

THE MEETING OF THE CITY OF BURLINGTON COMMON COUNCIL, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, WAS HELD ON TUESDAY, SEPTEMBER 19, 2017, AT 7:00 PM, IN THE CITY HALL, 525 HIGH STREET, BURLINGTON, NJ, PURSUANT TO THE OPEN PUBLIC MEETINGS ACT.

The Deputy Municipal Clerk advised the public of the location of the two fire exits; one on the left after exiting the Council Chamber and the other being the entrance to the building.

Members present: Mr. Babula, Ms. Hatala, Ms. Lollar, Mr. Swan. (4); Absent: Mr. Chachis, Ms. Mercuri, Ms. Woodard. (3)

Also present: Municipal Attorney- George Saponaro, Administrator- David Ballard, Chief Snow.

The following notice of the meeting was sent:

There will be a Meeting of the Common Council of the City of Burlington held on September 19, 2017 at 7:00 PM, prevailing time at the City Hall Building, 525 High Street, Burlington, N.J. 08016.

Cindy A. Crivaro, RMC
Municipal Clerk

SALUTE TO FLAG

UNFINISHED BUSINESS

None.

PUBLIC COMMENTS - RESOLUTIONS / CONSENT AGENDA RESOLUTIONS

None.

CONSENT AGENDA

Councilwoman Hatala, moved that all Consent Agenda items be approved. It was seconded by Councilwoman Lollar. All were in favor.

APPROVAL OF INVOICES*

Approved by Consent Agenda. All were in favor.

ORDINANCE(S) - SECOND READING & FINAL DISPOSITION

ORDINANCE NO. 11-2017 OF THE CITY OF BURLINGTON ADOPTING REGULATIONS RELATED TO FLOOD PREVENTION

WHEREAS, municipalities in the State of New Jersey have the responsibility to adopt general regulations related to the health, safety and welfare of its citizens; and

WHEREAS, the Common Council for the City of Burlington finds that the City's geographic position, climate factors and other scientific and historical data show that the flood hazard areas in the City are such that the periodic inundations with precipitation cause significant if not catastrophic harm to the city, its residents and the general health welfare and well being of its residents, and that the costs of such events are such that every effort needs to be made to limit the losses, prevent injuries and death, and educate the populace as to these actors; and

WHEREAS, the Common Council of the City of Burlington has reviewed the recommended provisions proposed to be adopted upon the recommendations and drafting of the same by City professionals and finds that this legislation would be in the best interest of the City of Burlington to make amendments to the Code for the City of Burlington;

NOW THEREFORE BE IT ORDAINED by the Common Council for the City of Burlington as follows:

SECTION 1.0

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

1.1 STATUTORY AUTHORIZATION

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Common Council of the City of Burlington, Burlington County, New Jersey does ordain as follows:

1.2 FINDINGS OF FACT

- a) The flood hazard areas of the City of Burlington are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- a) Protect human life and health;
- b) Minimize expenditure of public money for costly flood control projects;
- c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d) Minimize prolonged business interruptions;
- e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- b) Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

AO Zone- 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.

AH Zone- 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

Appeal — A request for a review of the local administrator's interpretation of any provision of this ordinance or a request for a variance.

Area of Shallow Flooding — A designated AO or AH zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater 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 — Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone V, VE, V1-30, A, AO, A1-A30, AE, A99, or AH.

Base Flood — A flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) — The flood elevation shown on a published Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-30 the elevation represents 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.

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

Breakaway Wall — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

Development — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

Digital Flood Insurance Rate Map (DFIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Elevated Building —

- A non-basement building:
 - a. built, in the case of a building in an Area of Special Flood Hazard, to have the top of the elevated floor, elevated above the base flood elevation plus freeboard by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and
 - b. adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood.
- In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.
- In areas of coastal high hazard, "elevated building" also includes a building otherwise meeting

the definition of “elevated building” even though the lower area is enclosed by means of breakaway walls.

