

## ORDINANCES

	<i>Page</i>
1. (1943) An Ordinance Establishing a Park Commission	1
2. (1944) An Ordinance Establishing a Fiscal Year	1
3. (1946) An Ordinance Establishing a Police Department and a Traffic Authority	2
4. (1949) An Ordinance Concerning Trespass	2
5. (1950) An Ordinance Authorizing Leasing of Private Property for Borough Purposes	2
6. (1975) An Ordinance Establishing a Historic District in the Borough of Fenwick	3
7. (1990) An Ordinance Establishing a Harbor Management Commission <i>Amended 1994 -Amended 2006</i>	4
8. (1992) An Ordinance Establishing a Planning and Zoning Commission <i>Amended 2008</i>	5
9. (1994) An Ordinance Establishing a Pension System For Employees of the Borough of Fenwick	6
10. (1995) An Ordinance Concerning Appointment of Members and Alternate Members of the Zoning Board of Appeals	7
11. (1996) An Ordinance Regulating the Times During Which Construction Activities May Be Conducted <i>Amended 2020</i>	8
12. (2002) An Ordinance Concerning Traffic on Borough Roads	10
13. (2004) An Ordinance Concerning Election Procedures <i>Amended 2006</i>	13
14. (2005) An Ordinance Adopting the Fenwick Harbor Management Plan	16
15. (2012) An Ordinance Establishing an Inland Wetlands and Watercourses Agency	16
16. (2012) An Ordinance Concerning Land Use Fees	17
17. (2013) An Ordinance Concerning Flood Plain Management Regulations <i>Amended 2019</i>	19



## 1. AN ORDINANCE ESTABLISHING A PARK COMMISSION

Adopted April 8, 1943

SECTION 1. There is hereby established a commission to be know as the Borough of Fenwick Park Commission.

SEC. 2. It shall be the duty of this commission to manage, maintain, and control all real and personal property held now or in future by the Borough of Fenwick for park or recreational purposes, subject to the instructions of the Warden and Burgesses. It may expend for the maintenance and operations of this property such sums as shall be granted by the Warden and Burgesses.

SEC. 3. The Warden shall nominate and the Burgesses shall appoint annually from the residents of the Borough, in April, not less than three, nor more than five commissioners to serve for one year or until their successors are appointed and qualified. The Warden shall designate one member of those nominated to serve as President and one to serve as Secretary, and the Clerk of the Borough shall give all members notice of their appointment. The Commission shall meet at such times and places as shall be specified by call of the President. Notice of each meeting shall be given to each Commissioner by the President, Two members shall constitute a quorum for the transaction of business, unless the Commission shall consist of five members, in which case three members shall constitute a quorum. The Warden may fill any vacancy in this Commission caused by death, resignation or inability to serve.

SEC. 4. The Commission may recommend to the Warden and Burgesses rules and regulations for the use of said property including rules establishing fees for the use of recreational facilities. It shall enforce any rules or regulations enacted by the Warden and Burgesses concerning this property. Any moneys received for fees shall be remitted to the Borough Treasurer every month.

SEC. 5. Subject to the limitations of the available appropriation, the Commission may employ or instruct the Borough Superintendent to employ such persons as may be necessary to maintain the property and to carry out the rules and regulations.

## 2. AN ORDINANCE ESTABLISHING THE FISCAL YEAR

Adopted November 28, 1944

VOTED: That the current fiscal year commencing July 1, 1944, terminate on December 31, 1944.

VOTED: That commencing January 1, 1945, the fiscal year shall commence on January 1st in each year and end on December 31, in each year.

VOTED: That all by-laws, orders, ordinances or enactments inconsistent herewith are hereby repealed.

This ordinance is now obsolete because of 74-299 of the General Statutes providing for a uniform fiscal year in all municipalities commencing July 1st and ending June 30th.

### 3. AN ORDINANCE ESTABLISHING A POLICE DEPARTMENT AND A TRAFFIC AUTHORITY

Adopted June 10, 1946

Be it ordained:

SECTION 1. That a police force in and for the Borough be established and that the Warden be authorized to appoint to it such persons as he deems necessary.

SEC. 2. That the Warden be the traffic authority of the Borough and be authorized to make and enforce, or cause to be made and enforced, rules and regulations to control traffic within the Borough; and to place and maintain, or cause to be placed and maintained, all traffic control signals, signs, markings and other safety and traffic control devices upon the highways of the Borough.

SEC. 3. That any person, firm or corporation who shall violate any provision of any rule or regulation to control traffic within the Borough, or shall fail to comply with any traffic control signal, sign, marking and other safety and traffic control devices, shall be fined not more than one hundred dollars (\$100).

### 4. AN ORDINANCE CONCERNING TRESPASS

Adopted May 18, 1949

That any person who shall enter or remain upon the property or premises of another, or any private or discontinued highway, after having been forbidden to do so by the owner or any authorized person, either directly or by clear and legible signs posted thereon, shall be fined not more than fifty dollars.

### 5. AN ORDINANCE AUTHORIZING LEASING OF PRIVATE PROPERTY FOR BOROUGH PURPOSES

Adopted March 7, 1950

VOTED: That the Warden be authorized to lease for Borough purposes, at an annual rental approximating the taxes on such property within the Borough as he deems desirable.

## 6. AN ORDINANCE ESTABLISHING A HISTORIC DISTRICT IN THE BOROUGH OF FENWICK

Adopted September 1, 1975

VOTED: (a) To accept the report of the Historic District Study Committee and (b) to enact the following ordinance to carry out the provisions of Section 7-147a through Section 7-147K, including, of the Connecticut General Statutes:

BE IT ORDAINED:

SECTION 1. Purpose. To promote the educational, cultural, economic and general welfare of the public through the preservation and protection of buildings, places and a district of historic interest by the maintenance of such as landmarks in the history of architecture, of the Borough of Fenwick, of the State of Connecticut or of the Nation, and through the development of appropriate settings for such buildings, places and district there is established a historic district in the Borough of Fenwick to be known as the Fenwick Historic District.

SEC. 2. Boundaries. The District is bounded and described as follows:

NORTHERLY: By the South Cove;

NORTHWESTERLY: By the southeasterly line of Maple Avenue;

WESTERLY: By the westerly line of the Borough of Fenwick;

SOUTHERLY: By Long Island Sound; and

EASTERLY: By the Connecticut River. (Excepting one acre more or less on the SW Corner owned by Federal Government).

SEC. 3. Historic District Commission. A Historic District Commission is hereby established and shall consist of five (5) members and of three (3) alternate members, all of whom shall be electors of the Borough holding no salaried Borough office. They shall be appointed by the Board of Warden and Burgesses. Initially the members shall be appointed in such manner that one member is appointed for term expiring on July 1 of each of the following years: 1976, 1977, 1978, 1979 and 1980, and the alternate members shall be appointed in such manner that one alternate member is appointed for a term expiring on July 1 of each of the following years: 1976, 1977 and 1978. Thereafter the Board of Warden and Burgesses shall appoint annually one member for a five-year term expiring July 1 and one alternate member for a three-year term expiring on July 1. The Commission shall elect annually a chairman, a vice chairman and a clerk from its own number. In the case of inability to act because of absence, sickness or self-interest on the part of a member, that member's place shall be taken by an alternate member designated by the chairman. All members and alternate members shall serve without compensation. The Board of Warden and Burgesses shall make appointments to fill vacancies for the unexpired terms thereof.

SEC. 4. Powers, etc. of Commission. The Historic Commission shall have such powers, perform such functions and be subject to such limitations as shall from time to time be provided by the General Statutes of the State of Connecticut. The Commission shall adopt rules of procedure not inconsistent with the provisions of said Statutes and may, subject to appropriation, employ clerical and technical assistance or consultants and may accept money gifts and expend the same for such purposes.

SEC. 5. Effective Date. This ordinance shall take effect on October 1, 1975.

## 7. AN ORDINANCE ESTABLISHING A HARBOR MANAGEMENT COMMISSION

Adopted January 23, 1990  
Amended July 9, 1990  
Amended September 1994  
Amended January 21, 2006

### Section 1. CREATION AND PURPOSE

The Borough of Fenwick, hereby establishes a HARBOR MANAGEMENT COMMISSION under Connecticut Harbor Management Act (Sections 22a-113k to t) for the purposes set forth therein and for ensuring the safe, proper and responsible use of the navigable waters comprising the waterfront of the Borough of Fenwick; to protect its marine resources and sensitive natural resource areas found along its nearshore costal waters; to provide greater public opportunities for water based recreational activities; to maintain and allocate the water side resources in an economically sound manner. The area of the Borough of Fenwick within the jurisdiction of its Harbor Management Commission shall be all waters within the territorial boundaries of the Borough of Fenwick below mean high water described as follows: a line running northerly and perpendicular to the shore from the northwest corner of the Borough to the centerline of South Cove, thence easterly along the centerline of South Cove to the west side of the Connecticut River channel, thence southerly along the channel to the south end of the breakwaters, thence westerly maintaining the same distance from the shore to a point intersection with a line perpendicular to the shore from the southwest corner of the Borough, and thence to the northwest corner of the Borough.

### Section 2. COMMISSION MEMBERSHIP

The FENWICK HARBOR MANAGEMENT COMMISSION shall consist of five (5) members and three (3) alternate members, all of whom shall be electors of the Borough of Fenwick. They shall be appointed by the Board of Warden and Burgesses. The Harbormaster shall be an ex-officio member, without vote. Terms of members and alternate members shall run for five (5) years, except that the terms shall be so staggered so that no more than one (1) member's term and one alternate member's term shall expire in any one year. Vacancies shall be filled by the Board of Warden and Burgesses for the unexpired portion of the term.

### Section 3. COMMISSION DUTIES, POWERS AND RESPONSIBILITIES

- A. The BOROUGH OF FENWICK HARBOR MANAGEMENT COMMISSION shall prepare, and after public hearing adopt a Harbor Management Plan. The Plan will:
- 1) Identify existing and potential waterfront problems
  - 2) Establish recommendations for the use, development and preservation of the waterfront areas

3) Recommend the required ordinances necessary to implement the Plan and identify the officials responsible for enforcement of the ordinances

B. The Commission shall receive and review all proposals for dredging, filling and constructing or altering any structure within or contiguous to the waterfront for their consistency with the Harbor Management Plan.

C. The Commission shall assist and guide the Harbormaster in the assignment of moorings, the management of mooring and anchorage areas and the collection of mooring fees.

