that the following recreational fees upon the report of the Director of Community Services and Recreation be refunded:

SPRING SOCCER			
\$160.00	60 Reidy Place Hewitt, NJ 07421	\$90.00	4 Newark Road Hewitt, NJ 07421
\$70.00	21 Newfield Road Hewitt, NJ 07421		
SOCCER SQUIRTS			
\$160.00	3 Comanche Trail Vernon, NJ 07462		
BUBBLING SPRINGS DAY CAMP			
\$362.44	152 Vreeland Road West Milford, NJ 07480		

Adopted: May 17, 2023

Agenda No. XIII b

~ Resolution 2023 – 208 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE REFUND OF OTHER LIENS

WHEREAS, the Collector of Taxes has reported receiving the amounts shown below for the redemption of the respective lien.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of West Milford that the proper officers be and are hereby authorized and directed to pay the indicated amount to the holder of the lien certificate as hereinafter shown below:

Certificate No.	Certificate Date	Block/Lot/Qual	Reimbursement Amount	Pay to Lien Holder
19-0014	10/15/2019	02307-010	\$82,796.77	FNA DZ, LLC 120 N LASALLE ST, SUITE 1220 CHICAGO, IL 60602
21-0045	10/12/2021	09801-028.04	\$27,748.44	EVOLVE BANK & TRUST 6000 POPLAR AVE; SUITE 300 MEMPHIS, TN 38119

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of:
 Date of Meeting:
 Time of Meeting:
 Minute Page No:

Governing Body Regular Meeting
 May 17, 2023
 6:30 p.m.
 Page 39 of 43

20-0026	10/13/2020	03009-029	\$47,118.06	CHRISTIANA TRUST AS CUSTODIAN GSRAN-Z LLC DEPOSIT ACCT PO BOX 71276 PHILADELPHIA, PA 19176
20-0044	10/13/2020	07001-008	\$68,011.49	CHRISTIANA TRUST AS CUSTODIAN GSRAN-Z LLC DEPOSIT ACCT PO BOX 71276 PHILADELPHIA, PA 19176
20-0030	10/13/2020	03601-002	\$880.37	711 FLIP LLC 815 ROUTE 82, BOX 11 HOPEWELL JUNCTION, NY 12533
21-0021	10/12/2021	03601-002	\$3,657.90	LB-HONEY BADGER SBMUNI CUS PO BOX 31191 TAMPA, FL 38119
TOTAL			\$230,213.03	

Adopted: May 17, 2023

Agenda No. XIII c

~ Resolution 2023 – 209 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF OVERPAYMENT

WHEREAS, there appears on the tax records overpayment as shown below and the Collector of Taxes recommends the refund of such overpayment.

NOW, THEREFORE, BE IT RESOLVED that the proper officers be and they are hereby authorized and directed to issue checks refunding such overpayment as shown below:

- REASON:**
- | | |
|----------------------|-------------------------------|
| 1. Incorrect Payment | 6. Tax Appeal County Board |
| 2. Duplicate Payment | 7. Tax Appeal State Tax Court |
| 3. Senior Citizen | 8. 100% Disabled Veteran |
| 4. Veteran Deduction | 9. Replacement Check |
| 5. Homestead Rebate | |

Block/Lot	Name	Amount	Year	Reason
11301-12	28 Hannum Court Mays Landing, NJ 08330	\$2,442.00	2023	1
05701-006	260 Godwin Ave; Suite #3 Wyckoff, NJ 07481	\$8,477.00	2023	2
07801-039.02	1069 Ringwood Ave., Suite 205 Haskell, NJ 07420	\$1,535.00	2023	2
10901-003	ATTN: Refunds/Financial Support P.O. Box 14506 Des Moines, IA 50328-0001	\$2,032.00	2023	2
13301-025	Corelogic Centralized Funds PO Box 9202 Coppell, TX 75019	\$1,824.00	2023	2
15502-010	Corelogic Centralized Funds PO Box 9202 Coppell, TX 75019	\$2,688.00	2023	2
16202-007	Corelogic Centralized Funds PO Box 9202 Coppell, TX 75019	\$2,496.00	2023	2
06701-010	Treasurer Twp. Of West Milford 1480 Union Valley Road West Milford, NJ 07480	\$80,308.50	2023	1
02606-007	10 E Village Road PO Box 833 Tuxedo, NY 10987	\$301.00	2023	1
Total		\$102,103.50		

Adopted: May 17, 2023

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 40 of 43

Agenda No. XIII d

~ Resolution 2023 – 210 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REINSTATEMENT OF TAXES

WHEREAS, there appears on the tax records receipt of payment of taxes; and

WHEREAS, the Collector of Taxes recommends the reinstatement of taxes due to reasons stated below.

