

ORDINANCE NO. 2017-10

**ORDINANCE OF THE BOROUGH OF BELMAR AMENDING THE REVISED GENERAL
ORDINANCE CHAPTER 40: "DEVELOPMENT REGULATIONS" TO ADD SECTION 40-7.33
"ARTIFICIAL TURF"**

BE IT ORDAINED by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey, that Chapter 40 of the Borough's Revised General Ordinances is hereby amended to include the following new Section 40-7.33: Artificial Turf:

40-7.33 ARTIFICIAL TURF.

- (a) **Locations Prohibited.** The installation of artificial turf is prohibited in the Central Business Districts (CBD-1 and CBD-2), Beachfront Commercial District (B-C), Marine Commercial Districts (MC-1 and MC-2), Public Use Overlay District (PB), Professional Office District (PO-75), and the Planned Residential Development (Age 55 and Older) District (PRD), except as may be allowed for designated sports fields on public property upon approval by the Borough's Governing Body.
- (b) **Locations Permitted.** The installation of artificial turf is permitted on all properties containing single-family detached or single-family attached dwellings in the Single-Family Residential Districts (R), except that the installation of artificial turf is prohibited in any front yard in the Single-Family Residential Districts (R) and the installation of artificial turf is prohibited in any side yard that is visible from the public right-of-way or street in the Single-Family Residential Districts (R). The installation of artificial turf is permitted only in the rear yards and side yards that are not visible from the public right-of-way or street in the Single-Family Residential Districts (R), except as may be allowed for designated sports fields on public property upon approval by the Borough's Governing Body.
- (c) **Installation, Maintenance, and Replacement.** The installation of artificial turf, as may be permitted under Section 40-7.33(b) hereof, shall be governed by the following standards:

 - (1) **Materials.**

 - (A) Artificial turf shall be of a type known as cut pile infill and shall be manufactured from polypropylene, polyethylene, or a blend of polypropylene and polyethylene fibers stitched onto a polypropylene or polyurethane meshed or hole-punched backing.
 - (B) Hole-punched backings shall have holes spaced in a uniform grid pattern with spacing not to exceeding four inches by six inches on center.
 - (C) The use of indoor or outdoor carpeting in lieu of artificial turf, mulch, or other plant material is not permitted.
 - (2) **Buffering.** There shall be a buffer of a minimum of one foot between the edge of the artificial turf and any impervious surface. This buffer shall be living organic landscape, planted with any combination of live trees, shrubs, vines, groundcover, perennial or annual flowers, natural grass sod, and/or natural native grasses.
 - (3) **Installation.**

 - (A) Sod or existing groundcover shall be removed prior to installation of any artificial turf.
 - (B) Artificial turf shall be installed over a compacted and porous road base material that is a minimum of two inches deep.
 - (C) Artificial turf shall be anchored at all edges and seams.
 - (D) All artificial turf seams shall be glued and not sewn.

- (E) An infill medium consisting of clean washed sand and/or ground rubber, or other approved mixture shall be brushed into the fibers to ensure that the fibers remain in an upright position and to provide ballast that will help hold the turf in place and provide a cushioning effect.
- (4) **Slope Restrictions.** Artificial turf shall not be installed on slopes greater than six percent.
- (5) **General Appearance.** Artificial turf shall be installed and maintained to effectively simulate the appearance of a well-maintained lawn. The Borough shall maintain and make available for public inspection a list of various artificial turf products that meet this standard of appearance.
 - (A) Artificial turf products shall have a minimum eight-year warranty against fading; and
 - (B) Artificial turf must be a green color, similar to natural grass.
- (6) **Maintenance.** General property maintenance requirements are specified in Chapter 26 of the Borough Code. In addition, the following maintenance activities are required for artificial turf:
 - (A) Cleaning, sanitizing, brushing, and removal of debris, which shall be done with all biodegradable products.
 - (B) Hand raking of worn turf areas on an as-needed basis.
 - (C) Repairing of depressions to maintain an even visual surface.
 - (D) Brushing back any loose infill that has been washed or moved off the turf.
 - (E) Regular maintenance to eliminate any odors, flat or matted areas, weeds, looseness at edges, seams, or elsewhere.
 - (F) Replacement of the artificial turf when maintenance or repair is unable to simulate a healthy living turf.
- (d) **Existing Installations.** All installations of artificial turf on properties within the Borough existing as of the effective date of this Ordinance shall not be subject to the regulations contained in Subsections (a); (b); (c)(2); (c)(3); and (c)(4) hereof, but shall be subject to the regulations contained in Subsections (c)(1); (c)(5); and (c)(6) hereof.
- (e) **Permitting.** A permit shall be required prior to the installation of new artificial turf and prior to the replacement of existing artificial turf on any property in the Borough subsequent to the effective date of this Ordinance.