D. The Commission shall assist in the coordination of all public and private agencies, commissions and other organizations; including State and Federal agencies that have an interest or jurisdiction within the waterfront areas.

E. The Commission shall recommend ordinances for adoption by the Borough required to implement the Harbor Management Plan.

F. The Commission in association with the Warden and Board of Burgesses may employ and supervise such employees as authorized.

#### Section 4.

### COMMISSION ORGANIZATION AND MEETINGS

The BOROUGH OF FENWICK HARBOR MANAGEMENT COMMISSION shall annually elect a Chairman, Vice-chairman, and a Clerk by a majority of its membership. It will hold regular meetings and keep minutes of all meetings. The chairman may call special meetings of The Commission with no less than two (2) days prior notice of the commissioners. The Commission shall submit an annual report and its activities to the Board of Warden and Burgesses as well as other reports may be required.

## 8. AN ORDINANCE ESTABLISHING A PLANNING AND ZONING COMMISSION

Adopted October 10, 1992  
Amended October 10, 2008

### SECTION 1. Establishment of Planning and Zoning Commission.

Pursuant to Section 8-1 and Section 8-19 of the Connecticut General Statutes, as amended, the Board of Warden and Burgesses adopts the provisions of Chapter 124 and of Chapter 126 of the Connecticut General Statutes, as amended.

### SECTION 2. Membership of Planning and Zoning Commission.

The Planning and Zoning Commission shall consist of five (5) members and two (2) alternate members, all of whom shall be electors of the Borough of Fenwick holding no salaried Borough office and none of whom shall be members of the Zoning Board of Appeals. The members shall be appointed by the Board of Warden and Burgesses for a term of five (5) years expiring July 1, provided that the terms shall be so staggered so that no more than one member's term shall expire

in any one year. Vacancies shall be filled by the Board of Warden and Burgesses for the unexpired portion of the term. The Warden and the Borough engineer shall also be members of the Planning and Zoning Commission, without voting privileges.

SECTION 3. Disqualification. No member of the Planning and Zoning Commission shall appear for or represent any person, firm or corporation or any other entity in any matter pending before the Planning and Zoning Commission or the Zoning Board of Appeals whether or not he is a member of the commission hearing such matter, provided that any such member may represent the Planning and Zoning Commission in any appeal or application pending before the Zoning Board of Appeals. No member of the Planning and Zoning Commission shall participate in the hearing or decision of the Planning and Zoning Commission upon any matter in which he is directly or indirectly interested in a personal or financial sense. In the event of such disqualification, such fact shall be entered on the records of the Planning and Zoning Commission.

SECTION 4. Organization and Record Keeping. The Planning and Zoning Commission shall elect a chairman and a secretary from its members, shall adopt rules for the transaction of business, and shall keep a public record of its activities. The Planning and Zoning Commission shall file an annual report in July with the Board of Warden and Burgesses.

SECTION 5. Powers, Duties, and Responsibilities. The Planning and Zoning Commission shall have all the powers, duties, and responsibilities set forth in Chapter 124 and in Chapter 126 of the Connecticut General Statutes, as amended. The Planning and Zoning Commission may engage such employees as are necessary for its work and may contract with professional consultants. The Planning and Zoning Commission may accept gifts, but all of its expenditures, exclusive of such gifts, shall be within the amounts appropriated for its purposes.

SECTION 6. Effective Date. This ordinance shall become effective 30 days after publication of notice of its enactment in accordance with Section 7-157 of the Connecticut General Statutes, as amended."

## 9. AN ORDINANCE ESTABLISHING A PENSION SYSTEM FOR EMPOLYEEES OF THE BOROUGH OF FENWICK

Adopted May 18, 1994

SECTION 1. Establishment of Plan. Pursuant to section 7-450 of the Connecticut General Statutes, as amended, the Board of Warden and Burgesses establishes a pension system for the employees of the Borough of Fenwick by adopting the "Borough of Fenwick Pension Plan and Trust Agreement (Effective July 1, 1992)" (the "Plan"), a copy of which shall be maintained in the Office of the Clerk of the Borough of Fenwick.

SECTION 2. Effect of Plan. The said Plan is intended to satisfy the requirements of a "qualified plan" under Section 401(a) of the Internal Revenue Code of 1986, as amended. The Plan is also intended to supersede and replace the informal pension arrangement maintained by



the Borough prior to July 1, 1992, known as the "Borough of Fenwick Informal Pension Plan," which informal pension plan is hereby terminated.

SECTION 3. Execution of Plan. The appropriate officers of the Borough of Fenwick are authorized to execute the Borough of Fenwick Pension Plan and Trust on behalf of the Borough of Fenwick and to take any and all action which they deem necessary or appropriate in order to implement the Plan, including, without limitation, filing an application for favorable determination with the Internal Revenue Service relating to the Plan and making any amendments which the Internal Revenue Service may require in connection with such application, and notifying Plan participants of the replacement of the Informal Pension Plan by the new plan and the pertinent provisions thereof. Any execution of the Plan and any of such other actions prior to the effective date hereof are hereby retroactively ratified and confirmed.

SECTION 4. Amendments and Termination. The Plan may be amended or terminated in accordance with the provisions set forth in such Plan, without the requirement of an amendment to this ordinance.

SECTION 5. Effective Date. This ordinance shall become effective 30 days after publication of notice of its enactment in accordance with Section 7-157 of the Connecticut General Statutes, as amended.

RESOLVED, that as authorized in section 4 of the ordinance entitled "An Ordinance Establishing a Pension System for Employees of the Borough of Fenwick", adopted on May 29, 1994, the Board of Warden and Burgesses of the Board of Fenwick hereby amends The Borough of Fenwick Pension Plan and Trust Agreement by restating such plan in its entirety as set forth in the instrument designated. Borough of Fenwick Amended and Restated Pension Plan and Trust Agreement. (Effective except where otherwise indicated as of July 1, 2001); and

Further Resolved, that the Warden is authorized to execute such amended and restated plan and trust agreement of behalf of the Borough.

#### 10. AN ORDINANCE CONCERNING APPOINTMENT OF MEMBERS AND ALTERNATE MEMBERS OF THE ZONING BOARD OF APPEALS

Adopted October 8, 1995

The Zoning Board of Appeals shall consist of five (5) members and three (3) alternate members, all of whom shall be electors of the Borough of Fenwick. The said members and alternates shall be appointed by the Warden for a term of five (5) years expiring July 1, provided that the terms shall be so staggered so that no more than one (1) member's term and one (1) alternate member's term shall expire in any one year. Vacancies shall be filled by appointment by the Warden for the unexpired portion of the term.

Any and all previous actions by the Warden in appointing members and alternate members of the Zoning Board of Appeals are hereby confirmed and the current members and alternate members are hereby reappointed to fill out the unexpired portions of their current terms as previously appointed by the Warden."

The foregoing ordinance shall become effective thirty (30) days after publication of notice of its enactment in accordance with Section 7-157 of the Connecticut General Statutes, as amended.

# 11. AN ORDINANCE REGULATING THE TIMES DURING WHICH CONSTRUCTION ACTIVITIES MAY BE CONDUCTED

Adopted October 11, 1996

Amended November 18, 2006

Amended October 8, 2020 effective November 26, 2020

WHEREAS, the Borough of Fenwick (the “Borough”) is authorized by Section 20 of the Special Act No. 271 of the Special Acts of 1899, as amended, enacted by the General Assembly of the State of Connecticut (the “Special Act”) to make and enforce ordinances for various purposes, including, among other things, the preservation of peace and order; the keeping of the streets and all public places quiet from all undue noise; the provision for the health of the Borough, and the prevention and abatement of every kind of nuisance; the compelling of the removal from any place in the Borough of all nuisances injurious to health or offensive or annoying to the public; the regulation of the carrying on within the Borough of any kind of trade, manufacture, or business prejudicial to public health, or dangerous to, or constituting an unreasonable annoyance to those living or owning property in the vicinity; and the regulation of the construction of buildings;

WHEREAS, due consideration has been given to such purposes as applied to the character of the Borough and the needs of the public, including the protection of residents of and the owners of property in the Borough from unreasonable and unnecessary noise, dust and debris, and traffic during the summer season when the Borough is most heavily occupied; and

WHEREAS, the control and regulation of the times during which construction activities may be conducted is necessary for the purpose of promoting the foregoing purposes;

NOW, THEREFORE, in order to promote the foregoing purposes and as so authorized, it is hereby ordained that:

## SECTION 1. Prohibition of Certain Activities During Certain Days and Times.

- A. Restricted Days. For purposes of this ordinance, the period between and including the Friday before Memorial Day and the second Monday in October shall be referred to as the Summer Season. Except as provided in Section 2, the activities set forth in subsection C of this section shall be prohibited at any time of day during all of the following days each year: (i) all holiday weekends (Saturday, Sunday and Monday) during the Summer Season; (ii) all Sundays during the Summer Season; and (iii) all days during the period from July 1 to the Tuesday immediately following Labor Day. The activities specified in subsection D of this section shall be prohibited as set forth in that subsection. The activities specified in subsection E shall be prohibited during the days set forth in subsection A(iii), above.
- B. Restricted Times. Except as provided in Section 2, the activities set forth in subsection C of this section shall be prohibited before 7:00 a.m. and after 7:00 p.m. on every day of the calendar year. No yard maintenance activities by any person shall be permitted before 8:00 a.m. or after 5:00 p.m. on any day of the year.
- C. Primary Restrictions. During the days and times set forth in subsections A and B, the following activities shall be prohibited throughout the Borough of Fenwick except in the circumstances described in Section 2: (i) construction, reconstruction, enlargement, erection, or exterior alteration or repair (including painting) of buildings and structures, including but not limited to driveways, patios, walkways and similar paved surfaces; (ii) interior alterations and repairs to structures by persons other than those currently occupying the building; (iii) any activities requiring the issuance of a building permit or trade permit (e.g., electrical, plumbing, HVAC, generator installation); (iv) excavation,

grading, removal and depositing of earth materials; (v) draining and filling of pools; and (vi) cutting of trees.

- D. Yard Maintenance Restrictions. Yard maintenance by persons other than the current owner or occupant of the relevant property shall be prohibited during all Fridays, Saturdays, and Sundays and holidays during the Summer Season. Time restrictions for all yard maintenance activities, including by owners and occupants, are set forth in subsection B, above.
- E. Restrictions on Large Vehicles. Vehicles having more than two axles (not including removable trailers) are prohibited on Borough streets during the days specified in subsection A(iii) of this section except where necessary to make a delivery of goods or materials to a home within the Borough, and only after the need for such delivery has been reviewed and approved, and a permit issued, by the Warden, Building Official, or Zoning Enforcement Officer of the Borough.
- F. Restrictions on Parking. Vehicles and trailers used by persons in connection with, or in the course of performing, any of the activities listed in subsections C and D, above, may not be parked on or along Borough roads.