NOW, THEREFORE BE IT RESOLVED, that the proper officers be and they are hereby authorized and directed to reinstate as listed below:

- REASON: 1 INSUFFICIENT FUNDS
2 NO ACCOUNT/CANNOT LOCATE
3 ACCOUNT CLOSED
4 STOP PAYMENT
5 UNAUTHORIZED CORP DEBIT
6 NO SIGNATURE

Table with 5 columns: BLOCK/LOT, AMOUNT, INT, YEAR, REASON. Rows include various block/lot numbers and their corresponding amounts and reasons, ending with a Total row showing \$20,410.64 and \$151.32.

Adopted: May 17, 2023

Moved: Erik Seconded: Conlon
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Conlon, Marsden
Voted Nay: None
Motion carried:

Agenda No. XIV

Approval of Expenditures

~ Resolution 2023 – 211 ~

RESOLUTION APPROVING THE PAYMENT OF BILLS

WHEREAS, the Township Treasurer has submitted to the members of the Township Council a supplemental report listing individual disbursement checks prepared by this office in payment of amounts due by the Township.

NOW, THEREFORE, BE IT RESOLVED that the Township Treasurer’s report of checks prepared by the Treasurer’s Office be approved and issued as follows:

Table with 3 columns: Acct #, Account Name, Amount. Rows list various accounts such as Current Account, Reserve Account, Grants, Refunds, General Ledger, Refuse, Capital, Animal Control, Heritage Trust, and Open Space Trust with their respective amounts.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of:
 Date of Meeting:
 Time of Meeting:
 Minute Page No:

Governing Body Regular Meeting
 May 17, 2023
 6:30 p.m.
 Page 41 of 43

19	Trust	8,467.26
19	Scala Trust	0.00
16	Development Escrow	6,846.25
19	Tax Sale Trust	0.00
21	Assessment Trust	0.00
	Special Reserve	0.00
Total		\$932,732.05
Less Refund Resolution		-333,158.97
Actual Bills List		\$599,573.08
Other Payments:		
Payroll		\$548,861.06
BOE		5,001,253.00
Total Expenditures		\$6,149,687.14

Adopted: May 17, 2023

 Moved: Erik Seconded: Conlon
 Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Conlon, Marsden
 Voted Nay: None
 Motion carried:

Agenda No. XVII

Appointments and Resignations

Agenda No. XVII 1

~ Resolution 2023 – 212 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY ACCEPTING RESIGNATION TENDERED

BE IT RESOLVED, by the Township Council of the Township of West Milford that they do hereby accept the following resignation tendered to the Greenwood Lake Bi-State Commission:

Name	Position	Date Tendered
Paul Zarrillo	Greenwood Lake Bi-State Commission NJ Commissioner Term expires 12/31/23	May 1, 2023

Adopted: May 17, 2023

Councilman Conlon wanted to thank Paul Zarrillo for his dutiful and committed service throughout the years. He acted as an advocate and a watchdog, protecting the interests of residents and others using the lake. We wish him well.

Motion by Councilman Conlon to move Resolution 2023-212. Second by Councilwoman Lichtenberg.

 Moved: Conlon Seconded: Lichtenberg
 Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Conlon, Marsden
 Voted Nay: None
 Motion carried:

Councilman Conlon nominated Jack Roe for the position of NJ Commissioner for the Greenwood Lake Bi-State Commission. Councilwoman Erik made a motion to close and confirm the nomination. Seconded by Councilman Conlon. All were in favor of the nomination.

TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: May 17, 2023
Time of Meeting: 6:30 p.m.
Minute Page No: Page 42 of 43