BE IT FURTHER ORDAINED that should any section, paragraph, sentence, clause, or phase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

BE IT FURTHER ORDAINED that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

BE IT FURTHER ORDAINED that this ordinance shall be in full force and take effect twenty (20) days after final passage and publication, as required by law.

ORDINANCE NO. 2017-

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XIX
(TRAFFIC) OF THE REVISED GENERAL ORDINANCES OF
THE BOROUGH OF BELMAR, SECTIONS 19-46
HANDICAPPED PARKING SPACES

THEREFORE, BE IT ORDAINED by the Borough of Belmar, County of Monmouth, New Jersey, that Chapter XIX Traffic, Section 19-46.2 Handicapped Parking Limited to Specific Persons in Front of Certain Residences of the Borough of Belmar Revised General Ordinances is hereby amended and supplemented as follows:

SECTION I. 19-46.2 Handicapped Parking Limited to Specific Persons in Front of Certain Residences.

In accordance with the provisions of N.J.S.A. 39:4-197, the following on street locations are designated as handicapped parking spaces. Such spaces are for use by persons who have been issued special vehicle identification cards or plates or placards by the Motor Vehicle Commission or a temporary placard issued by the Chief of Police. No other person shall be permitted to park in these spaces.

The following section shall be deleted in its entirety:

215 Fifteenth Avenue	South	Starting at a point 174 feet east of the southeast corner of Fifteenth Avenue and "B" Street and continuing in an easterly direction for 25 feet.
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SECTION II. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION III. All Ordinances or parts of ordinances inconsistent with or in conflict with the ordinance are hereby repealed to the extent of such inconsistency.

SECTION IV. This Ordinance shall take effect 20 days after final passage, adoption and publication according to law.

ORDINANCE 2017-12

AN ORDINANCE OF THE BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A:4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to the cost of living adjustment or .5% whichever is less, unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain expectations; and

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

WHEREAS, the Borough Council of the Borough of Belmar in the County of Monmouth finds it advisable and necessary to increase its CY 2017 budget by up to 3.5% over the previous year's final appropriations in the interest of promoting the health, safety and welfare of the citizens; and

WHEREAS, the Borough Council hereby determines that a 3.5% increase in the budget for said year, amounting to \$364,681.62 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law is advisable and necessary; and

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

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Belmar in the County of Monmouth, a majority of the full authorized membership of this governing body affirmatively concurring that in the CY 2017 budget year, the final appropriations of the Borough of Belmar shall, in accordance with the ordinance and N.J.S.A. 40A:4-45.14, be increased by 3.5%, amounting to \$425,461.89 and that the CY 2017 municipal budget for the Borough of Belmar be approved and adopted in accordance with this ordinance; and

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

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

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

ORDINANCE NO. 2017-13

ORDINANCE OF THE BOROUGH OF BELMAR AMENDING THE REVISED GENERAL ORDINANCE CHAPTER 28: "FIRE PROTECTION AND PREVENTION" ADDING ADDITIONAL FIRE PROTECTION AND PREVENTION REGULATIONS AND ENFORCEMENT, VIOLATIONS, AND PENALTIES

BE IT ORDAINED by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey, that Chapter 28 "Fire Protection and Prevention" of the Borough's Revised General Ordinances is hereby amended to add the following additional "Regulations" under new Sections 28-1.13.3, 28-1.13.4, 28-1.13.5, 28-1.13.6, and 28-1.13.7 and revised "Penalties" under Section 28-1.15:

28-1.13.3 False Alarms/ Notification.

