

BOROUGH OF BUENA  
REGULAR COUNCIL MEETING  
AGENDA  
JULY 16, 2018

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MEETING CALLED TO ORDER: P.M.  
MEETING ADJOURNED: P.M.

CALL MEETING TO ORDER: Flag Salute

ROLL CALL OF ATTENDANCE:

SUNSHINE LAW: This meeting is being held in compliance with the Open Public Meetings Act and notices of this meeting have been provided, via email, to The Press of Atlantic City, The Daily Journal and The Atlantic County Record on November 16, 2017, as well as having been posted on the bulletin board at Borough Hall.

MAYOR'S REPORT: First order of business.

PUBLIC PORTION OF THE MEETING:

Anyone wishing to address Mayor and Council only, please step forward and give your name and address for the record.

ORDINANCE NO. 662 NEED MOTION TO OPEN THE PUBLIC HEARING ON:

AN ORDINANCE AMENDING CHAPTER 181 OF THE CODE OF THE  
BOROUGH OF BUENA, ENTITLED "PROPERTY MAINTENANCE"  
M \_\_\_\_\_ S \_\_\_\_\_ RCV

WHEREAS, the Mayor and Council of the Borough of Buena have determined that certain amendments to Chapter 181 entitled "Property Maintenance" are necessary; and

WHEREAS, in all other respects Chapter 181 entitled "Property Maintenance" shall remain in full force and effect;

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Buena, County of Atlantic and State of New Jersey, and it is hereby enacted and ordained by the authority of same as follows:

**Section 1:**

All references to "International Property Maintenance Code, 2015 Edition" in Chapter 181 entitled "Property Maintenance" shall be amended to "International Property Maintenance Code, 2018 Edition, and as subsequently amended and revised".

**Section 2:**

Chapter 181.3 entitled "Repealer" shall be deleted in its entirety and be replaced with the following language:

All ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

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**Section 3.**

**Severability.**

Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

**Section 4.**

**When effective.**

This Ordinance shall take effect immediately upon final passage and publication in accordance with law.

**DISCUSSION:**

**NEED MOTION TO CLOSE THE PUBLIC HEARING:**

**M \_\_\_\_\_ S \_\_\_\_\_ RCV**

**ORDINANCE NO. 662 ADOPTED:**

**M \_\_\_\_\_ S \_\_\_\_\_**

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
MANCUSO				
ALVAREZ				
MCAVADDY				

**ORDINANCE NO. 667 NEED MOTION TO OPEN THE PUBLIC HEARING ON:**

**ORDINANCE AMENDING CHAPTER 35-ARTICLE III OF THE CODE  
OF THE BOROUGH OF BUENA ENTITLED BOROUGH SOLICITOR  
M \_\_\_\_\_ S \_\_\_\_\_ RCV**

BE IT ORDAINED BY the Borough Council of the Borough of Buena, in the County of Atlantic, that Chapter 35- Article III is hereby amended as follows:

Chapter 35, Article III shall be deleted in its entirety and be replaced with the following language:

§ 35-5 Appointment term.

The Borough Attorney shall be appointed by the Mayor with the advice and consent of the Council for a term of one year. He shall be an attorney at

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law of New Jersey but need not be a resident of the Borough. In lieu of appointment of an individual attorney, the Mayor may, with the advice and consent of the Council, appoint a firm of attorneys, all members of which shall be attorneys at law of New Jersey.

§ 35-6

Powers and duties.

The Borough Attorney shall have such powers and perform such duties as are provided for the office of a borough attorney by general law or ordinance of the Borough. He shall represent the Borough in all judicial and administrative proceedings in which the Borough or any of its offices or agencies may be a party or have an interest. He shall give legal counsel and advice when required by the Mayor and Council or any member thereof and shall, in general, serve as the legal advisor to the Mayor and Council on all matters of Borough business. In furtherance of the general powers granted in this section, but not by way of limitation, the Borough Attorney shall:

- A. Draft or approve as to form and sufficiency all legal documents, contracts, deeds, ordinances and resolutions made, executed or adopted by or on behalf of the Borough.
- B. With the approval of the Mayor and Council, conduct such appeals from orders, decisions or judgments affecting any interest of the Borough as he may in his discretion determine to be necessary or desirable or as directed by the Mayor and Council.
- C. Subject to the approval of the Borough Council, have the power to enter into any agreement, compromise or settlement of any litigation in which the Borough is involved.
- D. Render opinions in writing upon any question of law submitted to him by the Mayor and Council or any member thereof with respect to their official powers and duties and perform such duties as may be necessary to provide legal counsel to the Mayor and Council in the administration of municipal affairs.
- E. Supervise and direct the work of such additional attorneys and

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technical and professional assistants as the Council may authorize for special or regular employment in or for the Borough.