Existing Manufactured Home Park or Subdivision — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Flood or Flooding — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a) The overflow of inland or tidal waters and/or
- b) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) — The official map on which the Federal Insurance Administration 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 Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

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.

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 accumulatively 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 flood plain 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.

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.

Lowest Floor — The lowest floor of the lowest enclosed area (including basement). 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 to render the structure in violation of other applicable non-elevation design requirements of 44 CFR Section 60.3.

Manufactured Home — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Manufactured Home Subdivision — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

New Construction — Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

Recreational Vehicle — A vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or

permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. Areas designated as special flood hazard areas are identified on the Flood Insurance Rate Map (FIRM) as zones AE, AH, AO, A1-30, and V.

Start of Construction — (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348)) includes substantial improvements 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 a slab or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or 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.

For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. For a structure, other than a manufactured home, without a basement or poured footings, the start of construction shall include the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home park or manufactured home subdivision, the start of construction shall mean the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home parks or manufactured home subdivisions, the start of construction shall be the date on which the construction of facilities for servicing the site on which the manufactured home is to be affixed, including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and the installation of utilities, shall be completed.

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

Substantial Damage — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would equal or exceed fifty (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 during a 10-year period the cost of which equals or exceeds fifty (50) percent of the market

value of the structure before the "start of construction" of the improvement. Substantial improvement also means "cumulative substantial improvement." This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed or "repetitive loss". The term does not, however, include either:

(1) 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

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

Substantial Improvement — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

a) Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement 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".

Variance — A grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

Violation — The failure of a structure or other development to be fully compliant with this ordinance. A new or substantially improved structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Burlington, Burlington County, New Jersey.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the City of Burlington, Community No. 345287, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- a) A scientific and engineering report “Flood Insurance Study, Burlington County, New Jersey (All Jurisdictions)” dated December 21, 2017.
- b) “Flood Insurance Rate Map for Burlington County, New Jersey (All Jurisdictions)” as shown on Index and panel(s) 34005C0109F, 34005C0126F, 34005C0127F, 34005C0128F, 34005C0129F, whose effective date is December 21, 2017.

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at City Hall, 525 High Street, Burlington City, New Jersey.

3.3 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 misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall be liable to a fine as set forth in Chapter 1, Article III, General Penalty. Nothing herein contained shall prevent the City of Burlington from taking such other lawful action as is necessary to prevent or remedy any violation.

3.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- a) Considered as minimum requirements;
- b) Liberally construed in favor of the governing body; and,
- c) Deemed neither to limit nor repeal any other powers granted under State statutes.

When the federal insurance administrator has designated an area with the floodplain as having special flood hazards, the code of the City concerning land use control designed to reduce flood loss shall take precedence over any conflicting ordinances or codes of the City.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will

occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the City of Burlington, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in section 3.2. Application for a Development Permit shall be made on forms furnished by the local administrator and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b) Elevation in relation to mean sea level to which any structure has been floodproofed.
- c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in section 5.2-2; and,
- d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Special use permit required in certain zones - No new development shall be permitted within the special flood hazard areas with zone designations A, A1 through A30, AO and V, as set forth on the City Flood Insurance Rate Map, except with a special use permit, granted by the Building Inspector with the approval of the City Engineer.

Special use permit application procedure - Any person desiring to erect, construct, enlarge, add to, alter, repair, improve, move, remove, substantially repair or demolish any building, structure or major addition to any building, install any prefabricated or manufactured home, subdivisions, utility system, water supply system or sewer system shall make written application to the Building Inspector and shall furnish all data, work plans, engineering specifications or other information reasonably required to enable the Inspector to evaluate the proposal. The Building Inspector, with the assistance of the City Engineer, shall, within 15 days thereafter, make a determination whether or not the proposal conforms to this chapter and whether or not a special permit shall be issued.

If (s)he approves the proposal, (s)he shall issue a written special use permit to the applicant. The permit shall contain a description in general terms of the facility to be constructed and its general location.