#### SECTION 2. Exceptions.

The restrictions established in Section 1 of this ordinance shall not apply to any maintenance activities by the Borough or on Borough property, or to any activities that have been previously reviewed, and for which a written approval has been issued, by the Warden, Building Official, or Zoning Enforcement Officer of the Borough where such enforcement official has determined that the activity or activities are reasonably needed to repair existing appliances, fixtures, or equipment, or to correct, prevent, avoid or mitigate property damage or a threat to public health or safety. A request for such approval may be made, and approval may be granted, by email or similar electronic means.

#### SECTION 3. Administration and Enforcement.

The provisions of this ordinance shall be enforced by the Warden, Building Official, Zoning Enforcement Officer, or such other individual as may be designated by the Board of Warden and Burgesses. Any such designated official may require that any application submitted for a permit shall include or be accompanied by a specific written agreement to comply with the restrictions set forth in this ordinance. Any enforcement official designated under this ordinance is hereby authorized to inspect or cause to be inspected any building or other structure, and any property upon which any restricted activity is reasonably suspected to have been occurring, and to issue any appropriate order relating to the enforcement of these provisions, including revocation of any permit. If any provision of this ordinance is violated, such official, in addition to any other remedies, may institute an action or proceeding in a court of appropriate jurisdiction to prevent or stop such violation. In addition, the owner or agent of any property where a violation of any provision of this ordinance exists, or the lessee or tenant of any such property, or the agent, architect, builder, contractor, or other person who commits, takes part in or assists in any such violation, shall be fined not more than one hundred dollars for each day that such violation exists and each such day shall constitute a separate violation.

#### SECTION 4. Miscellaneous.

The terms "building", "structure", and "earth materials" shall have the same meaning in this ordinance as in the Zoning Regulations of the Borough of Fenwick, except that, for the purposes of this ordinance, the term "structure" shall also include driveways, patios, walkways and similar paved surfaces. This ordinance shall become effective 30 days after publication of its enactment in accordance with Section 7-157 of the Connecticut General Statutes.

## 12. AN ORDINANCE CONCERNING TRAFFIC ON BOROUGH ROADS

Adopted August 16, 2002

WHEREAS, the Borough of Fenwick (the “Borough”) is authorized by Section 20 of the Special Act No. 271 of the Special Acts of 1899, as amended, enacted by the General Assembly of the State of Connecticut (the “Special Act”) to make and enforce ordinances for various purposes, including, among other things, the management, regulation, and control the property of the Borough; the preservation of peace and order; the regulation of all parades, processions, and public assemblages in the public streets; to regulation of the speed of vehicles in said streets; the keeping of the streets and all public places quiet from all undue noise; the provision for the health of the Borough, and the prevention and abatement of every kind of nuisance; the compelling of the removal from any place in the Borough of all nuisances injurious to health or offensive or annoying to the public; and the regulation of the carrying on within the Borough of any kind of trade, manufacture, or business prejudicial to public health, or dangerous to, or constituting an unreasonable annoyance to those living or owning property in the vicinity;

WHEREAS, due consideration has been given to such purposes as applied to the character of the Borough, the physical design of the Borough roads, which are very narrow and without adequate sidewalks, and the needs of the public, including the protection of residents of and the owners of property in the Borough from unreasonable and unnecessary invasions of their property and privacy rights; and

WHEREAS, the Borough is the owner of the public roads located within the Borough, except for the portion of Maple Avenue which passes through the Borough;

WHEREAS, the control of traffic on the roads within the Borough is necessary for the purpose of promoting the foregoing purposes;

NOW, THEREFORE, in order to promote the purposes previously set forth, and as authorized by the Special Act, the following Ordinance is hereby enacted:

#### ARTICLE A. STREET SIGNS

SECTION 1. Specifications: All traffic regulation and warning signs within the Borough shall be of such a size, height, content and location as to be consistent with the public health and general welfare, safety, and character of the Borough, and shall conform with all applicable requirements and specifications which may be established by the State of Connecticut.

SECTION 2 List of Locations: The Board of Warden and Burgesses shall create and maintain, or cause to be created and maintained, a current list of the type and location of all traffic regulation and warning signs located within the Borough.

SECTION 3 Temporary Signs: The Board of Warden and Burgesses may authorize the placement of additional, temporary traffic regulation signs throughout the Borough during periods when there is, or it is anticipated that there will be, traffic of such volume that, in the opinion of the Board of Warden and Burgesses, said signs are necessary to insure the safety of pedestrians and other drivers traveling upon Borough roads and to lessen the congestion thereon.

#### ARTICLE B. USE OF BOROUGH ROADS

SECTION 1. Definition: For purposes of this ordinance, the term "bus" shall include, but not be limited to:

(a) "motor bus" as defined by Section 14-1(44) of the Connecticut General Statutes as any motor vehicle, except a taxicab, as defined by CGS Section 13b-95, operated in whole or in part on any street or highway, in a manner affording a means of transportation by indiscriminately receiving or discharging passengers, or running on a regular route or over any portion of a regular route or between fixed termini;

(b) "service bus" as defined in Section 14-1(72) of the Connecticut General Statutes as any vehicle, except a van pool vehicle or a school bus, designed and regularly used to carry ten (10) or more passengers when used in private service for the transportation of persons whether with or without charge to the individual; and

(c) such motor bus or service bus chartered for the purpose of transporting

persons.

The term bus shall not include “school bus” as defined in Section 14-275 of the Connecticut General Statutes as any motor bus, painted, constructed, equipped and registered in conformance with the Connecticut General Statutes and regularly used for transporting school children to and from school or school activities whether or not for compensation or under contract to provide such service.

SECTION 2. Buses: No person shall operate any bus, whether for the purpose of conducting a tour for commercial purposes or not, in the Borough of Fenwick on the following roads located in the Borough of Fenwick:

Nibang Avenue  
Fenwick Avenue  
Agawam Avenue  
Pettipaug Avenue  
Mohegan Avenue

Neponset Avenue  
Sequassen Avenue  
Pattaquasset Avenue  
Grove Avenue

SECTION 3. Vehicle Travel Lanes: In no event may more than one motor vehicle, including, but not limited to golf carts, traveling in the same direction occupy the width of any traffic lane on any Borough road at any one time.

SECTION 4. One-Way Streets: The Board of Warden and Burgesses may limit the use of any Borough road that is not also a state highway in such a way so as to permit traffic to travel upon such road in only one direction. The Board of Warden and Burgesses shall erect, in accordance with this ordinance, “One-Way” signs indicating that traffic on such roads is to travel in a single direction and “Wrong Way” warning signs to indicate to drivers that they are not traveling in the permitted direction.

SECTION 5. Emergencies: Nothing in this ordinance shall restrict or prevent the use of any road, including those listed in Sections 2, on a temporary basis in a declared emergency.

SECTION 6. Suspension of Regulation: The Warden of the Borough may suspend any of these provisions of this Article B to allow for community events, including, but not limited to, any holiday parade celebration.

## ARTICLE C. SPEED LIMITS

SECTION 1. Considerations: Speed limits on roads within the Borough shall be set, from time to time, by the Board of Warden and Burgesses, with due consideration given to the safety of pedestrians, Borough residents, and the operators of all vehicles which regularly make use of Borough roads.

SECTION 2. Speed Limit: Unless otherwise set under the provisions of Section 1 of this Article C, the speed limit for all motor vehicles on all roads within the Borough shall be 20 miles per hour. Said speed limit shall be posted in accordance with the provisions of this ordinance concerning traffic signs.

SECTION 3. Speed Bumps: The Board of Warden and Burgesses may provide for the installation of speed bumps in locations designated by such Board when it appears that such speed bumps would serve to slow traffic.

#### ARTICLE D. STOPPING, STANDING AND PARKING

SECTION 1. Obstruction of Traffic: No vehicle shall park, stop, or stand on any Borough road in such a manner as to obstruct the normal flow of traffic.

SECTION 2. Signs: The Board of Warden and Burgesses shall erect signs or provide for markings on roads to indicate any parking, stopping, or standing restrictions in accordance with the provisions of this ordinance concerning traffic signs.

SECTION 3. Permitted Parking: Subject to the provisions of Sections 1 and 2 of this Article D, no motor vehicle may park on any Borough road unless such vehicle displays a Borough parking permit.

#### ARTICLE E. ENFORCEMENT AND PENALTIES/FINES FOR VIOLATIONS

SECTION 1. Enforcement: The Warden of the Borough, or any person duly authorized by such Warden, may enforce the provisions of this ordinance.

SECTION 2. Fines: Fines for the violation of any traffic ordinance shall be established by the Board of Warden and Burgesses and shall be not more than One-Hundred Dollars (\$100.00) per offense. The Board of Warden and Burgesses shall prepare and maintain a schedule of such fines.

SECTION 3. Parking, Stopping, and Standing Violations: In addition to the imposition of any fine pursuant to Section 2 of this Article E, any vehicle which is parked, stopped or standing in violation of any traffic ordinance may be removed or conveyed, by or under the direction of the Warden, by means of towing or otherwise, removing the same to a public garage at the risk of the owner and the owner shall be responsible for the payment of all towing or other expenses incurred in the removal of the vehicle to such garage.

SECTION 4. Notice: Notice of violation of any traffic ordinance shall identify (1) the ordinance(s) and Section(s) which was (were) violated, (2) the action or condition which caused the violation, (3) the date and time the violation occurred, (4) the fine imposed, and (5) the date by which it must be paid.

## ARTICLE F. EFFECTIVE DATE

This ordinance shall become effective thirty (30) days after publication of its enactment in accordance with Section 7-157 of the Connecticut General Statutes.

### 13. AN ORDINANCE CONCERNING ELECTION PROCEDURES

Adopted June 12, 2004  
Amended September 9, 2006

Pursuant to the authority granted to the Board of Warden and Burgesses in Section 20 of the Special Act Incorporating the Borough of Fenwick, as amended, to regulate and prescribe the mode of conducting all Borough elections, be it ordained:

SECTION 1. All nominees for elective Borough office shall be chosen by a petitioning process as provided in this ordinance.