- a. *Fire Alarms.* The Fire Official or designated Fire Inspector shall investigate, or cause to be investigated, the activation of any fire alarm, fire detector or fire protection system occurring within the Borough to determine the cause for such activation and determine if the device and/or equipment have been properly restored to full service.
- b. *Failure to Report.* It shall be a violation for any person or persons, having knowledge of same, to fail to report to the Fire Department and/or the Fire Official the activation of any fire protection system or device or to fail to report the occurrence of any fire or attempted arson or to fail to report the spill or leakage of any flammable or combustible liquid or gas or of any hazardous material immediately upon gaining such knowledge.
- c. *Define Fire Alarms; False Alarms; Nuisance Alarm.*
 1. Fire alarm shall be defined as the giving, signaling or transmission to any public fire station, or company or to an officer or employee thereof, whether by telephone, spoken word or otherwise, of information to the effect that there is a fire at or near the place indicated by the person giving, signaling, or transmitting such information.
 2. False alarm shall be defined as the willful and knowing initiation or transmission of a signal, message or other notification of an event of fire when no such danger exists.
 3. Nuisance alarm shall be defined as an alarm caused by mechanical failure, malfunction, improper installation, or lack of proper maintenance, or an alarm activated by a cause that cannot be determined.
 4. Penalty. Any person who maintains or permits to be maintained, any mechanical or electronic fire alarm device which transmits more than three (3) false or nuisance fire alarms (excluding line-trouble signals) within any consecutive twelve (12) month period, after written notification by the Fire Prevention Bureau, shall be punished by a fine of two hundred fifty (\$250.00) dollars for the fourth offense. For subsequent false or nuisance fire alarms after the fourth offense in the same calendar year, the fines will progressively increase for each additional offense. In no event, however, shall the fine exceed five hundred (\$2500.00) dollars for any one occurrence. All penalties shall be in addition to any court costs that may be required.

28-1.13.4 Firewatch/Fire Stand By.

- a. Whenever the Fire Official or designated Fire Inspector shall determine that on-site fire inspector(s) or firefighting personnel shall be required for fire watch as a result of fire protection system failure or deficiencies, or fire safety at any occupancy or event to insure the safety of the public or emergency responders, the owner or occupant responsible shall obtain a permit for the use or event.

- b. The Fire Official or designated Fire Inspector shall determine the number of inspectors and/or firefighting personnel required.
- c. The Fire Official or designated Fire Inspector shall determine the hours that the fire inspector(s) and/or firefighting personnel will be on duty.
- d. The permit fee shall cover the expenses incurred by the Bureau of Fire Prevention and the Borough.
- e. The fee for the permit shall include:
 - 1. Compensation for fire personnel at \$35.00 per hour Monday through Friday 7:00 AM to 3:00 PM, \$50.00 per hour for Holidays, Saturdays, Sundays, and from 3:00PM to 7:00AM weekdays.
 - 2. Reimbursement rates for other related services, equipment, or expenses shall be provided to the owner by the Fire Official or designated Fire Inspector prior to the scheduled use or event.
 - 3. The Fire Official or designee(s) shall have the right of access to the premises and area surrounding it without interference from the property owner.
 - 4. Failure to secure a permit shall be punishable by a penalty equal to amount of the permit plus \$100.00 for the first offense, amount of the permit plus \$250.00 for the second offense, amount of the permit plus \$500.00 for the third and each subsequent offense.
 - 5. A permit shall be required for each separate event or date of the activity requiring such a permit.
 - 6. Any occupancy or event requiring fire apparatus and firefighting personnel on site to insure the safety of the public and/or other occupants, and/or to insure the safety of any building and/or exposures shall reimburse the appropriate fire district. Fees shall be \$150.00 per required fire apparatus unit per occurrence and \$25.00 per hour per firefighter manning apparatus.

28-1.13.5 Blocking of Hydrants and Fire Department Connections.

It shall be unlawful to obscure from view, damage, deface, obstruct, or restrict the access to any fire hydrant or any fire department connection for the pressurization of fire suppression systems, including fire hydrants and fire department connections that are located on public or private streets and access lanes, or on private property. Minimum clearance to any fire hydrant or connection shall be ten (10) feet in all directions.

28-1.13.6 Fire Lanes.