If the Building Inspector disapproves the proposal, (s)he shall notify the applicant in writing of the rejection and shall generally state the reasons for rejection within 15 days of receipt of said proposal.

In the event of such a denial the applicant shall have the right to appeal the Building Inspector's decision to the Common Council if the applicant believes that an error has been made in the interpretation of any topographic conditions or physical features uniquely affecting the property to be developed or improved. Said appeal must be filed with the City Clerk within 15 days of receipt of the denial of applicant's application for a Development Permit for an appeal hearing by the Common Council. The Common Council shall conduct an appeal hearing within 30 days of receipt of the applicant's request from the City Clerk.

Permit fee - The Building Inspector shall receive from the applicant, along with the application for a permit hereunder, a fee as set forth in Chapter 146, Fee Schedule, for the review of the application and the determination thereof.

4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Building Inspector is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the local administrator shall include, but not be limited to:

4.3-1 PERMIT REVIEW

- a) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- b) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of 5.3 a) are met.

Building Inspector permit duties.

A. The Building Inspector shall review all applications to determine:

- (1)** That all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

(2) If the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For purposes of this chapter, "adversely affects" means that the cumulative effects of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

B. When base flood elevation and floodway data have not been provided, the Building Inspector, with the assistance of the City Engineer when necessary, shall obtain, review and reasonably utilize any base flood elevation and floodway data available from any federal, state or other source, in order to administer § **170-22E** and **G**. When such assistance is required of the City Engineer, applicant shall deposit an escrow payment for review with the Building Inspector in an amount established by the Common Council.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation and floodway data has not been provided in accordance with section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the local administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer sections 5.2-1, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, and 5.2-2, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- a) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- b) For all new or substantially improved floodproofed structures:
 - i. verify and record the actual elevation (in relation to mean sea level); and
 - ii. maintain the floodproofing certifications required in section 4.1 c).
- d) Maintain for public inspection all records pertaining to the provisions of this ordinance.

4.3-4 ALTERATION OF WATERCOURSES

- a) Notify adjacent communities and the New Jersey Department of Environmental Protection, Bureau of Flood Control and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- b) Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

4.3-5 SUBSTANTIAL DAMAGE REVIEW

- a) After an event resulting in building damages, assess the damage to structures due to flood and non-flood causes.

- b) Record and maintain the flood and non-flood damage of substantial damage structures and provide a letter of Substantial Damage Determination to the owner and the New Jersey Department of Environmental Protection, Bureau of Flood Control.
- c) Ensure substantial improvements meet the requirements of sections 5.2-1, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, 5.2-2, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION and 5.2-3, SPECIFIC STANDARDS, MANUFACTURED HOMES.

4.3-6 INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 4.4.

4.4 VARIANCE PROCEDURE

4.4-1 APPEAL BOARD

- a) The Common Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- b) The Common Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this ordinance.
- c) Those aggrieved by the decision of the Common Council, or any taxpayer, may appeal such decision to the New Jersey Superior Court as provided by law.
- d) In passing upon such applications, the Common Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - i. the danger that materials may be swept onto other lands to the injury of others;
 - ii. the danger to life and property due to flooding or erosion damage;
 - iii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - iv. the importance of the services provided by the proposed facility to the community;
 - v. the necessity to the facility of a waterfront location, where applicable;
 - vi. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - vii. the compatibility of the proposed use with existing and anticipated development;
 - viii. the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. the expected heights, velocity, duration, rate of rise, and sediment transport of the

- flood waters and the effects of wave action, if applicable, expected at the site; and,
- xi. 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, and streets and bridges.
- d) Upon consideration of the factors of section 4.4-1 d) and the purposes of this ordinance, the Common Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
 - e) The Common Council shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

4.4-2 CONDITIONS FOR VARIANCES

- a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items i.-xi. in section 4.4-1 d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- b) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- c) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e) Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in section 4.4-1 d), or conflict with existing local laws or ordinances.
- d) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards, compliance with the applicable requirements of the Uniform Construction Code (N.J.A.C. 5:23) and the following standards, whichever is more restrictive, are required:

5.1-1 ANCHORING

- a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- b) All manufactured homes to be placed or substantially improved shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
- c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- d) For all new construction and substantial improvements, the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5.1-4 SUBDIVISION PROPOSALS

- a) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
- b) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and,
- d) Base flood elevation data shall be provided for subdivision proposals and other proposed new development which contain at least fifty (50) lots or five (5) acres (whichever is less).