§ 35-7 Compensation.

For the performance of services described herein, the Township Solicitor shall not receive a fixed salary, but shall be paid such fee as may be deemed reasonable and proper for the services actually rendered in accordance with such contract for legal services entered into between the governing body and the Borough Solicitor pursuant to the provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. All contracts for legal services shall have annexed thereto a fee schedule.

§ 35-8 Designation of Borough property; succession.

All original copies of papers, documents, memoranda, reports and all other materials relating to the administration of the legal duties of the Attorney shall be and remain the property of the Borough. Upon the termination of his services with the Borough, the Attorney shall forthwith surrender to any successor all such property at no cost, together with a written consent to the substitution of any successor in all legal actions and proceedings then pending to which the Borough is a party.

**DISCUSSION:**

**NEED MOTION TO CLOSE THE PUBLIC HEARING:**

**M \_\_\_\_\_ S \_\_\_\_\_ RCV**

**ORDINANCE NO. 667 ADOPTED:**

**M \_\_\_\_\_ S \_\_\_\_\_**

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
MANCUSO				
ALVAREZ				
MCAVADDY				

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**ORDINANCE NO. 668: NEED MOTION TO INTRODUCE AND PASS ON FIRST READING:**

**AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES  
OF BUENA BOROUGH, CHAPTER 123, ENTITLED "FLOOD DAMAGE  
PREVENTION" EACH OF WHICH PERTAINS TO ADOPTING REVISED  
STANDARDS AND REGULATIONS, DEFINITIONS, AND FLOOD  
MAPS.**

**M \_\_\_\_\_ S \_\_\_\_\_**

WHEREAS, the Borough maintains the highest standards for flood prevention and intends to continue those standards; and

WHEREAS, as part of the requirements of staying within the National Flood Insurance Program, the Borough is required to adopt revised standards and regulations of the current Flood Insurance Study preliminarily adopted May 30, 2014 and revised Flood Insurance Rate Maps; and

NOW THEREFORE, BE IT ORDAINED, by the Council of the Borough of Buena, in the County of Atlantic, State of New Jersey, as follows: Chapter 123 of the Revised General Ordinances of the Borough of Buena, entitled "Flood Damage Prevention" is hereby amended to deleted in its entirety and replaced with same as follows:

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

§ 123.1 STATUTORY AUTHORIZATION

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

§ 123.2 FINDINGS OF FACT

The flood hazard areas of the Borough of Buena are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities,

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and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

§ 123.3 STATEMENT OF PURPOSE

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

Protect human life and health;

Minimize expenditure of public money for costly flood control projects;

Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

Minimize prolonged business interruptions;

Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;

Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

Ensure that potential buyers are notified that property is in an area of special flood hazard; and

Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 123.4 METHODS OF REDUCING FLOOD LOSSES

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

Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;

Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

Controlling filling, grading, dredging, and other development which may increase flood damage; and,

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Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards in other areas.

§ 123.5 DEFINITIONS

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

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

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

Appeal – A request for a review of the Construction Code Official's interpretation of any provision of this ordinance or a request for a variance.

Area of Shallow Flooding – A designated AO or AH zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard –Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone V, VE, V1-30, A, AO, A1-A30, AE, A99, or AH.

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

Base Flood Elevation (BFE) – The flood elevation shown on a published

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Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-30 the elevation represents the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

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

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

Cumulative Substantial Improvement – Any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50 percent [lower threshold – e.g.: replace 50 percent with 40 percent] of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

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

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

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



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movement of flood waters.

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

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

The overflow of inland or tidal waters and/or

The unusual and rapid accumulation or runoff of surface waters from any source.

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

Flood Insurance Study (FIS) – The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

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

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

Freeboard – A factor of safety usually expressed in feet above a flood

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level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Highest Adjacent Grade – The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

Historic Structure – Any structure that is:

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;

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;

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

Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

By an approved State program as determined by the Secretary of the Interior; or

Directly by the Secretary of the Interior in States without approved programs.

Lowest Floor – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements of 44 CFR Section 60.3.

