

**Holland Township Land Use Board**

**Minutes of the Regular Meeting**

**November 13, 2023**

(Notice-The Chairman reserves the right to change or revise the order of the agenda as needed. Formal action may or may not be taken)

The meeting was called to order by the Chairman Martin:

**Chairman:** I call to order the November 13, 2023 Regular Meeting of the Holland Township Land Use Board. Adequate notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Land Use Administrator by:

1. Posting such notice on the bulletin board at the Municipal Building.
2. Publishing the notice in the December 8, 2022 edition of the Hunterdon County Democrat
3. And faxing to the Express-Times for informational purposes only.

Chairman Martin asked all to recite the Pledge of Allegiance.

A moment of silence was offered for all those who have died in Israel.

**Identification of those at the podium**

Present: Jerry Bowers, Dan Bush, Joe Cinquemani, Bill Ethem, Peter Kanakaris, Ken Grisewood , Michael Keady, William Martin, Nickolas Moustakas, Ryan Preston, John Gallina, Esq., Engineer Adam Wisniewski, Planner Darlene Green, and Maria Elena Jennette Kozak, Land Use Administrator.

Absent: Mike Miller, Kelley O’Such, Scott Wilhelm and Lucille Grozinski, Court Reporter (per Liaison Wilhelm)

Let the record show there is a quorum.

**Minutes**

A motion was made by Jerry Bowers and seconded by Joe Cinquemani to accept the minutes of October 9, 2023 as presented. All present were in favor of the motion with the exception of Nickolas Moustakas and Ryan Preston who abstained. Motion carried.

**Old Business:**

There was no Old Business scheduled for this meeting at this time on the agenda.

**New Business:**

**ORDINANCE NO. 2023-14 - PROHIBITING THE OPERATION OF MEDICINAL CANNABIS ALTERNATIVE TREATMENT CENTERS WITHIN THE TOWNSHIP’S GEOGRAPHICAL BOUNDARIES AND AMENDING SECTION 100-8 OF THE HOLLAND TOWNSHIP MUNICIPAL CODE** Introduced at the Township Committee September 19, 2023 – Land Use Board Master Plan Consistency Review – discussions started October 9, 2023, tabled to the November 13, 2023 meeting– Board Action needed.

**ORDINANCE NO. 2023-14**

**PROHIBITING THE OPERATION OF MEDICINAL CANNABIS ALTERNATIVE TREATMENT CENTERS WITHIN THE TOWNSHIP’S GEOGRAPHICAL BOUNDARIES AND AMENDING SECTION 100-8 OF THE HOLLAND TOWNSHIP MUNICIPAL CODE**

**WHEREAS**, the Jake Honig Compassionate Use Medical Cannabis Act, N.J.S.A. 24:61-1, *et seq.* (“the Act”), governs medical cannabis cultivators, a medical cannabis manufacturer and a medical cannabis dispensary, which entities are collectively defined by the Act as Alternative Treatment Centers (“ATCs”); and

**WHEREAS**, the Act established the Cannabis Regulatory Commission (“CRC”) in but not of the New Jersey Department of Treasury to establish a comprehensive regulatory process to issue permits to a sufficient number of ATCs throughout the State; and

**WHEREAS**, the CRC periodically publishes Requests for Applications (“RFA”) for entities that seek authority to operate an ATC in the State, and which identify the type(s), number of and region(s) in which the ATCs are needed; and

**WHEREAS**, the CRC has established criteria for evaluating applications for ATCs submitted in response to an RFA, including that each applicant obtains and provides to the CRC written verification of the approval of the community or governing body of the municipality in which the proposed ATC will be located; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, the Township Committee may make, amend, repeal and enforce ordinances, regulations, rules and by-laws not contrary to the laws of the State of New Jersey or the United States, as the Township Committee deems necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the Township and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

**WHEREAS**, the Township deems in the best interest of the health, safety and welfare of the Township of Holland’s residents and members of the public who visit, travel, or conduct business in Holland Township to prohibit medicinal cannabis ATCs within the Township’s geographical boundaries and to refrain from providing ATC applicants with written approval of a proposed ATC within the Township; and

**WHEREAS**, such a prohibition is not contrary to the Act or any other laws of the State of New Jersey or the United States and is consistent with and in furtherance of the Ordinance enacted by the Township pursuant to N.J.S.A. 24:61-45b, prohibiting all classes of cannabis establishments in the Township, except for the delivery of cannabis items and related supplies by a delivery service from outside the Township.