Agenda No. XVIII

Discussion Items/Official Communications

1.	<p>Board of Health – Mark Mora gave an overview of some highlights from the RHS report. The first part covered inspections made to various retail food establishments, recreational bathing sites and septic and wells. Mr. Mora went over the New Jersey HABs strategy. HABs are a result of the presence of cyanobacteria and the toxins they produce. These cyanobacteria are not true algae but they are capable of photosynthesis, and are often referred to as blue green algae. The toxins get into the body by people swallowing them, skin contact and inhalation. Exposure can cause mild skin rashes and even more serious illness and high exposure to the toxins can actually be potentially fatal. The report has not changed and the operating systems that were utilized last year still apply.</p> <p>Mr. Mora went over some of the septic pumping statistics. There was an issue with the mailing addresses and the post office honored the corrections that were made for no additional postage charge, because of a fast turnaround time for the correction. Certain companies are not providing proof of septic pumping to the Township. Mayor Dale wanted residents to be aware that it is a State law requirement to pump every 3 years, not a Township requirement. State law supersedes Township law.</p> <p>David Pardave gave the communicable disease update. Covid numbers have continued to decrease. There was only one person who showed up for the eye screening, so he will be working on getting the word out and perhaps the clinic will not take place monthly but a bit less frequently. There will be a free woman’s health screening May 20, 2023 from 10 to 2 p.m. The men’s health event will be coming up in June.</p>
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Agenda No. XVI

Reports of Mayor, Council Members, Administrator, and Attorney

Mayor Dale – Is looking forward to the Memorial Day ceremony and also recognizing the Eagle Scout who had a project where additional flag poles were placed in Veteran’s Park to honoring the various branches of the military.

Councilwoman Lichtenberg – Scott’s Fun Run was very successful. The County HAZMAT will be collecting until 2 p.m. Sunday May 21, at the recycling center. There will be a Battle of the Paddle pickleball tournament on June 24, with a rain date of June 25 to celebrate the new outdoor courts. Check for activities and events at westmilford.org under community services. The Friends of Wallisch Homestead will be hosting their 9th Annual Art Show on Saturday from 10 to 4 p.m. and Sunday from 11 to 3 p.m. Wednesdays at 7 p.m. they will be starting yoga classes. The Wallisch Corn Hole Tournament will take place on June 3, 2023 at 1 p.m. There will be free admission to the drum circle and other future events are coming up.

Councilman Goodsir – There is a new program being offered by the Recreation Department at Bubbling Springs. It is an introduction to rowing, offered June 5th and 6th or June 12th and 13th for kids ages 11 through 19. Family Frog night June 8th and June 15th at Westbrook Park at 8 p.m. Lego Camp is now open for grades 1 through 7 from 9 a.m. to noon. There will be a spring skateboarding clinic for ages 7 to 14 at the Mt. Laurel Skate Park for beginner and intermediate levels Saturday June 3 and June 10 from 3 to 5 p.m. sponsored by shred.com. The Trout Derby was a success. Thank you to the Recreation Department and the DPW. The Elks will also be serving hot dogs on Memorial Day. The Soccer Shoot will take place on June 11.

Councilman Conlon – Thank you to Paul Zarrillo for all his service on the Greenwood Lake Commission all these years. We now have renewable funding sources that are going to help improve the quality of the lake in large part because of his efforts. He indicated that he gave feedback to various fire service entities regarding our recent fire. There is legislation pending, one item being a tax credit for volunteer fire fighters and also funding for cytotoxicity kits, which are used on people who have inhaled smoke. Anyone with any questions please reach out to conlon@westmilford.org. The first ALF Committee meeting has taken place and they met with Festival Works. There are a lot of vendors interested. The date is set for Saturday, October 7th, and the rain date is Sunday October 8th. Any residents who want to showcase their business or sell items or fundraise for groups can get in contact. A crowd of around 25,000 people is expected.

Councilman Marsden – The next CERT Team meeting will take place at the library June 1 at 7:30 p.m. People can learn how to be prepared personally for an emergency, and also learn what they can do to help the community, for example how they were able to help with the recent fire.

Councilwoman Erik – Received an update about the Township Map from Tom Castronova who has been in touch with the County but has yet to get answers. Administrator Senande said he would follow up.

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Minute Page No: Page 43 of 43

Councilman Chazukow – Is very pleased with the planning and the progress regarding the Autumn Lights Festival. A great deal of feedback was given after last year’s ALF, and it has been taken into consideration and acted upon. The sign-in process for vendors has been improved as well.

Administrator Senande – No report.

Attorney Pasternak – No report.

Agenda No. XIX

Adjournment

Moved: Erik Seconded: Conlon
Voted Aye: Unanimous voice vote
Voted Nay: None
Motion carried.

The meeting adjourned at 8:08 p.m.

Approved: June 14, 2023

Respectfully submitted:

Deidre Ellis, Keyboarding Clerk II

MICHELE DALE, MAYOR

WILLIAM SENANDE, TOWNSHIP CLERK