Manufactured Home – A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or

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without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

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

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

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

Recreational Vehicle – A vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of Construction – (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348)) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

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Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. Substantial Damage also means flood-related damages sustained by a structure on two or more separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

Substantial Improvement – Any reconstruction, rehabilitation, addition, or other improvement of a structure during a 10-year period the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. Substantial improvement also means "cumulative substantial improvement." This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed or "repetitive loss". The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a "historic structure", provided that the

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alteration will not preclude the structure's continued designation as a "historic structure".

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

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

GENERAL PROVISIONS

§ 123.6 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Buena, Atlantic County, New Jersey.

§ 123.7 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Borough of Buena, Community No. 340004, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

A scientific and engineering report "Flood Insurance Study, Atlantic County, New Jersey (All Jurisdictions)" dated August 28, 2018.

"Flood Insurance Rate Map for Atlantic County, New Jersey (All Jurisdictions)" as shown on Index and panels 34001C0090F, 34001C0095F, whose effective date is August 28, 2018.

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file 616 Central Avenue, Minotola, New Jersey.

§ 123.8 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the

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provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Buena, from taking such other lawful action as is necessary to prevent or remedy any violation.

§ 123.9 ABROGATION AND GREATER RESTRICTIONS

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

§ 123.10 INTERPRETATION

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

Considered as minimum requirements;

Liberally construed in favor of the governing body; and,

Deemed neither to limit nor repeal any other powers granted under State statutes.

§ 123.11 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

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

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ADMINISTRATION

§123.12 ESTABLISHMENT OF DEVELOPMENT PERMIT

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

Specifically, the following information is required:

Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

Elevation in relation to mean sea level to which any structure has been floodproofed.

Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in §123.17B (3).

§ 123.13 DESIGNATION OF THE ADMINISTRATOR

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

§ 123.14 DUTIES AND RESPONSIBILITIES OF THE CONSTRUCTION CODE OFFICIAL

Duties of the Construction Code Official shall include, but not be limited to:

PERMIT REVIEW

Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

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USE OF OTHER BASE FLOOD DATA

When base flood elevation data has not been provided in accordance with §123.7, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Construction Code Official shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State or other source, in order to administer sections §123.16 and §123.17.

C. INFORMATION TO BE OBTAINED AND MAINTAINED

Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. Maintain for public inspection all records pertaining to the provisions of this ordinance.

ALTERATION OF WATERCOURSES

Notify adjacent communities and the New Jersey Department of Environmental Protection, Bureau of Flood Control and the Land Use Regulation Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.

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

SUBSTANTIAL DAMAGE REVIEW

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

Record and maintain the flood and non-flood damage of substantial damage structures and provide a letter of Substantial Damage Determination to the owner and the New Jersey Department of Environmental Protection, Bureau of Flood Control.

Ensure substantial improvements meet the requirements of §123.16 and §123.17.

INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field



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conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in §123.15.

§ 123.15 VARIANCE PROCEDURE

APPEAL BOARD

The Land Use Board as established by Borough Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.

The Land Use Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Code Official in the enforcement or administration of this ordinance.

Those aggrieved by the decision of the Land Use Board, or any taxpayer, may appeal such decision to the Franklin Township Municipal Court, as provided in (40:55-1 et. seq).

In passing upon such applications, the Land Use Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

the danger that materials may be swept onto other lands to the injury of others;

the danger to life and property due to flooding or erosion damage;

the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

the importance of the services provided by the proposed facility to the community;

the necessity to the facility of a waterfront location, where applicable;

the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

the compatibility of the proposed use with existing and anticipated development;

the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

the safety of access to the property in times of flood for ordinary and emergency vehicles;

the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if

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applicable, expected at the site; and, the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Upon consideration of the factors of §123.15A. d) and the purposes of this ordinance, the Land Use Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

The Construction Code Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

**CONDITIONS FOR VARIANCES**

Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items i.-xi. in §123.15A. d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Variances shall only be issued upon:

A showing of good and sufficient cause;

A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in §123.15A. d), or conflict with existing local laws or ordinances.

Any applicant to whom a variance is granted shall be given written notice

**BOROUGH OF BUENA  
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that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 123.16 GENERAL STANDARDS

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

ANCHORING

All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

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

CONSTRUCTION MATERIALS AND METHODS

All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

UTILITIES

All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

For all new construction and substantial improvements, the electrical, heating, ventilation, plumbing and air-conditioning equipment and other

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service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**SUBDIVISION PROPOSALS**

All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;

All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and,

Base flood elevation data shall be provided for subdivision proposals and other proposed new development which contain at least fifty (50) lots or five (5) acres (whichever is less).

**ENCLOSURE OPENINGS**

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

**MANUFACTURED HOMES**

Manufactured homes shall be anchored in accordance with §123.16A. b).