**NOW THEREFORE, BE IT ORDAINED**, by the Township Committee of the Township of Holland, in the County of Hunterdon, State of New Jersey, as follows:

1. Medical Cannabis Alternative Treatment Centers are hereby prohibited from operating anywhere in the Township of Holland and the Township Committee shall not issue written approval for any proposed ATC as required by the CRC;
2. Section 100-8 of the Municipal Code of the Township of Holland is hereby amended by adding to the list of prohibited uses, the following: “All Medical Cannabis Alternative Treatment Centers as said term is defined by N.J.S.A. 24:61-3 and N.J.A.C. 17:30A-1.2.”
3. Any article, section, paragraph, subsection, clause, or other provision of the Municipal Code of the Township of Holland inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.
4. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.
5. This ordinance shall take effect upon its passage and publication and filing with the Hunterdon County Planning Board, and as otherwise provided for by law.

Attest:

\_\_\_\_\_  
Melissa S. Tigar, Township Clerk

\_\_\_\_\_  
Daniel T. Bush, Mayor

*I, Melissa S. Tigar, Municipal Clerk, hereby certify that the foregoing ordinance is a true and accurate copy of an ordinance adopted on first reading by the Township Committee of the Township of Holland at a regular and duly convened meeting held on the 19<sup>th</sup> day of September 2023.*

*In witness thereof, I have set my hand and affixed the seal of the Township of Holland this 19<sup>th</sup> day of September 2023.*

\_\_\_\_\_  
Melissa S. Tigar, RMC  
Municipal Clerk, Holland Township

An email was distributed to all board members from Planner Green after reviewing the above introduced ordinance for consistency with the Holland Township Master Plan.

Good afternoon, Maria Elena,  
This ordinance is not inconsistent with the Master Plan.

**Darlene A. Green, PP, AICP**

Project Manager  
Hampton, New Jersey

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At the meeting of October 9, 2023, the consistency review of the Master Plan was tabled after much discussion. Planner Green is present for the meeting this evening. In the outline above, Planner Green states that this ordinance is not inconsistent with the Holland Township Master Plan. There are lots of documents for the Master Plan with elements. She reviewed everything. The Reexamination Plan in 2020 looked at the previously outlined goals and an update was performed. Cannabis is basically a silent topic in the documents. The Land Use Board is tasked with reviewing the introduced ordinance to compare to the Master Plan and to determine if it is consistent or inconsistent. Since Cannabis is silent then it is NOT INCONSISTENT. No one can point to anything. Member Bowers stated that he examined the documents and mentioned a goal as being to encourage business and development of business...to foster a balanced tax base and reduce taxes. The 2020 reexamination report mentions medical marijuana. His opinion is that based on his statements above, medical marijuana should be prohibited in residential areas and that the Land Use Board should be working with the Township to provide better guidelines. Planner Green presented a better history of when Medical Marijuana was introduced by the State and the six categories were mentioned however, the state was silent on alternative treatment. More conversations took place regarding Cannabis and the Master Plan and supporting documents. Member Grisewood discussed that there are no predictions with Member Ethem reminding everyone that the Land Use Board is tasked with reviewing the ordinance for consistency with the Master Plan. More conversations took place regarding the Master Plan being silent on discussions of Medical Marijuana. More conversations took place about the reexamination report with Member Grisewood actually reading the report to the members. The conversation was really about goals which is not what you review the ordinance to. If the board determines that an ordinance is inconsistent with the Master Plan then the Township Committee needs to have greater majority and an explanation for why voting for something that is inconsistent with the Township Master Plan. Dan Bush thanked everyone for the conversations. A motion was made by dan Bush and seconded by Ken Grisewood to have LUA Kozak send a memo to the Township Committee stating that Ordinance 2023-14 is not inconsistent with the Holland Township Master Plan. At a roll call vote, all present were in favor of the motion with the exception of Jerry Bowers, Joe Cinquemani and Peter Kanakaris who were opposed. Motion carried. LUA Kozak will follow up with a memo to the Township Committee.

**Ordinance 2023-16 AMENDING THE TOWNSHIP OF HOLLAND CODE OF ORDINANCES TO REPEAL CHAPTER 100, SECTIONS 92 TO 98, TO ADOPT A NEW CHAPTER 100, SECTIONS 92 TO 98; TO ADOPT FLOOD HAZARD MAPS; TO DESIGNATE A FLOODPLAIN ADMINISTRATOR; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE** - Introduced at the Township Committee on November 8, 2023 – sent to the Land Use Board for review at the scheduled November 13, 2023 meeting. Consistency with Master Plan - Board Action needed. Engineer Wisniewski to discuss checklist update.