SECTION 2. Each petition for nomination for elective Borough office shall be on a form prescribed and provided by the Borough Clerk. Such forms shall provide lines for the signatures, street addresses, dates of birth and the printing of the names of the signators. A signator shall print his/her name on said line following the signing of the signator's name. Before issuing a petition form, the Borough Clerk shall, above the space provided for signatures, type or print the name and address of the candidate, the office sought and the election and the date thereof. The Borough Clerk shall give to any person requesting such form the number of pages the Borough Clerk deems sufficient.

SECTION 3. The Borough Clerk shall not issue any nominating petition forms for a candidate for an office to be filled at a regular election to be held in any year prior to the first business day of such year. The Borough Clerk shall not issue any nominating petition forms unless the person requesting the same makes a written application therefor, which application shall contain the following:

1. The name or names of the candidates to appear on such nominating petition, compared by the Borough Clerk with his/her name as it appears on the last-completed list of the electors of the Borough, and verified and corrected by the Borough Clerk, or in the case of a newly admitted elector whose name does not appear on the last-completed registry list, the Borough Clerk shall compare his/her name as it appears on his/her application for admission and verify and correct it accordingly;
2. a signed statement by each such candidate that he/she consents to the placement of his/her name on such petition; and



3. the party designation, if any.

An applicant for petition forms who does not wish to specify a party designation shall so indicate on his/her application for such forms and his/ her application, if so marked, shall not be amended in this respect. The Borough Clerk shall not issue such forms (a) if petition forms have previously been issued on behalf of the same candidate for the same office unless the candidate files a written statement of withdrawal of his/her previous candidacy with the Borough Clerk, and (b) unless the application meets the requirements of this section.

SECTION 4. The names of any or all candidates under the same party designation for at-large Borough offices to be filled at a Borough election may be included in one nominating petition.

SECTION 5. Each petition shall be signed by a number of qualified electors which is not less than one per cent of the votes cast for the same office or offices at the last-preceding election. "Qualified electors" means legal voters, or "freemen", of the Borough, as defined in Section 2 of the Special Act Incorporating the Borough of Fenwick, eligible to vote in the Borough election for all of the candidates proposed by the petition. "Votes cast for the same office at the last preceding election" means, in the case of multiple openings for the same office, the total number of electors checked as having voted at the last-preceding election at which such office appeared on the ballot label.

SECTION 6. Each circulator of a nominating petition page shall be an elector of the Borough and eligible to vote for all candidates listed on such petition. Any individual proposed as a candidate in any nominating petition may serve as a circulator of the pages of such nominating petition.

SECTION 7. Before any signatures may be obtained on a petition signatures page, above the space provided for signatures shall be indicated the party designation, if any, the name and address of the candidate, the office sought, the election and the date thereof. Such indication may not be altered or amended after any person has signed the page. Each page of a nominating petition shall contain the names and street addresses of the signers. All pages of a nominating petition shall be certified by the Borough Clerk and signatures on any page which is not so certified shall not be counted by the Borough Clerk.

SECTION 8. Any signer of a nominating petition may withdraw his/her signature therefrom at any time up to the deadline date for filing nominating petition pages pursuant to SECTION 9, below, prior to the election, by sending a written notice of such withdrawal to the candidate or candidates named in such petition and by sending a copy of such notice to the Borough Clerk by such day. Such written notice and the copy thereof shall be sent by registered or certified mail.

SECTION 9. Each page of a nominating petition proposing a candidate for an office to be filled at any election shall be submitted to the Borough Clerk not later than four o'clock p.m. on the date which is seventy (70) days prior to the date of the Borough election for the office with respect to which such petition is being filed.

## SECTION 10.

(a) At the time a petition page is submitted to the Borough Clerk, such page shall contain a statement signed by the Borough Clerk attesting that the circulator is an elector in the Borough and setting forth his/her residence address therein and that he/she is entitled to vote at the election for the office for which such candidacy is being filed.

(b) Each page of a nominating petition submitted to the Borough Clerk in accordance with the provisions of this ordinance shall contain a statement as to the authenticity of the signatures thereon, signed under penalties of false statement, by the person who circulated the same, setting forth such circulator's Borough address and stating that each person whose name appears on such page signed the same in person in the presence of such circulator and that either the circulator knows each such signer or that the signer satisfactorily identified himself to the circulator.

SECTION 11. The use of titles, initials or customary abbreviations of given names by the signer of a nominating petition shall not invalidate such signature if the identity of the signer can be readily established by reference to the signature on the petition and the name of a person as it appears on the last-completed list of the electors of the Borough at the address indicated or of a person who has been admitted as an elector since the completion of such list.

SECTION 12. A petitioning candidate may withdraw his/her candidacy, but no such withdrawal shall be valid until the candidate has signed and filed a letter of withdrawal with the Borough Clerk.

SECTION 13. A separate row shall be used for the petitioning candidates whose names are contained in petitions bearing the same party designation. Within such separate row, the order of the names of such candidates for the same multi-opening office shall be determined by the Borough Clerk by lot in a ceremony which shall be open to the public. On the horizontal rows below the rows so used for candidates, if any, who are so entitled to a party designation on the voting machines, shall be placed, in the appropriate office columns, the names of candidates contained in petitions bearing no party designation. Such candidates shall not be entitled to separate rows. Precedence as to horizontal row between or among such candidates shall be determined, if necessary, by the order in which their applications for petitions were filed with the Borough Clerk from the earliest to the latest, provided that within any such horizontal row the names of as many of such candidates for the same multiple-opening office as such row will accommodate shall be placed before placing the names of other such candidates for such office on the next such row. The order of the names of such candidates for the same multiple-opening office, within and between any such horizontal rows, shall be determined by the Borough Clerk by lot in a ceremony which shall be open to the public. Each row in which a candidate's name appears who is not entitled to a party designation shall be labeled "Petitioning Candidates", the print of which shall correspond to that used for party designations.

#### SECTION 14.

(a) The Borough Clerk shall file with the Secretary of the State of Connecticut a list of the offices to be filled in each Borough election in the manner required by Section 9-254 of the Connecticut General Statutes, as the same may be amended from time to time;

(b) The Borough Clerk shall file with the Secretary of the State of Connecticut a verified list of the nominees for Borough offices to be filled in each Borough election in the manner required by Section 9-461 of the Connecticut General Statutes, as the same may be amended from time to time.

Such ordinance shall become effective 30 days after publication of its enactment in accordance with Section 7-157 of the Connecticut General Statutes.

#### 14. AN ORDINANCE ADOPTING THE FENWICK HARBOR MANAGEMENT PLAN

Adopted May 28, 2005

BE IT ORDAINED that, pursuant to the provisions of Section 22a-113m of the Connecticut General Statutes, the harbor management plan designated "Borough of Fenwick Harbor Management Plan", dated October, 2004 and prepared for adoption May, 2005, is hereby adopted as the harbor management plan for the Borough of Fenwick.

This ordinance and such harbor management plan shall become effective 30 days after publication of the enactment of this ordinance in accordance with the provisions of Section 7-157 of the Connecticut General Statutes.

#### 15. AN ORDINANCE ESTABLISHING AN INLAND WETLANDS AND WATERCOURSES AGENCY

Adopted August 30, 2012

Effective October 5, 2012

Pursuant to the authority granted to the Board of Warden and Burgesses in Section 20 of the Special Act Incorporating the Borough of Fenwick, as amended, and pursuant to the provisions of Section 22a-42 of the Connecticut General Statutes, be it ordained:

The Borough of Fenwick hereby designates the Planning and Zoning Commission of the Borough of Fenwick as the inland wetlands and watercourses agency for the Borough of Fenwick and authorizes it to carry out the provisions of Section 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes and to propose and adopt such rules, regulations, and by-laws as may be appropriate to carry out its proper function. When acting as such agency, such Commission may be known as the Inland Wetlands and Watercourses Commission of the Borough of Fenwick.

## 16. AN ORDINANCE CONCERNING LAND USE FEES

Adopted August 30, 2012  
Effective October 5, 2012

Pursuant to the authority granted to the Board of Warden and Burgesses in Section 20 of the Special Act Incorporating the Borough of Fenwick, as amended, and pursuant to the provisions of Section 8-1c of the Connecticut General Statutes, be it ordained:

The Borough of Fenwick hereby establishes the following fee schedules, and procedures relating thereto, for applications to the Planning and Zoning Commission, the Zoning Enforcement Officer (as agent for the Planning and Zoning Commission), the Zoning Board of Appeals, the Historic District Commission, the Inland Wetlands and Watercourses Commission, and the Building Official (which are hereinafter referred to jointly as the “Land Use Commissions” or “Land Use Officials” and individually as a “Land Use Commission” or “Land Use Official”).

### A. Fees Must Be Submitted With Application

The fees identified in Section B (“Schedule of Fees”), below, shall be due and payable at the time the application, with respect to which such fees are due, is filed and shall be non-refundable. The failure to submit any such fee shall render the application incomplete and shall be grounds for the relevant commission, board, agent, or other official to refuse to accept or process the application or to deny the application.

### B. Schedule of Fees

The fees which are due and payable for the processing of any application to a Land Use Commission or Land Use Official shall be those reasonable fees which are established, and which may be amended from time to time, by a majority vote of the Board of Warden and Burgesses of the Borough of Fenwick. In establishing such fees, the Board of Warden and Burgesses may consider the recommendation of the Land Use Commission(s) and Land Use Official(s) which are responsible for acting upon the application(s) with respect to which such fees will be due and payable. The fees which are established shall be published as a “Schedule of Fees” showing the fees which are payable in connection with applications to a Land Use Commission or Land Use Official.

### C. Consultant’s Fees and Expenses

Following the submission of any application, the Land Use Commission or Land Use Official to which such application has been submitted may determine that it, he or she will require the assistance of professional consultants, including but not necessarily limited to scientific, engineering, and/or legal consultants, to review the application or to provide monitoring services relating thereto. Issues for which such review or monitoring may be needed may include, but are not limited to, compliance with existing laws and regulations; the potential for environmental or other impacts; the need for public improvements, drainage improvements, sediment and erosion-control measures, and/or other environmental safety measures; compliance with Special Flood Hazard Area requirements; and/or the provision of adequate legal conveyances and financial performance security. It is an important purpose of this ordinance to ensure that any fees and expenses reasonably incurred by the Land Use Commission or Land Use Official in procuring such services shall be reimbursed by the applicant.