All manufactured homes to be placed or substantially improved within an area of special flood hazard shall:

Be consistent with the need to minimize flood damage,

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Be constructed to minimize flood damage,  
Have adequate drainage provided to reduce exposure to flood damage;  
The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

§ 123.17 SPECIFIC STANDARDS FOR CONSTRUCTION IN AREAS OF SPECIAL FLOOD HAZARD

In all areas of special flood hazards where base flood elevation data has been provided, the following standards are required:

A. RESIDENTIAL CONSTRUCTION

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to above the base flood elevation plus one (1) foot, or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive.

B. NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities,

elevated to or above the base flood elevation plus one (1) foot, or as required by ASCE/SEI

24-14, Table 2-1, whichever is more restrictive, or, shall:

Be floodproofed so that below the base flood level plus one (1) foot, or as required by ASCE/SEI 24-14, Table 6-1, whichever is more restrictive, the structure is watertight with walls substantially impermeable to the passage of water.

Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Be certified by a registered professional engineer or architect that the

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design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in § 123-12C of this chapter.

**SEVERABILITY**

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

**ENACTMENT**

This Ordinance shall be effective immediately upon final passage and publication in accordance with law and shall remain in force until modified, amended or rescinded by Borough of Buena, Atlantic County, New Jersey.

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
MANCUSO				
ALVAREZ				
MCAVADDY				

**ORDINANCE NO. 669: NEED MOTION TO INTRODUCE AND PASS ON FIRST READING:**

**AN ORDINANCE OF THE BOROUGH OF BUENA, COUNTY OF AN  
ORDINANCE OF THE BOROUGH OF BUENA, COUNTY OF ATLANTIC,  
STATE OF NEW JERSEY AMENDING CHAPTER 150 OF THE  
BOROUGH CODE ENTITLED LAND USE  
M \_\_\_\_\_ S \_\_\_\_\_**

**WHEREAS**, the Land Use Board of the Borough of Buena made recommendations to Borough Council to update its existing Code provisions to be in accord with State statute and serve the best interests of the Borough and its residents.

**NOW, THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Buena, in the County of Atlantic, State of New Jersey, that Chapter 150, "Land Use," of the Code of the Borough of Buena, is hereby amended and supplemented as follows:

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**Section 1:**

**ARTICLE VII. SUBDIVISION AND SITE PLAN REVIEW AND APPROVAL**

1. § 150-63 is hereby amended and supplemented in order to establish new Section §150-63C as follows:

§150-63C. The duration of final approval of a major subdivision or major site plan shall be the same as the period of zoning protection permitted in this Section as noted above.

2. § 150-64. **Guarantees required; surety; release** shall be deleted in its entirety and be replaced with the following language:

A. Before filing of final major subdivision plats, or recording of minor subdivision plats or deeds, or as a condition of final site plan approval, or as a condition to the issuance of a zoning permit pursuant to NJSA 40:55D-65(d), the Boro shall require and shall accept, in accordance with the standards in this ordinance and the regulations contained in NJSA 40:55D-53, as amended, the furnishing of performance guarantees and provision for maintenance guarantees, for the purpose of assuring the installation and maintenance of certain on-tract improvements. More specifically, the Boro shall require the furnishing of a performance guarantee for improvements required by an approval or developer's agreement, ordinance or regulation to be dedicated to a public entity that have not yet been installed; a performance guarantee for privately-owned perimeter buffer landscaping; a temporary certificate of occupancy guarantee; a safety and stabilization guarantee; and provision for a maintenance guarantee, for the purpose of assuring the installation and maintenance of certain on-tract improvements; and a maintenance guarantee for the purpose of assuring the installation and maintenance of certain private site improvements, in accordance with the standards in this ordinance and the regulations contained in NJSA 49:55D-53, as amended.

B. In addition to the requirements stipulated in NJSA 40:55D-65(d)(1), the request submitted by the obligor upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements shall also be accompanied by as-built plans that shall indicate plan view, bench mark, elevations, stations, sanitary sewer, water main, gas main, storm sewer, manholes and all other structures associated with the work of the application with sufficient information to locate all facilities. Underground utilities shall be shown in plan and profile views. Where survey accuracy is not utilized for the establishment of NJSPC, sub-meter coordinates shall be used and noted on the plans. The as-built information shall be blocked in as thus 100.00' and shown on the originally approved construction drawings. Each sheet of the originally approved set shall contain an "as-built certificate" that shall read as follows:

AS-BUILT CERTIFICATION

I hereby certify that the information shown on this record drawing is an accurate and complete representation of data established from field inspection obtained under my direction and that the facility or facilities have been constructed according to the approved plans, except as noted hereon.