# ORDINANCE NO. 2023-16

## ORDINANCE AMENDING THE FLOODPLAIN MANAGEMENT REGULATIONS OF THE TOWNSHIP OF HOLLAND (CHAPTER 100, SECTIONS 92 TO 98)

**WHEREAS**, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Township of Holland and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

**WHEREAS**, the Township of Holland was accepted for participation in the National Flood Insurance Program on March 16, 1981, and the Township Committee desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59, 60, 65 and 70 necessary for such participation; and

**WHEREAS**, pursuant to Ordinance 2023-04 adopted on February 21, 2023, the Township of Holland (the “Township”) adopted a revised Floodplain Management Ordinance in order to conform to the standards promulgated by the New Jersey Department of Environmental Protection (NJDEP); and

**WHEREAS**, the Township desires to amend such ordinance in order to provide clarity by amending the following:

1. Reordering the provisions of the Floodplain Management Ordinance to place the title, purpose, and definitions sections at the beginning.
2. To clarify the purpose of the Floodplain Management Ordinance.
3. To clarify the penalties for violation of the Floodplain Management Ordinance.
4. To require submission of a completed Floodplain Development Permit Application with a Zoning Permit Application.
5. To require the granting of a Floodplain Development Permit (where applicable) for the issuance of a Certificate of Occupancy.
6. To amend Land Use Board Checklists to require a flood elevation certificate and inclusion of all information required by the Floodplain Management Ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Holland that the following floodplain management regulations are hereby amended as follows:

**SECTION 1.** Section 100-92, entitled “Preamble” is hereby deleted in its entirety and replaced with the following section, entitled “Title:”

Section 100-92. Title.

This ordinance, in combination with the flood provisions of the Uniform Construction Code, N.J.A.C. 5:23, *et seq.*, consisting of the Building Code, Residential Code, Rehabilitation Subcode, and related codes, and the New Jersey Flood Hazard Area Control Act (hereinafter “FHACA”), N.J.A.C. 7:13, shall be known as the Floodplain Management Regulations of the Township of Holland.

**SECTION 2.** Section 100-93, entitled “Recitals,” is hereby deleted in its entirety and replaced with the following, entitled, “Purpose:”

100-93. Purpose.

The Legislature of the State of New Jersey has, in N.J.S.A. 40:48, *et seq.*, and N.J.S.A. 40:55D, *et seq.*, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Township of Holland and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

The Township of Holland was accepted for participation in the National Flood Insurance Program on March 16, 1981, and the Township Committee desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59, 60, 65 and 70 necessary for such participation. The Township of Holland is

required, pursuant to N.J.A.C. 5:23, et seq., to administer and enforce the State Building Codes, and such Building Codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. The Township of Holland is required, pursuant to N.J.S.A. 58:16A-57, within 12 months after the delineation of any flood hazard area, to adopt rules and regulations concerning the development and use of land in the flood fringe area which at least conform to the standards promulgated by the New Jersey Department of Environmental Protection (NJDEP).

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

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

**SECTION 3.** Section 100-94, entitled “Repealer,” is hereby deleted in its entirety and replaced with the following, entitled “Definitions:”

**Section 100-94. Definitions.**

**A. General.** The following words and terms shall, for the purposes of these regulations, have the meanings shown herein. Other terms are defined in the Uniform Construction Code N.J.A.C. 5:23 and terms are defined where used in the International Residential Code and International Building Code (rather than in the definitions section). Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies.

**B. Definitions**

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

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

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

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

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

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

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

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

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

**AREA OF SPECIAL FLOOD HAZARD** – see SPECIAL FLOOD HAZARD AREA

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

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

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

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

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

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

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

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

**BREAKAWAY WALLS** – Any type of wall subject to flooding that is not required to provide structural support to a building or other structure and that is designed and constructed such that, below the Local Design

Flood Elevation, it will collapse under specific lateral loads such that: (1) it allows the free passage of floodwaters; and (2) it does not damage the structure or supporting foundation system. Certification in the V Zone Certificate of the design, plans, and specifications by a licensed design professional that these walls are in accordance with accepted standards of practice is required as part of the permit application for new and substantially improved V Zone and Coastal A Zone structures. A completed certification must be submitted at permit application.