5.1-5 ENCLOSURE OPENINGS

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings in at least two (2) exterior walls of each enclosed area, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

- a) New construction and substantial improvement of any residential structure located in an A or AE zone shall have the lowest floor, including basement together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated at or above the base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive;
- b) Require within any AO or AH zone on the municipality's DFIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated above the depth number specified in feet plus one (1) foot, above the highest adjacent grade (at least three (3) feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

5.2-2 NONRESIDENTIAL CONSTRUCTION

In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure located in an A or AE zone shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities as well as all electrical, heating, ventilating, air-conditioning and other service equipment:

either

- a) Elevated to or above the base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive, and
- b) Require within any AO or AH zone on the municipality's DFIRM to elevate above the depth number specified in feet plus one (1) foot, above the highest adjacent grade (at least three (3) feet if no depth number is specified). And, require adequate drainage paths

around structures on slopes to guide floodwaters around and away from proposed structures;

or

- c) Be floodproofed so that below the base flood level plus one (1) foot or as required by ASCE/SEI 24-14, Table 6-1, whichever is more restrictive, the structure is watertight with walls substantially impermeable to the passage of water;
- d) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- e) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in section 4.3-3 b) ii.

5.2-3 MANUFACTURED HOMES

- a) Manufactured homes shall be anchored in accordance with section 5.1-1 b).
- b) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall:
 - i. Be consistent with the need to minimize flood damage,
 - ii. Be constructed to minimize flood damage,
 - iii. Have adequate drainage provided to reduce exposure to flood damage,
 - iv. Be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive and;
 - v. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

5.3 FLOODWAYS

Located within areas of special flood hazard established in section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- b) If section 5.3 a) is satisfied, all new construction and substantial improvements must comply with section 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION.
- c) In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the accumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

**SECTION 6.0
SEVERABILITY**

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

**SECTION 7.0
ENACTMENT**

7.01 ADOPTION

BE IT FURTHER ORDAINED that this Ordinance shall take effect on final passage and publication as required by law.

Upon the motion of Councilwoman Lollar, seconded by Councilwoman Hatala, the foregoing ordinance was introduced.

Public Comments

None.

Council Comments

None.

This ordinance was then adopted by the following roll call vote: AYES: Mr. Babula, Ms. Hatala, Ms. Lollar, Mr. Swan. (4); NAYS: (0); ABSTAIN: (0); ABSENT: Mr. Chachis, Ms. Mercuri, Ms. Woodard. (3).

ORDINANCE NO. 12-2017 OF THE CITY OF BURLINGTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY AUTHORIZING EXECUTION OF A FINANCIAL AGREEMENT BETWEEN THE CITY OF BURLINGTON AND MATRIX BURLINGTON RIVER ROAD NORTH URBAN RENEWAL LLC PURSUANT TO N.J.S.A. 40A:20-9 GOVERNING PAYMENTS IN LIEU OF TAXES FOR PROPERTY TO BE IDENTIFIED AS BLOCK 226, LOT 1.01 ON THE TAX MAPS OF THE CITY OF BURLINGTON

Upon the motion of Councilman Swan, seconded by Councilwoman Hatala, the foregoing ordinance was TABLED until the October 3, 2017 Regular meeting of the Common Council by the following roll call vote: AYES: Mr. Babula, Ms. Hatala, Ms. Lollar, Mr. Swan. (4); NAYS: (0); ABSTAIN: (0); ABSENT: Mr. Chachis, Ms. Mercuri, Ms. Woodard. (3).