Therefore, if the assistance of professional consultants is found to be necessary or appropriate at any time in connection with the submission of an application, the Land Use Commission or Land Use Official to which such application has been submitted shall so notify the applicant thereof. Upon receipt of any invoice or proposal for any such consultant's services, such Land Use Commission or Land Use Official shall notify the applicant of the amount which has been paid or which is or will be payable to such professional consultant, and the applicant shall then have a period of not more than thirty (30) days to pay to the Borough of Fenwick the amount necessary to reimburse the Borough for such consultant's fees and expenses. If the amount required is not timely paid, the Land Use Commission or Land Use Official to which such application has been submitted may deny the application as incomplete even if such Land Use Commission or Land Use Official is obliged by the provisions of applicable law to commence a public hearing or to render a decision.

The applicant shall be required to pay any balance due under any of the foregoing provisions as a prerequisite to the issuance or maintenance of any final permit or the final approval of any application or petition. If a permit or approval has been issued before the required fees are incurred or become due, the applicant shall be obliged to pay the fees within thirty (30) days after a bill therefor has been sent to the applicant. The failure to pay such fees when due shall be grounds for revocation of any such permit or approval which has been granted.

The reimbursement for consultant's fees and expenses which is required pursuant to the provisions of this Paragraph C shall be due and payable in addition to the fees identified in Section B ("Schedule of Fees"), above.

D. When Fee May Not Be Required

A Land Use Commission to which an application has been submitted may, by resolution approved by such Commission, determine that fees due hereunder, or a portion thereof, shall not be required in a particular case of resubmission of an expired approval or of a disapproved application or submission of an application to revise an approved application, or in cases where the application changes are determined by the Commission to be minor. The Borough of Fenwick, and the boards, commissions, and officials thereof, when acting in their official capacity, shall be exempt from the requirements to pay fees and reimburse expenses set forth in this ordinance.

E. General Provisions

The foregoing provisions, in conjunction with the Schedule of Fees established by the Board of Burgesses, from time to time, shall supersede any fees previously established by the Board of Burgesses for applications to Land Use Commissions or Land Use Officials of the Borough of Fenwick.

**BOROUGH OF FENWICK**  
**AN ORDINANCE CONCERNING FLOOD PLAIN**  
**MANAGEMENT REGULATIONS**

Adopted August 30, 2012

Effective February 6, 2013, Amended Effective February 15, 2019

Pursuant to the authority granted to the Board of Warden and Burgesses in Section 20 of the Special Act Incorporating the Borough of Fenwick, as amended, and pursuant to the provisions of Chapter 124 and Chapter 476a of the Connecticut General Statutes, be it ordained:

The Borough of Fenwick hereby establishes the following regulations which shall be referred to as the Flood Plain Management Regulations of the Borough of Fenwick:

**FLOOD PLAIN MANAGEMENT REQUIREMENTS**

Flood hazard areas, as designated on the Federal Flood Insurance Rate Map for the Borough of Fenwick, are subject to periodic inundation which may result in loss of life and property, create health and safety hazards, and result in extraordinary public expenditures for flood protection and relief. these Regulations are designed to prevent or minimize the loss of life, injuries, and property damage, both private and public; to promote public health and safety; to help control and minimize the extent of floods; and to reduce the depth and violence of flooding, and attempt to parallel the requirements set forth by the State Residential Building Code and the FEMA Coastal Construction Manual. In the event of conflict, the most stringent requirements shall be applicable in the "Special Flood Hazard Areas".

**1 Statutory Authorization, Finding of Fact, Purpose and Objectives**

**1.1 Statutory Authorization**

The Legislature of the State of Connecticut has in Title 8, Chapter 124, Section 8-2 of the General Statutes authorized zoning commissions to adopt regulations designed to promote the public health, safety, and general welfare of the public, and more specifically, to secure safety from fire, panic, flood and other dangers. The Planning and Zoning Commission adopts the following regulations pursuant to that statutory authorization.

**1.2 Findings of Fact**

The flood hazard areas of the Borough of Fenwick are subject to periodic flood inundation which may result in the 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.

These flood losses are caused by the cumulative effect of obstructions in the floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands that are inadequately elevated, floodproofed, or otherwise unprotected from flood damage. Uncontrolled development and use of the floodplains would adversely affect the community.

The Borough of Fenwick has voluntarily participated in the National Flood Insurance Program (NFIP) since *July 10, 1979*. The NFIP is founded on a mutual agreement between the federal government and each participating community. Local, state and federal

governments must share roles and responsibilities to meet the goals and objectives of the NFIP. The community's role is of paramount importance. Property owners are able to receive federally- subsidized flood insurance only if the community enacts and enforces the minimum floodplain regulations required for participation in the NFIP.

### **1.3 Statement of Purpose**

It is the purpose of these Regulations to regulate floodplain development, promote public health, safety, and general welfare, and minimize public and private losses due to flood conditions in specific areas by provisions designed:

- a.** To protect human life and health, and prevent damage to property;
- b.** To minimize expenditure of public funds for costly flood control projects;
- c.** To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d.** To minimize prolonged business interruptions and other economic disruptions;
- e.** To minimize damage to public facilities, infrastructure and utilities, such as water and gas mains, electric, telephone and sewer lines, and streets and bridges, located in the floodplain;
- f.** To help maintain a stable tax base by providing for the sound use and development of flood hazard areas in such a manner as to minimize flood damage;
- g.** To insure that potential buyers are notified that property is in a flood hazard area;
- h.** To prevent increases in flood heights that could further increase flood damage;
- i.** To ensure that those who occupy the flood hazard areas assume responsibility for their actions; and
- j.** To discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

### **1.4 Objectives**

In order to accomplish its purposes, these Regulations include objectives, methods and provisions that:

- a.** Restrict or prohibit uses that are dangerous to health, safety and property due to flood or erosion hazards, or that result in damaging increases in erosion or in flood heights or velocities;
- b.** Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- c.** Control the alteration of natural floodplains, stream channels, and natural

protective barriers that are involved in the accommodation of flood waters;

d. Control filling, grading, dredging and other development that may increase erosion or flood damage; and

e. Prevent or regulate the construction of barriers or obstructions that will unnaturally divert flood waters or that may increase flood hazards to other lands.

## **2 Definitions**

Unless specifically defined below, words and phrases used in these Regulations shall have the same meaning as they have in common usage and to give these Regulations their most reasonable application. The following terms are defined for the purposes of these Regulations.

**Base Flood:** The flood having a one (1) percent chance of being equaled or exceeded in any given year, also referred to as the one hundred (100) year flood, as published by the Federal Emergency Management Agency (FEMA) as part of a Flood Insurance Study (FIS) and depicted on a Flood Insurance Rate Map (FIRM).

**Base Flood Elevation (BFE):** The elevation of the crest of the base flood (100-year flood). The height in relation to mean sea level (NGVD of 1988) expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

**Basement:** Any building area having its floor sub-grade (below ground level) on all sides.

**Breakaway Walls:** A building 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.

**Building:** A walled and roofed structure that is principally above ground, including a manufactured home.

**Coastal AE Zone:** The portion of the Coastal High Hazard Area with wave heights between 1.5 feet and 3.0 feet during the base flood and seaward of the line labeled the “Limit of Moderate Wave Action” (LiMWA) on a Flood Insurance Rate Map (FIRM).

**Coastal High Hazard Area:** An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal High Hazard Areas are designated as Zones VE and Coastal AE on a Flood Insurance Rate Map (FIRM).

**Cost:** As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure as established by a detailed written contractor’s estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor’s overhead; contractor’s profit; and grand total. Items to be excluded include: cost of plans and specifications, survey costs, permit fees, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.



**Development:** Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings or structures; the construction of additions, alterations or substantial improvements to buildings or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

**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 homes are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before July 10, 1979, the effective date of the floodplain management regulations adopted by the Borough of Fenwick Planning and Zoning Commission.

**Expansion to an Existing Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Federal Emergency Management Agency (FEMA):** The federal agency that administers the National Flood Insurance Program (NFIP).

**Finished Living Space:** As related to fully enclosed areas below the base flood elevation (BFE) finished living space can include, but is not limited to, a space that is heated and/or cooled, contains finished floors (tile, linoleum, hardwood, etc.), has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace.

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Insurance Rate Map (FIRM):** The official map of the Borough of Fenwick on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas (100-year floodplain) and the insurance risk premium zones applicable to the Borough of Fenwick. FIRMs published after January 1990 may also show the limits of the regulatory floodway.

**Flood Insurance Study (FIS):** The official study of the Borough of Fenwick in which the Federal Emergency Management Agency (FEMA) has conducted a technical engineering evaluation and determination of local flood hazards, flood profiles and water surface elevations. The Flood Insurance Rate Maps (FIRMs), which accompany the FIS, provide both flood insurance rate zones and base flood elevations, and may provide the regulatory floodway limits.

**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 one (1.0) foot. For the purposes of these Regulations, the term Regulatory Floodway is synonymous in meaning with the term Floodway.

**Functionally Dependent Use or Facility:** A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or

passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

**Highest Adjacent Grade (HAG):** The highest natural elevation of the ground surface prior to construction next to the proposed 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 the 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 historic 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 that 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.

**Limit of Moderate Wave Action (LiMWA):** The landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are seaward of the line labeled “Limit of Moderate Wave Action” (LiMWA) on a Flood Insurance Rate Map (FIRM).

**Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building’s lowest floor, provided that such an area meets the design requirements specified in these Regulations.5.3.1(c) of this regulation.

**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 also includes park trailers, travel trailers, recreational vehicles and other similar vehicles placed on a site for greater than 180 consecutive days and intended to be improved property.

**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:** As related to substantial improvement and substantial damage, the market value of the structure as shall be determined by an independent appraisal by a professional appraiser or by the property’s tax assessment minus land value prior to the start of the initial repair or improvement or, in the case of damage, the value of the structure prior to the damage occurring.

**Mean Sea Level (MSL):** The North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on the Borough of Fenwick’s Flood Insurance Rate Map (FIRM) are referenced.

**New Construction:** Structures for which the start of construction commenced on or after July 10, 1979, the effective date of floodplain regulations, 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, July 10, 1979, of the floodplain management regulation adopted by the community.

**Recreational Vehicle:** A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designated to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not to be used as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**Sand Dunes:** Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**Special Flood Hazard Area (SFHA):** The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. SFHAs include, but are not necessarily limited to, the land shown as Zones A, AE, AO, AH, and the Coastal High Hazard Areas shown as Zones VE and Coastal AE on a FIRM. The SFHA is also called the Area of Special Flood Hazard.

**Start of Construction:** For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), the term 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, substantial improvement or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erections 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.