- a. *Requirement, Designation:* Fire lanes shall be designated as follows for the efficient and effective use of the fire apparatus, access for firefighting, and/or the egress of occupants.
- b. *Where Needed:* The Fire Official may establish fire areas on property devoted to public and private use, in accordance with N.J.A.C. 5:70- 3.2(a)3, F-311.1, including, but not by way of limitation, shopping centers, strip malls, bowling alleys, drive-in theaters, house of worship, swimming pools, offices, warehouses, factories, restaurants, nightclubs, etc., and similar uses.
- c. *Existing Fire Lanes:* Any and all fire lanes created by prior ordinance are hereby continued in effect and when repairs or modifications are made to such fire lanes, they shall be brought into conformity with this code, as much as shall be practical in the appropriate Fire Official's judgment. The standard for exercise of said judgment shall conform to those contained in subsections 28-1.13.6(a) and (b) above.
- d. *Markings:* The owner shall, within thirty (30) days of being given a notice to do so by the Fire Official, mark the lane(s) as follows:

1. Signs, with minimum dimensions of 12"x18", constructed of metal and with raised red letters a minimum of two (2) inches in size on a white background shall be posted at level of at least seven (7) feet above grade, indicating "FIRE LANE NO PARKING". Spacing of signs shall be even with a minimum of one (1) sign for every one-hundred (100) feet of fire lane or part thereof, or as ordered by the Fire Official. All signs and markings must be unobstructed and visible for a distance of at least one hundred (100) feet when viewed from a position approximately five (5) feet above the ground while in the fire lane.
 2. The area of the fire lane on improved areas shall be delineated along its entire length with yellow lines eighteen (18) inches in width. Between the yellow lines shall be marked "NO PARKING FIRE LANE" in yellow letters eighteen (18) inches in height. The number of times this wording is to be repeated shall be at the discretion of the Fire Official, with the recommended spacing to be at one hundred (100) foot intervals and spaced so as to be between and alternate with the metal signs required above. If the designated fire lane abuts a curb, the curbing shall be yellow in color where it abuts the fire lane.
- e. *Definitions:* For the purpose of fire lane enforcement, the following terms are defined:
1. **FIRE AREA** shall mean the same as fire lane.
 2. **FIRE LANE** shall mean an area necessary to provide safety for the public or to provide proper access for the fire department operations in the event of an emergency.
 3. **NO PARKING** shall mean that a vehicle may not be parked within the designated area unless loading or unloading passengers or materials with a time limit of three (3) minutes.
- f. *Size:* Fire lanes for vehicles access shall be a minimum of eighteen (18) feet in width or as approved by the Fire Official. Fire lanes for egress of occupants shall be a minimum of at least the width of the exit way served.
- g. *Notification:* Once a fire lane has been designated by the Fire Official, approved as provided above and properly marked by the owner of the premises, the Fire Official shall notify the Police Department, Construction Department, and Municipal Court Administrator in writing of the existence and location of the designated Fire Lane(s).
- h. *Restricted Areas:* Gates, chains or other approved methods utilized to prevent unauthorized access to fire lanes shall be approved by the Fire Official prior to installation, provided such restrictions will not impede access by firefighting apparatus. The Fire Official shall determine whether any changes or deviations from the appropriate methods may be utilized.
- i. *Installation, Maintenance:* Fire lanes shall be installed and maintained by the owner of the premises or a designee in conformity with the provisions of this ordinance. Fire lanes in existence prior to the enactment of this ordinance shall be required to conform to the provisions herein at the discretion of the Fire Official. Fire lanes must be accessible for fire apparatus use at all time.
- j. *Parking, standing and obstruction prohibited:* Designated fire lanes shall be maintained free of snow and obstructions, including vehicles, at all times.
- k. *Notice of Violation:* The Fire Official or designated Fire Inspector(s) may complete a Municipal Summons, or a Notice of Violations, which shall be issued to offenders by personally serving same upon any offender, or if the offender is not attendant to the vehicle(s), shall leave the notice under the windshield wiper or otherwise attached to the vehicle(s) in a manner reasonably calculated to ensure receipt of same by the offender.

1. This ordinance shall supersede any and all provisions of any other ordinance promulgated for the enforcement of parking in fire lanes. Enforcement shall only be done by personnel from either the Borough of Belmar. Personnel enforcing these provisions shall be either uniformed or carry appropriate identification.

28-1.13.7 Open Burning.

Open burning for any reason is hereby prohibited except where permits have been obtained from the Fire Official. Open burning is defined as the burning of any material, in anything other than an approved device, or in an uncontained manner.