RESOLUTIONS / CONSENT AGENDA RESOLUTIONS*

Resolution No. 207-2017

RESOLUTION NO. 207-2017 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AUTHORIZING PROFESSIONAL SERVICES AGREEMENT WITH PENNONI ASSOCIATES, INC. FOR ENGINEERING SERVICES IN CONJUNCTION WITH THE ODOR CONTROL SCRUBBER FOR THE SEWER PLANT

WHEREAS, the City of Burlington did award a Special Projects Engineering Contract #17-014 to Pennoni Associates, Inc. per Resolution No. 15-2017; and

WHEREAS, the City of Burlington wishes to replace the existing scrubber in the odor control system at the Sewer Plant, because it has passed its useful life and needs to be replaced; and

WHEREAS, professional services are required in association with this project, including designing plans and specifications, permitting, preparing bid documents, bidding and construction management; and

WHEREAS, the City of Burlington received a proposal dated August 29, 2017 in the amount of \$85,000.00 for said professional services from the City Sewer Engineer, Pennoni Associates, Inc. and

WHEREAS, the Chief Financial Officer has executed a Certification of Funds for this contract, which is attached hereto, and that sufficient funds are available,

NOW THEREFORE BE IT RESOLVED by the Common Council of the City of Burlington, that the Mayor is hereby authorized to execute a contract in the amount of \$85,000.00, in a form acceptable to the City Solicitor, with Pennoni Associates, Inc. for professional services in connection with a new Odor Control Scrubber for the Sewer Plant,

BE IT FURTHER RESOLVED, that a notice stating the service and the amount of this contract shall be published and this Resolution shall be maintained on file and available for public inspection in the office of the Municipal Clerk.

Upon the motion of Councilwoman Lollar, seconded by Councilman Swan, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Ms. Hatala, Ms. Lollar, Mr. Swan. (4); NAYS: (0); ABSTAIN: (0); ABSENT: Mr. Chachis, Ms. Mercuri, Ms. Woodard. (3).

Resolution No. 208-2017*

RESOLUTION NO. 208-2017 OF CITY OF BURLINGTON APPOINTING MEMBERS OF THE SELECTION COMMITTEE FOR THE SELECTION OF POSITIONS WITHIN THE FIRE DEPARTMENT PURSUANT TO MUNICIPAL CODE SECTION §2-33

WHEREAS, the term of office for current two (2) Battalion Chiefs of the City of Burlington Fire Department expires on December 31, 2017; and

WHEREAS, pursuant to Section 2-33 of the Municipal Code, Common Council will appoint a five member Selection committee not later than October 2016; and

WHEREAS the Section Committee must consist of: two (2) former Chiefs of the City of Burlington Fire Department; one (1) Chief Officer from another Fire Department; one (1) Civilian with management experience; and one (1) member of Common Council; and

Now, Therefore Be It Resolved by the Common Council of the City of Burlington that the following persons are hereby appointed to the Selection Committee for the selection of two (2) Battalion Chiefs for the City of Burlington Fire Department for the term of January 1, 2018 to December 31, 2019:

- Howard Wilkins and Tim Pearson as former Burlington City Fire Department Chiefs; and
- Scott Hamlin, Deputy Chief of the Delanco Township Fire Department as an outside Fire Chief; and
- Rick Iovine as the civil member; and
- Council Member Ila Marie Lollar

Approved by Consent Agenda. All were in favor.

Resolution No. 209-2017

Upon the recommendation of the City Sewer Engineers, Pennoni Associates, Inc., the Common Council of the City of Burlington hereby authorizes the Mayor and the Municipal Clerk to execute an amended agreement with Clyde N. Lattimer & Sons Construction Company, Inc. for an increase, Change Order No. 2, in the amount of \$64,800.00 providing for additional items in connection with the Catwalk Replacement Project at the Wastewater Treatment Plant, making a revised total contract amount of \$325,500.00.