**Structure:** A walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

**Substantial Damage:** Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement:** Any combination of repairs, reconstruction, rehabilitation, alterations, additions or other improvements to a structure, taking place during a ten (10) year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure as determined at the beginning of such ten (10) year period. This term includes structures that have incurred substantial damage, regardless of the actual repair work performed. For purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration

affects the external dimensions of the structure. 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 that have been identified by the local code enforcement official and that 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.

**Variance:** A grant of relief by the Borough of Fenwick Zoning Board of Appeals from the terms of the floodplain management regulations that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

**Violation:** Failure of a structure or other development to be fully compliant with the community floodplain management regulations. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

**Water Surface Elevation:** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

### **3. General Provisions**

#### **3.1 Areas to Which This Regulation These Regulations Applies**

These Regulations shall apply to all Special Flood Hazard Areas (SFHA) within the Borough of Fenwick, Connecticut.

#### **3.2 Basis for Establishing the Special Flood Hazard Areas (SFHA)**

The Special Flood Hazard Areas (SFHA) identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for the Borough of Fenwick, dated **02/06/2013**, and accompanying Flood Insurance Rate Maps (FIRM), and other supporting data, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into these Regulations it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA.

The SFHA includes any area shown on the FIRM as Zones AE, Coastal AE and VE, including areas designated as a floodway on a FIRM. Zones VE and Coastal AE are also identified as Coastal High Hazard Areas. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for the Borough of Fenwick. BFEs provided on a Flood Insurance Rate Map (FIRM) are only approximating (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. Also included in the SFHA are areas of potential, demonstrable or historical flooding, including any area contiguous with, but outside the SFHA identified by FEMA, and where the land surface elevation is lower than the base flood elevation (BFE) as shown in the FIS, and the where the area is not protected from flooding by a natural or man-made feature. The FIRM and FIS are on file in the Borough of Fenwick Office and are available on the FEMA website.

### **3.3 Structures Already In Compliance**

A structure or development already in compliance with these Regulations shall not be made non-compliant by any alteration, modification, repair, reconstruction or improvement and must also comply with other applicable local, state, and federal regulations. No structure or land shall hereafter be located, extended, converted, modified or structurally altered without full compliance with the terms of these Regulations and other applicable regulations.

### **3.4 Abrogation and Greater Restrictions**

These Regulations are not intended to repeal, abrogate or impair any existing ordinances, regulations, easements, covenants, or deed restrictions. However, where these Regulations imposes more stringent restrictions than any other ordinance, regulation easement, covenant or deed restriction, the provisions of these Regulations shall prevail.

### **3.5 Interpretation**

In the interpretation and application of these Regulations, all provisions shall be: 1) considered as minimum requirements; 2) liberally construed to accomplish their protective, restrictive and to the extent appropriate, prohibitive purposes in order to protect the public health and safety, and; 3) deemed neither to limit nor repeal any other powers granted under State statutes.

### **3.6 Warning and Disclaimer of Liability**

The degree of flood protection required by these Regulations is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations and research. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These Regulations do not imply or guarantee that land outside the Special Flood Hazard Area or uses permitted in such areas will be free from flooding and flood damages. These Regulations shall not create liability on the part of the Borough of Fenwick or by any agency, commission, board, officer or employee thereof for any flood damages that result from reliance on these Regulations or any administrative decision lawfully made hereunder. The Borough of Fenwick, its agencies, commissions, boards, officers and employees shall assume no liability for another person's reliance on any maps, data or information provided by the Borough of Fenwick.

### **3.7 Severability**

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

## **4. Administration**

### **4.1 Designation of the Local Administrator**

The Zoning Enforcement Officer is hereby appointed to administer, implement and enforce

the provisions of these Regulations.

#### **4.2 Certification**

Where required under these Regulations, a Connecticut licensed professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of these Regulations. Such certification must be provided, in writing to the Zoning Enforcement Officer.

#### **4.3 Establishment of the Flood Management Section of the Zoning Permit**

The flood management section of the Zoning Permit must be completed in conformance with the provisions of these Regulations prior to the commencement of any development activities. Permits issued pursuant to under these Regulations shall expire if actual construction of a permitted structure does not commence within one hundred and eighty (180) days of the permit approval date.

#### **4.4 Permit Application Procedures**

A Flood-Management Zoning Permit (which may be provided on a separate permit form or which may be combined with a standard Zoning Permit form) is hereby established for all construction and other development to be undertaken in Special Flood Hazard Areas in this community. Prior to any development activities, application for a Flood-Management Zoning Permit shall be made to the Zoning Enforcement Officer on forms provided and may include, but not be limited to, plans in duplicate drawn to scale showing, at a minimum, the property lines and location of the parcel; the nature, location, dimensions, and elevations of the area in question; limit and extent of the 100-year floodplain, the limit of moderate wave action (LiMWA) boundary line, and floodway boundary and base flood elevation(s); existing and proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required to be submitted to the Zoning Enforcement Officer:

##### **4.4.1 Application Stage**

The applicant shall provide at least the following information, where applicable. Additional information may be required on the Flood-Management Zoning Permit application form (which may be combined with a standard Zoning Permit application form).

- a.** Base flood elevation (BFE) for the site in question as determined in the FEMA Flood Insurance Study (FIS) or Flood Insurance Rate Map (FIRM). The FIS flood profiles provide more accurate BFE data than the FIRM. The extent of the 100-year floodplain, limit of moderate wave action (LiMWA), and floodway must be depicted with a boundary line on any Site Plans and shown in relation to existing and proposed structures or development;
- b.** Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all new construction, substantial improvements or repairs to structures that have sustained substantial damage;
- c.** Elevation in relation to mean sea level to which any non-residential new

construction, substantial improvements or repair to structures that have sustained substantial damage will be dry flood-proofed;

**d.** Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other materials required by the Federal Emergency Management Agency (FEMA) in order to officially amend or revise the Flood Insurance Rate Map (FIRM). The applicant must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained;

**e.** A statement and supporting documentation (all costs of project, market value of structure, etc.) verifying that the proposed alterations to an existing structure meets or do not meet the criteria of the substantial improvement and/or substantial damage definition. If a development meets the definition of substantial improvement and/or substantial damage, the structure must be brought into compliance with all floodplain regulations as if it were new construction;

**f.** Where applicable, compliance with the following standards must be certified certifications by a Connecticut licensed professional engineer or architect, and such certifications must be provided to the Zoning Enforcement Officer. The design and methods of construction must be certified to be in accordance with accepted standards of practice and with the provisions of Section 5.3.

- 1.** Non-residential flood-proofing must meet the provisions of Section 5.3.1(b)2;
- 2.** Fully enclosed areas below the base flood elevation (BFE) must meet the minimum design criteria in Section 5.3.1(c);
- 3.** No (0.00) increase in floodway water surface elevations are allowed. Any development in a floodway must meet the provisions of Section 5.3.3;
- 4.** Breakaway walls must meet the design criteria specified in Section 5.3.2; and
- 5.** Structural anchoring must meet the design criteria specified in Section 5.1(c) and 5.3.2(d).

#### **4.4.2 Construction Stage**

Upon completion of the applicable portion of construction, the applicant shall provide verification to the Zoning Enforcement Officer of the elevation of the lowest floor:

**a.** The lowest floor elevation for:

- 1.** A structure in Zones AE, is the top of the lowest floor (including

basement);

2. A structure in Zones VE and Coastal AE, is the lowest horizontal structural member (excluding pilings or columns);

3. A non-residential structure that has been dry flood-proofed is the elevation to which the flood-proofing is effective. (Note: For insurance purposes, a dry flood-proofed, non-residential structure is rated based on the elevation of its lowest floor unless it is flood-proofed to one foot above the BFE.);

b. Deficiencies detected by the review of the above listed shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

#### **4.5 Duties and Responsibilities of the Local Administrator**

Duties of the Zoning Enforcement Officer shall include, but not be limited to:

a. Review all Flood-Management Zoning Permit applications for completeness, particularly with the requirements of Section 4.4.

b. Review all Zoning Permit applications to determine whether the proposed development and building sites will be reasonably safe from flooding.

c. Review all Zoning Permit applications to assure that the permit requirements of these Regulations have been satisfied.

d. Review all Zoning Permit applications to assure that all necessary federal and state permits have been received. Require that copies of such permits be provided and maintained on file with the permit application. Such permits may include, but are not limited to, Stream Channel Encroachment Line (SCEL) Permit, Coastal Area Management (CAM) Permit, Water Diversion Permit, Dam Safety Permit, and Army Corps of Engineers 401 and 404 Permits.

e. If any change of regulation or use of a flood zone will affect an area within five hundred (500) feet of another municipality, notify the regional planning agency and affected municipality at least thirty-five (35) days prior to a public hearing.

f. Notify the adjacent communities and the Department of Environmental Protection (DEP), Land and Resources Division, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

g. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

h. Obtain record and maintain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new construction, substantial improvement or repair to a structure that has sustained substantial damage.



i. Obtain record and maintain the elevation (in relation to mean sea level) to which all new construction, substantial improvement or repair to a structure that has sustained substantial damage has been flood-proofed.

j. When flood-proofing is utilized for a particular structure, the Zoning Enforcement Officer shall obtain certification from a licensed professional engineer or architect, in accordance with Section 5.3.1(b)2.

k. Where interpretation is needed as to the exact location of boundaries of the special flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Zoning Enforcement Officer shall make the necessary interpretation utilizing any data available to render a decision. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this regulation.

l. Require the applicant to provide base flood elevation data for all proposed subdivisions.

m. When base flood elevation data or floodway data have not been provided in accordance with Sections 3.2 and 4.4, the Zoning Enforcement Officer 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 the provisions of this regulation.

n. In Coastal High Hazard Areas (VE and Coastal AE Zones), certification shall be obtained from a Connecticut licensed professional engineer or architect that the structure is designed to be securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash, in accordance with Section 5.3.2.

o. In Coastal High Hazard Areas (VE and Coastal AE Zones), the Zoning Enforcement Officer shall review plans for adequacy of breakaway walls, in accordance with these Regulations.5.3.2.

p. All records pertaining to the provisions of these Regulations shall be obtained and maintained in the office of the Zoning Enforcement Officer for public inspection.

q. Upon completion of the permitted development and prior to issuance of a Certificate of Occupancy (CO), necessary as-built surveys (prepared by a Connecticut Licensed Professional as per Connecticut State Statutes) and engineering and architectural certifications shall be provided to the Zoning Enforcement Officer demonstrating compliance with the approved plans and standards set forth in Section 4.