28-1.15 ENFORCEMENT, VIOLATIONS, AND PENALTIES

- a. Any owner, agency, or person or corporation who shall violate any provision of this ordinance or fail to comply therewith or with any of the requirements thereof, shall be subject to a penalty to be determined by the Fire Official. The effective date of the enforcement provisions set forth in this Section shall be twelve (12) months for existing structures and twenty (20) days from the passage of this amendment for new structures.
- b. The Fire Official of the appropriate Local Enforcing Agency shall be responsible to enforce this article as an amendment to N.J.A.C.5:70 et seq., and penalties may be assessed as provided in the New Jersey Uniform Fire Prevention Code.
- c. The maximum penalty for violation of any provision of this chapter shall be \$1000.00 or imprisonment for a period not exceeding ninety (90) days, or both, in the discretion of the Municipal Court Judge. Any fines collected shall be forwarded to the Belmar Fire Prevention Bureau.
- d. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.
- e. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all may be appropriate for a particular case or violation, and shall be mandated where a specific penalty is set forth in each subsection herein above.

BE IT FURTHER ORDAINED that should any section, paragraph, sentence, clause, or phase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

BE IT FURTHER ORDAINED that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

BE IT FURTHER ORDAINED that this ordinance shall be in full force and take effect twenty (20) days after final passage and publication, as required by law.

ORDINANCE NO. 2017-14

ORDINANCE OF THE BOROUGH OF BELMAR AMENDING THE REVISED GENERAL ORDINANCE CHAPTER 40: "DEVELOPMENT REGULATIONS" TO EXPAND THE CIRCUMSTANCES UNDER WHICH A NON-CONFORMING STRUCTURE MAY BE RESTORED AFTER DESTRUCTION BY CASUALTY

BE IT ORDAINED by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey, that Chapter 40 "Development Regulations" of the Borough's Revised General Ordinances is hereby amended as follows (~~stricken text~~ indicates deletions, underlined text indicates additions):

40-2.4 Definitions.

Certain words, phrases, and terms in this chapter are defined for the purpose herein as follows:

* * *

Exempt Development shall mean that site plan and/or subdivision approval shall not be required prior to issuance of a Development Permit for the following:

- a. Construction, additions, or alterations related to single-family or two-family detached dwellings or their accessory structures on individual lots.
- b. Any change in occupancy which is not a "Change in Use" (as herein defined).
- c. Individual applications for accessory mechanical or electrical equipment, whose operation and location conforms to the design and performance standards of this chapter, and whose installation is on a site already occupied by an active principal use for which site plan approval is not otherwise required.
- d. Sign(s) which installation is on a site already occupied by a principal use for which site plan approval is not otherwise required and provided such sign(s) conform to the applicable design and zoning district regulations of this chapter.
- e. Construction or installation of essential services.
- f. Division of property and conveyances so as to combine existing lots, which are not considered to be subdivisions in accordance with the definition of "Subdivision" contained within this Article.
- g. Demolition of any structure or building not listed on the State or National Register of Historic Places or identified as a historic site on the Master Plan, provided that the demolition does not involve changes to the site outside the limits of the structure or building nor does it create any nonconformity.
- h. The redevelopment and/or reconstruction of any structure ~~in existence at the time of the Declaration of a State of Emergency due to Hurricane Sandy on October 28, 2012 which suffered damage resulting from the effects of Hurricane Sandy,~~ destroyed, in total or in part, by reason of wind, fire, water incursion, exposure or other act of God, or public enemy, provided that such redevelopment and/or reconstruction shall be limited to the extent of the previous nonconformity, upon application to, and approval from, the Site Plan Advisory Board in accordance with the procedures set forth as subsection 40-3.1o. and subsection 40-7.3e.

40-3.1 Planning Board.

- o. *Site Plan Advisory Review Board.* Pursuant to N.J.S.A. 40:55D-39, the chairperson of the Planning Board may appoint a Site Plan Review Advisory Board. The Site Plan Committee shall consist of at least two (2) Board members along with technical and other staff members such as the Municipal Planner and/or Engineer as deemed appropriate. The purpose of the Site Plan Committee is to review, comment, and make recommendations with respect to site plan applications, and to perform other duties conferred on this Committee by the Board through a motion duly adopted and recorded.