Upon the motion of Councilwoman Lollar, seconded by Councilman Swan, the foregoing resolution was introduced.

On the question, Councilwoman Hatala expressed opposition with the increase.

The Resolution was then adopted by the following roll call vote: AYES: Ms. Hatala, Ms. Lollar, Mr. Swan. (3); NAYS: Mr. Babula. (1); ABSTAIN: (0); ABSENT: Mr. Chachis, Ms. Mercuri, Ms. Woodard. (3).

PUBLIC COMMENTS

Rudy Smith, 205 W. Federal Street- thanked Council for help he has received from the City while rehabilitating a home; spoke of squatters moving into vacant and foreclosed homes; spoke of people not taking care of their properties.

Ken Shine of Pennoni Associates, Inc.- gave an explanation of the increase for Resolution No. 209-2017, the Catwalk Replacement Project; the problem was found later upon draining of the tanks.

ADMINISTRATION REPORT

Mr. Ballard spoke of 2016 paving grants, it is very limited; spoke of Blue Devil way being expensive; requested a change in scope from DOT for Lincoln Avenue and Wood Street; the bollard at Belmont and High Streets is being hit, there is a camera there, perhaps that can help us to see what is going on, must be someone going the wrong way.

Councilwoman Hatala suggested to paint the curbs yellow.

Councilwoman Lollar thanked Mr. Ballard and Mr. Leshner for filling pot holes, especially on Elm Avenue.

Councilman Babula asked if there was an ordinance in place, for going the wrong way.

Chief Snow stated that his Department is looking into this problem.

COUNCIL COMMENTS

Councilwoman Hatala spoke of the County Recycling Center on Hancock Road in Mount Holly; went on a tour; it was an impressive operation.

Councilman Babula spoke in response to Mr. Shine's comments regarding the Catwalk Replacement Project; since the tanks were not being submerged for all those years, some consideration should have been taken quoting; spoke in response to Mr. Smith's comments and concerns with health, safety and welfare.

Mr. Ballard stated he is aware of the Engle Avenue property, it is very frustrating that the City cannot act on this.

Councilman Babula spoke of the use of candles, no heat, they have no CO.

Mr. Saponaro said some of the squatters, there is actually protection for them.

Mr. Ballard spoke of Elm Avenue property; the Bank did the entire process and as they were leaving they handed the keys off to someone else to enter (other squatters) and it started all over again.

Councilwoman Lollar spoke of the orange stickers placed by Code Enforcement; asked if they could then be arrested for trespassing.

Mr. Ballard suggested based on this experience, they probably have no value.

Councilwoman Hatala spoke of a similar situation in Columbus Park; someone has to be in charge with these abandoned vacant properties.

Mr. Saponaro said if someone broke the padlock to enter they could have the Police react on that.

Councilman Swan spoke of a pole on Juniper Street; asked if PSE&G could look into it, as well as 478 Locust Street, near W. Federal Street; trees are covering up the lamps and spoke of wires; spoke of a sink hole at W. Federal Street and Engle Avenue; asked for the lines to be repainted on Locust Avenue, people seem to be going the wrong way.

Mr. Ballard spoke of manpower being a problem; we are responsible for these items, but are short handed; spoke of the need for seasonal help; hopefully next year we will be able to do some of these things.

Mr. Shine spoke in response to Councilman Swan's comments, these items are being monitored.

Councilman Swan spoke of a black Impala on Conrow Street that has had a flat tire for over 10 days. Mr. Ballard said he will ask the Police to check it out.

CONFERENCES

- Street Paving List for Grant Application Submission- Dave Ballard, Administrator

ADJOURNMENT

Upon the motion of Councilman Lollar, seconded by Councilman Swan, this meeting of September 19, 2017 was adjourned.

Cindy A. Crivaro, RMC
Municipal Clerk