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

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

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

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

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

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

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

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

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

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

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

## FLOOD OR FLOODING

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

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

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

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

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

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

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

**FLOODPROOFING CERTIFICATE** – Certification by a licensed design professional that the design and methods of construction for floodproofing a non-residential structure are in accordance with accepted standards of practice to a proposed height above the structure’s lowest adjacent grade that meets or exceeds the Local Design Flood Elevation. A completed floodproofing certificate is required at permit application.

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

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



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

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

**HARDSHIP** – As related to Section 107 of this ordinance, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Township Committee requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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

**HISTORIC STRUCTURE** – Any structure that is:

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

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

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

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

**LETTER OF MAP AMENDMENT** - A Letter of Map Amendment (LOMA) is an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map that is requested through the Letter of Map Change (LOMC) process. A LOMA establishes a property's location in relation to the Special Flood Hazard

Area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. Because a LOMA officially amends the effective NFIP map, it is a public record that the community must maintain. Any LOMA should be noted on the community's master flood map and filed by panel number in an accessible location.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**RESIDENTIAL** – Pursuant to the ASCE 24:

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

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

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

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

- a. **For other than new construction or substantial improvements, under the Coastal Barrier Resources Act (CBRA)**, this is the date the building permit was issued, provided that the actual start of construction, repair, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a building on site, such as the pouring of a slab or footing, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- b. For the purposes of determining whether proposed construction must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change, the Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

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

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

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

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

**SUBSTANTIAL DAMAGE** – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** – Any reconstruction, rehabilitation, addition, or other improvement of a structure taking place, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

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

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

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

**VIOLATION** – A development that is not fully compliant with these regulations or the flood provisions of the building code. A structure or other development without the elevation certificate, other certifications, or other

evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

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

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

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

**SECTION 4.** Section 100-95, entitled “Scope and administration,” is hereby amended as follows (deletions noted in strikethrough ~~thus~~ and additions noted in bold italic *thus*):

~~**A. Title.** These regulations, in combination with the flood provisions of the Uniform Construction Code (UCC) N.J.A.C. 5:23 (hereinafter "Uniform Construction Code," consisting of the Building Code, Residential Code, Rehabilitation Subcode, and related codes, and the New Jersey Flood Hazard Area Control Act (hereinafter "FHACA"), N.J.A.C. 7:13, shall be known as the Floodplain Management Regulations of Township of Holland (hereinafter "these regulations").~~

**AB. Scope.** These regulations, in combination with the flood provisions of the Uniform Construction Code and FHACA shall apply to all proposed development in flood hazard areas established in Section 100-96 of these regulations.

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

- ~~13) Protect human life and health.~~
- ~~14) Prevent unnecessary disruption of commerce, access, and public service during times of flooding.~~
- ~~15) Manage the alteration of natural floodplains, stream channels and shorelines;~~
- ~~16) Manage filling, grading, dredging and other development which may increase flood damage or erosion potential.~~
- ~~17) Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards.~~
- ~~18) Contribute to improved construction techniques in the floodplain.~~
- ~~19) Minimize damage to public and private facilities and utilities.~~
- ~~20) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas.~~
- ~~21) Minimize the need for rescue and relief efforts associated with flooding.~~
- ~~22) Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.~~
- ~~23) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.~~
- ~~24) Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 Code of Federal Regulations, Section 59.22.~~

**B. Coordination with Building Codes.** Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the Township of Holland administer and enforce the State Building Codes, the Township Committee of Township of Holland does hereby acknowledge that the Uniform Construction Code contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the Uniform Construction Code.

**C. Ordinary Building Maintenance and Minor Work.** Improvements defined as ordinary building maintenance and minor work projects by the Uniform Construction Code including non-structural replacement-in-kind of windows, doors, cabinets, plumbing fixtures, decks, walls, partitions, new flooring materials, roofing,

etc. shall be evaluated by the Floodplain Administrator through the floodplain development permit to ensure compliance with the Substantial Damage and Substantial Improvement Section 103.14 of this ordinance.

**D. Warning.** The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage.

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

**F. Violations and Penalties for Noncompliance.** No structure or land shall hereafter be constructed, relocated to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation under N.J.S.A. 40:49-5. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to one (1) or more of the following: a fine of not more than \$1,250 imprisonment for a term not exceeding ninety (90) days or a period of community service not exceeding ninety (90) days.