The Site Plan Advisory Board shall have authority in accordance with subsection 40-2.4 applicable to exempt development and subsection 40-7.3e. to approve an application for the redevelopment and/or reconstruction development for of any structure destroyed, in total or in part, by reason of wind, fire, water incursion, exposure or other act of God, or public enemy in existence at the time of the Declaration of a State of Emergency on October 28, 2012, which suffered damage resulting from the effects of Hurricane Sandy, for redevelopment and/or reconstruction, provided that such redevelopment and/or reconstruction shall be limited to the extent of the previous development and/or nonconformity. In reviewing applications, the Site Plan Advisory Board shall be permitted to grant relief set forth within subsection 40-3.1i,9 and subsections 40-3.2f,1 and 40-3.2j,1(c) and (d). Relief granted under this provision shall expire by limitation unless construction or alterations have been actually commenced on each and every structure approved within twelve (12) months from the date of entry of the decision of approval.

When deciding on a matter involving a minor site plan pursuant to N.J.S.A. 40:55D-46.1, only those members of the Site Plan Committee who are members or alternates of the Board having jurisdiction to act may vote.

40-7.3 Nonconforming Uses, Buildings and Structures.

Except as otherwise provided in this chapter the lawful use of the land or a building existing at the date of the adoption of this chapter may be continued although such use or building does not conform to the regulations specified by this chapter for the zone in which such land or building is located; provided, however, that:

* * *

- e. *Restoration of a Nonconforming Structure.* Any nonconforming use and/or structure partially destroyed, inclusive of development on undersized lots, that has been destroyed, in total or in part, by reason of wind, fire, water incursion, exposure or other act of God, or public enemy may be restored or repaired, but only to the extent of the previous nonconformity provided that reconstruction shall be limited to the extent of the previous nonconformity and upon approval by the Site Plan Advisory Board in accordance with subsection 40-3.1o. ~~If any nonconforming structure shall be more than partially destroyed, then the structure may not be rebuilt, restored or repaired, except as otherwise provided in this chapter.~~

~~Destruction of a structure to the extent that only major components of the original structure utilized in the building are the foundation or exterior walls; or destruction to the extent that rebuilding, repair or restoration requires removal of portions of the structures such as to leave only the foundation or the exterior walls prior to restoration, shall be prima facie evidence that the structure has been more than partially destroyed.~~

~~Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the Construction Official provided such strengthening or restoration does not result in restoration of a use which was substantially, or totally, destroyed.~~

~~For purposes of this section, to determine whether or not a structure is “partially destroyed” the Building Official may consider, though not be bound by, evidence of such destruction or damage by reason of windstorm, fire, explosion, or other act of God or other public enemy to an extent of less than seventy five (75%) percent of the recorded true value of as appraised in the records of the Tax Assessor.~~

~~In the event of a dispute as to the determination of true value of such destruction and damage and replacement of the same, the Building Official, together with two (2) independent, competent appraisers, one (1) selected by the claimant and one (1) selected by the Planning Board, shall determine such value, which shall be final and binding upon the claimant. The cost of such appraisal shall be paid for by the claimant.~~

Nothing within this chapter applicable to development within the MF-1 and MF-2 Zone(s) existing as of January of 2000, shall prevent the reconstruction of a nonconforming multi-family building of ten (10) units or more destroyed by reason of windstorm, fire, explosion or other Act of God or other public enemy, provided however that reconstruction shall be limited to the extent of the previous nonconformity and upon site plan approval by the Planning Board.

~~Nothing in this chapter applicable to the development of structures existing prior to the Declaration of a State of Emergency by Governor Christie, in accordance with Executive Order No. 104 on October 28, 2012, shall prevent the restoration of a noneconforming use and/or structure, inclusive of development on undersized lots, destroyed by reason of wind, fire, water incursion, exposure or other act of God, or other public enemy, resulting from Hurricane Sandy, provided that reconstruction shall be limited to the extent of the previous noneconformity and upon approval by the Site Plan Advisory Board in accordance with subsection 40-3.1e.~~

Appeal of relief granted. Any interested party may appeal to the Governing Body any final decision of the Site Plan Review Advisory Board approving an application for development under this subsection. The appeal should be made employing the procedures set forth within N.J.S.A. 40:55D-17.

BE IT FURTHER ORDAINED that should any section, paragraph, sentence, clause, or phase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

BE IT FURTHER ORDAINED that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

BE IT FURTHER ORDAINED that this ordinance shall be in full force and take effect twenty (20) days after final passage and publication, as required by law.