## **5. Provisions for Flood Hazard Reduction**

### **5.1 General Standards**

In all Special Flood Hazard Areas (SFHAs) the following provisions are required:

- a.** New construction, substantial improvements, and repairs to structures that have sustained substantial damage shall be constructed using methods and practices that minimize flood damage.
- b.** New construction, substantial improvements, and repairs to structures that have sustained substantial damage shall be constructed with materials and utility equipment resistant to flood damage.
- c.** New construction, substantial improvements, and repair to structures that have sustained substantial damage shall be constructed with materials and utility equipment that are flood-damage resistant and conform to the provisions of FEMA Technical Bulletin 2, Flood Damage-Resistant Material Requirements. This includes, but is not limited to, flooring, interior and exterior walls, wall coverings and other materials installed below the base flood elevation plus one (1.0) foot.
- d.** New construction, substantial improvements, and repairs to structures that have sustained substantial damage shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- e.** New construction, substantial improvements, and repairs to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water.
- f.** The bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, appliances, fixtures and components, HVAC duct work and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure shall be elevated one (1.0) foot above the base flood elevation (BFE). This includes, but is not limited to, furnaces, oil or propane tanks, air conditioners, heat pumps, hot water heaters, ventilation duct work, washer and dryer hook-ups, electrical junction boxes, and circuit breaker boxes. Systems, fixtures, equipment and components shall not be mounted on or penetrate through breakaway walls intended to fail under flood loads. Connections or other equipment that must be located below the BFE plus 1.0 foot elevation are permitted only when no other elevation alternative is available and provided 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 the base flood event. Electrical wiring systems that must be located below the BFE plus 1.0 foot shall conform to the standards for wet locations.
- g.** New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- h.** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- i.** On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

**j.** Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of a building must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extended above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water.

**k.** In all flood zones, underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood. In VE and Coastal AE zones, above-ground storage tanks which are located outside or inside of a structure must be elevated one (1.0) foot above the base flood elevation (BFE). Where elevated on platforms, the platforms shall be cantilevered from or knee braced to the building or shall be supported on elevated foundations that conform to the standards for the particular flood zone as described in Section 5.3. In A and AE zones, above-ground storage tanks which are located outside or inside of a structure shall be elevated one (1.0) foot above the base flood elevation (BFE) or shall be securely anchored to prevent flotation, collapse or lateral movement under conditions of the base flood. Anchored tanks must have the top of the fill pipe located at least one (1.0) foot above the BFE and have a screw fill cap that does not allow for the infiltration of flood water.

**l.** If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be located within the SFHA and must meet the construction requirements of the flood zone. The structure includes any structurally attached additions, garages, decks, porches, sunrooms, patios or any other structure attached to the main structure.

**m.** If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., VE zone is more restrictive than AE zone; structure must be built to the highest BFE). The structure includes any structurally attached additions, garages, decks, porches, patios, sunrooms, or any other structure attached to the main structure.

**n.** Compensatory Storage. The water holding capacity of the floodplain, except those areas that are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

**o.** Equal Conveyance. Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a licensed professional engineer

demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

p. Manufactured Homes, Manufactured Home Parks and Subdivisions, and Recreational Vehicles are prohibited within the Borough of Fenwick.

## **5.2 Standards for Watercourses Without Established Base Flood Elevations Adopted Floodways, and/or Flood Mapping**

a. The Zoning Enforcement Officer shall require that base flood elevation (BFE) data be provided with any application for new construction, substantial improvement, repair to structures that have sustained substantial damage or other development in Zone A without a FEMA-published BFE (un-numbered A Zone). A registered professional engineer must determine the BFE in accordance with accepted hydrologic and hydraulic engineering practices and document the technical methods used. Studies, analyses and computations shall be submitted in sufficient detail to allow thorough review and approval. The Zoning Enforcement Officer shall obtain, review and reasonably utilize any BFE and floodway data available from a federal, state or other source, including data developed for subdivision proposals, as criteria for requiring that new construction, substantial improvements, repair to structures that have sustained substantial damage or other development in un-numbered A Zones on the community Flood Insurance Rate Map (FIRM) meet the standards in Section 5 and Section 5.3. If no BFE can be determined, the lowest floor, including basement, must be elevated to two (2) feet above the highest adjacent grade next to the structure.

b. When BFEs have been determined within Zones AE on the community's FIRM but a regulatory floodway has not been designated, the Zoning Enforcement Officer must require that no new construction, substantial improvements, repair to structures that have sustained substantial damage or other development, including fill, shall be permitted that will increase the water surface elevation of the base flood more than one (1.0) foot at any point within the community when all existing and anticipated development is considered cumulatively with the proposed development.

c. The Zoning Enforcement Officer may request that an applicant provide floodway data for watercourses without FEMA-published floodways. When such data are provided by an applicant or whenever such data are available from any other source (in response to the municipality's request or not), the community shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one (1.0) foot at any point within the Borough of Fenwick.

d. The Zoning Enforcement Officer shall obtain, review and reasonably utilize any BFE and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvements, repair to structures that have sustained substantial damage or other development in any area of

potential, demonstrable or historical flooding within the community meet the standards in Section 5 and Section 5.3.

e. Under the provisions of *44 CFR Chapter I, Section 65.12*, of the National Flood Insurance Program regulations, the Borough of Fenwick Planning and Zoning Commission a community may approve certain development in Zone AE, on the Borough's FIRM that increases the water surface elevation of the base flood by more than one (1.0) foot, provided that the community first completes all of the provisions required by *Section 65.12*.

### **5.3 Specific Standards**

#### **5.3.1 Construction Standards in Special Flood Hazard Areas (SFHA), Zone AE**

##### ***a. Residential Construction***

All new construction, substantial improvements, and repair to structures that have sustained substantial damage which are residential structures shall have the bottom of the lowest floor, including basement, elevated one (1.0) foot above the base flood elevation (BFE). Electrical, plumbing, machinery or other utility equipment that service the structure must be elevated one (1.0) foot above the BFE.

##### ***b. Non-Residential Construction***

All new construction, substantial improvements, and repair to structures that have sustained substantial damage which are commercial, industrial or non-residential structures shall:

1. Have the bottom of the lowest floor, including basement, elevated one (1.0) foot above the base flood elevation (BFE); or
2. In lieu of being elevated, non-residential structures may be dry flood-proofed to one (1.0) foot above the BFE provided that together with all attendant utilities and sanitary facilities the areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, and provided that such structures are composed of structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall review and/or develop structural design specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this section. Such certification shall be provided to the Zoning Enforcement Officer on the FEMA Floodproofing Certificate, Form 81-65.
3. Electrical, plumbing, machinery or other utility equipment that service the structure must be elevated one (1.0) foot above the BFE.

##### ***c. Fully Enclosed Areas Below the Base Flood Elevation of Elevated Buildings***

All new construction, substantial improvements, or repair to structures that have sustained substantial damage, whether residential or non-residential, that include fully enclosed areas formed by a foundation and other exterior walls shall have the lowest floor elevated to one

(1.0) foot above the base flood elevation (BFE). The elevated building shall be designed to preclude finished living space below the lowest floor and be designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls (wet flood-proofing). Designs for complying with this requirement must either be certified by a registered professional engineer or architect as meeting the requirements of ASCE 24 Section 2.6.2.2, or meet the following minimum criteria listed in sections 1-8 below:

1. Provide a minimum of two (2) openings (hydraulic flood vents) having a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding. The enclosed area is measured on the exterior of the enclosure walls. These hydraulic openings must be located on at least two different exterior walls of each enclosed area. If the structure has more than one enclosed area, openings must be installed in the exterior walls of each enclosed area so that flood waters can enter directly from the outside;
2. The bottom of all openings shall be no higher than one (1.0) foot above the higher of either the final interior grade or floor elevation, or the finished exterior grade adjacent to the outside of the foundation wall. At least one entire side of the structure's fully enclosed area must be at or above grade. Fill placed around the foundation walls must be graded so that the elevation inside the enclosed area is equal to or higher than the adjacent outside elevation on at least one side of the building. The finished floor of the enclosed area shall be no lower than the bottom of the foundation openings. The foundation slab of a residential structure, including the slab of a crawlspace, must be set equal to the outside finished grade on at least one side of the building;
3. The openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic entry and exit of flood waters in both directions without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means. These coverings must not block or impede the automatic flow of floodwaters into and out of the enclosed area. Other coverings may be designed and certified by a registered professional engineer or approved by the Zoning Enforcement Officer;
4. Openings shall not be less than three (3) inches in any direction in the plane of the wall;
5. The area cannot be used as finished living space. Use of the enclosed area shall be the minimum necessary and shall only be used for the parking of vehicles, building access or limited storage. Access to the enclosed area shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator). The enclosed area shall not be used for human habitation;
6. All interior walls, floor, and ceiling materials located below one (1.0) foot above the BFE shall be unfinished and flood damage-resistant in accordance with FEMA Technical Bulletin 2, Flood Damage-Resistant Requirements.
7. Electrical, plumbing, HVAC duct work, machinery or other utility equipment and connections that service the structure (including, but not limited to, furnaces, oil or propane tanks, air conditioners, heat pumps, hot water heaters, ventilation, washer and

dryer hook-ups, electrical junction boxes, circuit breaker boxes and food freezers) are prohibited in the fully enclosed area below the BFE plus one (1.0) foot. Utilities or service equipment located in this enclosed area, even if elevated to one (1.0) foot above the BFE in the space, may subject the structure to increased flood insurance rates.

8. A residential building with a structurally attached garage having the floor slab below the BFE is considered an enclosed area below the BFE and must meet the standards of Sections 5.3.1.3 (a)-(g). A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters in both directions. Flood openings or vents are required in the exterior walls of the garage or in the garage doors. Garage doors that must be manually opened do not meet the flood vent opening requirements in Section 5.3.1.3 (a)-(c). In addition to the automatic entry of floodwaters, the areas of the garage below BFE plus one (1.0) foot must be constructed with flood damage-resistant materials per the requirements of FEMA Technical Bulletin 2. Garages attached to non-residential structures must also meet the aforementioned requirements or be dry floodproofed as per the requirements of Section 5.3.1.b.