Each day in which a violation of an ordinance exists shall be considered to be a separate and distinct violation subject to the imposition of a separate penalty for each day of the violation as the Court may determine except that the owner will be afforded the opportunity to cure or abate the condition during a thirty (30) day period and shall be afforded the opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the thirty (30) day period, ***the above-referenced penalties may be imposed and the abatement must be completed.*** ~~a fine greater than \$1,250 may be imposed if the court has not determined otherwise, or if upon reinspection of the property, it is determined that the abatement has not been substantially completed.~~

~~Any person who is convicted of violating an ordinance within one (1) year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.~~

**G. Solid Waste Disposal in a Flood Hazard Area.** Any person who has unlawfully disposed of solid waste in a floodway or floodplain who fails to comply with this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined ***pursuant to N.J.S.A. 40:49-5 a minimum penalty of \$2,500 up to a maximum penalty of \$10,000.*** ~~not more than \$2,500 or up to a maximum penalty by a fine not exceeding \$10,000 under N.J.S.A. 40:49-5.~~

**H. Abrogation and greater restrictions.** These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

**SECTION 5.** Section 100-98.5, entitled "Definitions," is hereby deleted in its entirety and left intentionally blank.

**SECTION 6.** Section 100-118 of the Code of the Township of Holland, entitled "Zoning Permit" is hereby amended as follows (deletions noted in strikethrough ~~thus~~ and additions noted in bold italic ***thus***):

A. Prior to any change in the use of any land or structure or expansion of existing use of land or expansion of a structure or construction of an additional structure, where the changed or expanded use, or expansion or construction of a structure, is affected by the requirements of this Part 1, the owner or his authorized agent shall apply for a zoning permit, unless a site plan or subdivision approval or variance has been finally granted by the applicable approving authority and the proposed changed or expanded use, or expansion of the structure or construction of the additional structure, has been approved along with or as part of the site plan, subdivision or variance so granted. ***For land or structures located within the Flood Hazard District, an elevation certificate and completed Floodplain Development Permit Application pursuant to Chapter 100, Article XII of the Township Code.***

B. The application for a zoning permit shall be on forms to be supplied by the Zoning Officer and shall contain such information, sketches, plans and data as may be required by regulations of the Planning Board

which would be applicable to determine that said use or structure complies with the requirements of this Part 1 *and the Township's Floodplain Management Regulations (Chapter 100, Article XII of the Township Code)*, and no zoning permit shall be issued unless and until the Zoning Officer has determined that said change or expansion in use or expansion of structure or construction of additional structure complies with said requirements. The fee for said zoning permit will be as established in Chapter 83, Fees. Also, prior to the issuance of any zoning permit, the Zoning Officer shall be presented by the applicant with a certificate from the appropriate Township official that no real estate taxes or assessments for local improvements are delinquent as to any lot or lots involved in the application for the zoning permit.

C. Any change in use of land or structure, or expansion of a structure or construction of any additional structure for which a zoning permit has been issued shall, be accomplished in accordance with such permit and the requirements of said Part 1, and with the provisions of any applicable industrial use permit theretofore granted.

**SECTION 7.** Section 100-119 of the Code of the Township of Holland, entitled "Certificates of Occupancy" is hereby amended as follows (deletions noted in strikethrough ~~thus~~ and additions noted in bold italic *thus*):

It shall be unlawful to use or permit the use of any land or structure, the use of which has been changed in such manner as to require the issuance of a zoning permit, industrial use permit, *Floodplain Development Permit*, or special exception use permit hereunder, and it shall be unlawful to use any building hereinafter located, relocated, erected, constructed, reconstructed, enlarged or structurally altered so as to require the issuance of a building permit, until a certificate of occupancy shall have been issued therefor by the Construction Official. Such certificate of occupancy shall be issued by the Construction Official if said land or structure, so changed in use or building so located, relocated, erected, constructed, enlarged or structurally altered, as the case may be, conforms with all the requirements of this Part 1, Part 2, Development Regulations, and applicable provisions of the New Jersey State Uniform Construction Code. Such certificate of occupancy shall be issued or denied by the Construction Official within 10 days of application for it.

**SECTION 8.** Chapter 100, Attachment 14, entitled "Checklists for Applications for Development," is hereby amended as follows:

For all development within the Flood Hazard District

a. a flood elevation certificate, and

b. the plans must show or include all information required by the Floodplain Management Regulations of the Township of Holland, specifically Township Code Section 100-98.1

**SECTION 9. SEVERABILITY**

Where any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

**SECTION 10. EFFECTIVE DATE**

This ordinance shall take effect after notice and publication required by law.