### **5.3.2 Construction Standards in Coastal High Hazard Areas, Zone VE and Coastal AE**

Located within the Special Flood Hazard Areas (SFHA) are areas designated as Coastal High Hazard Areas. These areas have additional flood hazards associated with wave wash, erosion scour, and high wind. Therefore, the following provisions shall apply:

- a. All new construction, substantial improvement and repair to structures that have sustained substantial damage shall be located at least 25 feet landward of the reach of mean high tide.
- b. All new construction, substantial improvement and repair to structures that have sustained substantial damage shall be elevated so that the bottom of the lowest horizontal structural member (excluding pilings, pile caps, and columns) is elevated at least one (1.0 foot) above the base flood elevation (BFE), with all space below the lowest horizontal supporting member open and free of obstruction so as not to impede the flow of water. Basement floors that are below ground on all sides are prohibited.
- c. The bottom of all electrical, plumbing, machinery or other utility equipment that service the structure must be elevated one (1.0) foot above the BFE and cannot be located below the structure. Any service equipment that must be located below the BFE must be floodproofed to prevent water from entering during conditions of flooding. Electrical, mechanical and plumbing system components are not to be mounted on or penetrate through walls designed to breakaway under flood loads.
- d. All new construction, substantial improvement and repairs to structures that have sustained substantial damage shall be securely anchored on pilings or columns.
- e. All pilings and columns and the attached structures shall be anchored to resist flotation, collapse and lateral movement due to the effects of wind

and water loads acting simultaneously on all building components. The anchoring and support system shall be designed with wind and water loading values required by applicable State or local building codes.

f. A Connecticut licensed professional engineer or architect shall develop structural specifications and plans for the construction and shall certify that the design, specifications and plans for construction are in accordance with acceptable standards and are in compliance with the provisions contained in Sections 5.3.2(a)-(d).

g. There shall be no fill used for structural support. Minor grading and the placement of minor quantities of non-compacted fill shall be permitted for landscaping and drainage purposes under and around buildings, and for support of parking slabs, pool decks, patios and walkways installed at current grade. The fill must wash out from storm surge, thereby rendering the building free of obstruction, prior to generating excessive loading forces, ramping effects, or wave deflection. The Zoning Enforcement Officer shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by a licensed professional engineer, architect and/or soil scientist, that demonstrates that the following factors have been fully considered: (1) Particle composition of fill material does not have a tendency for excessive natural compaction; (2) Volume and distribution of fill will not cause wave deflection to adjacent properties; and (3) Slope of fill will not cause wave run-up or ramping.

h. There shall be no alteration of sand dunes that would increase potential flood damage.

i. Prior to construction, plans for any structures that will have breakaway walls, lattice work or screening must be submitted to the Zoning Enforcement Officer for approval.

j. Non-supporting breakaway walls, lattice work or mesh screening shall be allowed below the base flood elevation provided it is not part of the structural support of the structure and is designed so as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the structure on which it is to be used and provided the following design specifications are met:

1. Design safe loading resistance of each wall shall not be less than ten (10) pounds per square foot or more than twenty (20) pounds per square foot; or

2. If more than twenty (20) pounds per square foot, a licensed professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components prior to or during the collapse of such wall. Enclosures



of 300 square feet or more are subject to increased insurance premiums.

**k.** Areas enclosed by breakaway walls shall contain hydraulic flood vents per the requirements of Section 5.3.1.c.

**l.** If breakaway walls, lattice work or screening are utilized, the resulting enclosed space shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

**m.** Any alteration, repair, reconstruction, or improvement to a structure shall not enclose the space below the lowest floor except with breakaway walls, lattice work, or screening as provided for in Sections 5.3.2 (h) and 5.3.2 (i) of this section.

### **5.3.3 Floodways**

Located within Special Flood Hazard Areas (SFHA) are areas designated as floodways on the community's Flood Insurance Rate Maps (FIRM) or Flood Boundary and Floodway Maps (FBFM). Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles and has erosion potential, no encroachments, including fill, new construction, substantial improvements, repairs to substantially damaged structures and other developments shall be permitted unless certification, with supporting technical data, by a Connecticut licensed professional engineer is provided demonstrating that encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the base flood discharge published by FEMA. Buildings and structures meeting the standard above and located in whole or in part in the floodway shall be designed and constructed in accordance with ASCE 24. Fences in the floodway must be aligned with the flow and be of an open design. A permit may be given which allows encroachments resulting in increases in base flood elevations provided the community first obtains a conditional floodway revision by meeting the requirements of *C.F.R. 44, Chapter 1, Subsection 65.12*.

## **6 Design Standards for Subdivision Proposals**

If a proposed subdivision is located in a Special Flood Hazard Area (SFHA) the following requirements shall apply:

- a.** All subdivision proposals shall be consistent with the need to minimize flood damage;
- b.** All subdivision proposals 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 shall have adequate drainage provided to reduce exposure to flood hazards; and
- d.** In all special flood hazard areas where base flood elevation (BFE) data is not available,

the applicant shall provide a hydrologic and hydraulic engineering analysis performed by a Connecticut licensed professional engineer that generates BFEs for all subdivision proposals and other proposed development, including subdivisions. The Zoning Enforcement Officer shall require the applicant to provide BFE data for all subdivision proposals, as per Section 4.4.1.

## **7 Variance Procedures**

### **7.3.7.1 Establishment of Variance Process**

- a. The Borough of Fenwick Zoning Board of Appeals, as established by the Borough of Fenwick, shall hear and decide appeals and requests for variances from the requirements of these Regulations.
- b. The Borough of Fenwick Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Zoning Enforcement Officer in the enforcement or administration of these Regulations.
- c. The Zoning Enforcement Officer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.

### **7.2 Specific Variances**

#### **a. Functionally Dependent Use or Facility**

Variances may be issued for new construction and substantial improvements and other development necessary for the conduct of a functionally dependent use or facility provided the structure or other developments is protected by methods that minimize flood damage, creates no additional threat to public safety and meet all the requirements of Section 7.3.

#### **b. Floodway Prohibition**

Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

### **7.3 Considerations for Granting of Variances**

In reviewing such applications for variances, the Borough of Fenwick Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of these Regulations and the items listed below as 7.3(a) through 7.3(k).

Upon consideration of these factors and the purposes of these Regulations, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this regulation.

- a. The danger that materials may be swept onto lands causing injury to others;
- b. The danger to life and property due to flooding or erosion damage;

- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity of the facility to waterfront location, in the case of a functionally dependent facility;
- f. The availability of alternative locations not subject to flooding or erosion damage for the proposed use;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. The safe access to the property in times of flood for ordinary and emergency vehicles;
- j. The 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
- k. 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.

#### **7.4 Conditions for Variances**

- a. Variances of requirements under these Regulations shall only be used upon a determination that the variance is the minimum necessary to afford relief considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum necessary as not to destroy the historic character and design of the building and result in the loss of historic designation of the building.

***Variances pertain to a piece of property and are not personal in nature.*** A properly issued variance is granted for a parcel of property with physical characteristics so unusual that complying with the regulation would create an exceptional hardship to the applicant or the surrounding property owners.

Those characteristics must be unique to that property and not be shared by adjacent parcels. For example, economic or financial hardship is not sufficient cause for a variance, nor are inconvenience, aesthetic considerations, physical handicaps, personal preferences or disapproval of one's neighbors.

- b. Variances shall only be granted upon:

- (i) a showing of good and sufficient cause,

(ii) a determination that failure to grant the variance would result in exceptional hardship, 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, creation of nuisance, damage to the rights or property values of other persons in the area, fraud or victimization of the public, or conflict with existing local laws, ordinances or regulations.

Only hardships that are based on unusual or unique physical characteristics of the property in question, characteristics that are not shared by adjacent parcels, shall qualify to meet subsection (ii) above. Claims of hardship based on the structure, on economic gain or loss, or on personal or self-created circumstances are not sufficient cause for the granting of a variance.

c. No variance may be issued within a regulatory floodway that will result in any increase in the 100-year flood levels. A variance may be issued for new construction, substantial improvements and other development necessary for the conduct of a functionally dependent use provided that there is good and sufficient cause for providing relief; and the variance does not cause a rise in the 100-year flood level within a regulatory floodway. The structure and other development must be protected by methods that minimize flood damages.

d. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation (BFE) and the elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

## **8. Enforcement**

a. Each Flood Management Zoning Permit shall authorize, as a condition of approval, the Zoning Enforcement Officer or designated agents to make regular inspections of the subject property. The Zoning Enforcement Officer or designated agents are also authorized to inspect any property in a Special Flood Hazard Area (SFHA) where it appears that violations of these Regulations may be taking place.

b. If the Zoning Enforcement Officer finds that any person is undertaking any construction, substantial improvement, filling, or any other activity or maintaining a condition that is in violation of these Regulations, the Zoning Enforcement Officer shall:

(i) Issue a written order by certified mail, return receipt requested, to the subject property owner, ordering that the prohibited activity cease and ordering the property owner to either seek to obtain a Building/Zoning Permit prior to continuing with the activity or, if appropriate, ordering that all violations and/or obstructions be removed from the Special Flood Hazard Area (SFHA) immediately.

(ii) Notify the Borough of Fenwick Planning and Zoning Commission.

c. The Zoning Enforcement Officer *may* suspend or revoke a Flood-Management Permit if it is found that the applicant has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of work as set forth in the application, including application plans. Prior to revoking any permit, the Zoning Enforcement Officer shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action.

d. Failure to comply with any written order issued under this section shall be considered a violation of these regulations and is subject to the penalties described in Section 9.

e. In the event violations or obstructions are not promptly removed from the Special Flood Hazard Area (SFHA), the Zoning Enforcement Officer may cause such removal and remediation work to be performed utilizing bond money held in escrow pursuant to these Zoning Regulations, or may direct the Borough of Fenwick to cause such work to be done and to place a lien against the property.

f. Any person subject to enforcement action pursuant to these Regulations may appeal any requirement, decision, or determination of the Zoning Enforcement Officer to the Borough of Fenwick Zoning Board of Appeals in accordance with Section 7.1 (b). Such person shall provide such information as necessary including appropriate certifications from a licensed professional engineer or architect in order to substantiate the claim that the requirement, decision, or determination of the Zoning Enforcement Officer was in error or unwarranted.

g. Nothing contained herein shall prevent the owner of a residential dwelling, commercial or industrial building existing at the time of the adoption of these Regulations from repairing, replacing or restoring said building or the components thereof to substantially the same character and form as existed at the time of such adoption.

## **9. Penalties for Violation**

Any violation of the provisions of these Regulations or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with granting of permits or variances, shall subject the violator to such civil and criminal penalties as may be provided by state law. Nothing herein contained shall prevent the Borough of Fenwick from taking such lawful action as is necessary to prevent or remedy any violation.