**TOWNSHIP OF HOLLAND**

BY: \_\_\_\_\_  
DAN BUSH, MAYOR

ATTEST:

\_\_\_\_\_  
MELISSA S. TIGAR, MUNICIPAL CLERK

*I, Melissa S. Tigar, Municipal Clerk, hereby certify that the foregoing ordinance is a true and accurate copy of an ordinance adopted on first reading by the Township Committee of the Township of Holland at a regular and duly convened meeting held on the 8<sup>th</sup> day of November 2023.*

*In witness thereof, I have set my hand and affixed the seal of the Township of Holland this 8<sup>th</sup> day of November 2023.*

\_\_\_\_\_  
Melissa S. Tigar, RMC  
Municipal Clerk, Holland Township

Planner Green and Engineer Wisniewski are present. She reviewed the introduced ordinance and has knowledge of the Flood Plains maps. Our 2001 Master Plan and ERI were reviewed with Planner Green

stating that the introduced ordinance is advancing that the board wanted so it is not inconsistent with the Master Plan on file. Questions came up about who creates the flood maps and Engineer Wisniewski stated that the Mapping is generated by FEMA. More conversations took place about the introduced ordinance and requirements with state requirements. The ordinance was updated in March of 2023 and then required more tweaking which is before everyone now. More conversations took place regarding FEMA moving lines. The flood hazard area is 3' higher and questions took place regarding map changes. There will be more changes with adoption by July of 2024 regarding inland flooding rule. The DEP is working on this now. There were elevation conversations as well as flood insurance conversations. Concerns were expressed for the impact on the residents and that there are a lot of streams and rivers in the AE Zone and more people are impacted than people realize. It was also noted that the small tributaries are not mapped and they are being developed as time goes on. A motion was made by Dan Bush and seconded by Ken Grisewood to have LUA Kozak send a memo to the Township Committee stating that the proposed ordinance is not inconsistent with the Master Plan. At a roll call vote, all present were in favor of the motion. LUA Kozak to follow up.

Engineer Wisniewski stated that the ordinance also references application checklists needing to be revised and is working with LUA Kozak. The updated checklists will be presented to the Township Committee as well as to the Land Use Board. This is housekeeping but is referenced in our ordinances.

### **Completeness Review:**

There were no Completeness Reviews scheduled for this meeting at this time on the agenda.

### **Resolution**

There were no resolutions scheduled for this meeting at this time on the agenda.

### **Public Hearings**

- **Block 26 Lot 27 – 105 Riegelsville Rd – Davina Lapczynski – Variance.** Received into our office June 22, 2022 – The 45-day completeness deadline is July 11, 2022. Deemed Complete July 11, 2022. Public Hearing scheduled for August 8, 2022. Applicant granted an extension to the September 12, 2022 meeting (email 071822), then to October 10, 2022 (email 082622), then to November 14, 2022. (email 092122), then to December 12, 2022 (email 102822), then to January 9, 2023 (email 120622) then to February 13, 2023 (email 010323) then to March 13, 2023 (email 020723), to April 10, 2023 (email 030623), to May 8, 2023 (email 040523) to June 12, 2023 (email 050323), to July 10, 2023 (email 052223), to August 14, 2023 (email 070523), to September 11, 2023 (email 080423) then to October 9, 2023 (email 090723), to November 13, 2023 (email 10/06/23) and to December 11, 2023 (email 11/08/23). – Board Action Needed December 11, 2023 – working on this. Davina Lapczynski reported that she is in contact with Land Use Administrator Kozak who also forwards correspondence to the board. She appreciates everyone's patience. Ms. Lapczynski and her professionals are working with the NJDEP with the application and the process is lengthy and frustrating. More to follow.

### **Sub-Committee Status and Updates:**

Home Occupation - Ken Grisewood - There has been communications with subcommittee and Township Committee members but nothing new to report. More information to follow in the future.

Holland Township Highlands Council Subcommittee –Mike Keady – The subcommittee is still working with professionals on moving forward with Township projects and Grants. The stormwater reassignment of Tier B to Tier A is still the priority.

### **Public Comment**

No one from the public had any comments at this time.

### **Executive Session**

There was no Executive Session scheduled at this time.

### **Housekeeping:**

Nothing new to report at this time.

### **Adjournment**

Dan Bush made a motion to adjourn. Motion approved. The meeting ended at 7:55 p.m.

Respectfully submitted,

*Maria Elena Jennette Kozak*

Maria Elena Jennette Kozak  
Land Use Administrator