Name	NJPE License No.
Title	Date

**Section 2:**

**ARTICLE XV. GENERAL ZONING PROVISIONS**

Chapter 150, Article XV is hereby amended and supplemented in order to establish a new Section 150-118.1 thereof, to be entitled "**Duration of use variance, bulk variance, conditional use and zoning permits,**" as follows:

**§ 150-118.1 Duration of use variance, bulk variance, conditional use and zoning permits.**

- A. Use variance. After a use variance has been granted by the Land Use Board, in instances where further

**BOROUGH OF BUENA  
REGULAR COUNCIL MEETING  
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Board action (i.e., subdivision or site plan approval) is not required the applicant shall have one year in which to institute commencement of the use. Said commencement of use must be in compliance with all other regulatory requirements. For example, occupancy of a structure shall not be deemed the commencement of use in the event that appropriate construction permits and certificate of occupancy have not been secured. After a use variance has been granted by the Land Use Board, in instances where further Board action (i.e., subdivision or site plan approval) is required the applicant shall have one year in which to secure said approval. Following commencement of use, the use shall remain valid until there is intended abandonment of said use.

B. Bulk variance. After a bulk variance has been granted by the Land Use Board, in instances where further Board action (i.e., subdivision or site plan approval) is not required the applicant shall have one year in which to complete the construction which necessitated the bulk variance. After a bulk variance has been granted by the Land Use Board, as part of a subdivision or site plan approval, the applicant shall be limited by the duration of said approval. Following completion of the construction which necessitated the bulk variance, the bulk variance shall remain valid as long as said construction remains.

C. Conditional use. A conditional use approval, because it is always companion to a site plan approval, shall be limited by the duration of said site plan approval.

D. Zoning permit. A zoning permit shall be valid for a period of six months from date of issuance.

**Section 3:** All other Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

**Section 4:** If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such subdivision, clause or provision and the remainder of this Ordinance shall be deemed valid and effective.

**Section 5:** This Ordinance shall take effect immediately upon final passage and publication as required by law.

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
MANCUSO				
ALVAREZ				
MCAVADDY				

**CONSENT AGENDA:**

Consent Agenda includes items of business which are not controversial and do not require individual discussion. A Motion approving the Consent Agenda is moved, seconded and voted upon as one item by the Borough Council. If any discussion is requested on a Consent Agenda item, it is removed from the Consent Agenda to the Regular Agenda.



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- RESOLUTION 77-18      GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT**
- RESOLUTION 78-18      A RESOLUTION OF THE BOROUGH OF BUENA PLACING LIENS ON  
PROPERTY FOR FAILURE TO MAINTAIN PROPERTY IN  
ACCORDANCE WITH ORDINANCE 642**
- RESOLUTION 79-18      A RESOLUTION AUTHORIZING HIRING OF EMERGENCY MEDICAL  
TECHNICIANS**

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
MANCUSO				
ALVAREZ				
MCAVADDY				

**ADMINISTRATORS' S REPORT :**

**ENGINEER' S REPORT**

**Replacement of the Plymouth Street Culverts**

A Notice to Proceed was issued effective July 9, 2018. Work commenced on July 11, 2018.

**FY2015 NJDOT Municipal Aid Project - Resurfacing of Plymouth Street**

The contracts for the resurfacing have been fully executed and an executed copy was sent to the contractor. A pre-construction meeting took place on January 3, 2018. The resurfacing component of the project will proceed once the culvert replacement is complete.

**Master Plan Re-Examination**

A progress meeting was held on July 5, 2018 to review the draft plan. The next step is presentation to the Land Use Board.

**FY2016 NJDOT Municipal Aid Project - Resurfacing of Forest Grove Road**

A contract was awarded to Arawak Paving Company, Inc. for the Alternate Bid. Contracts have been sent to the contractor. We are awaiting award concurrence from the NJDOT.

**FY2018 NJDOT Municipal Aid Application – Reconstruction of Forest Grove Road**

The Borough was awarded \$264,130.00 for this project. A proposal was submitted for engineering services.

**COMMITTEE REPORTS :**

ROADS/RECYCLING..... CHAIRMAN JEFFREY MAROLDA  
JOSEPH MANCUSO, GREG MCAVADDY

ECONOMIC DEVELOPMENT.....CHAIRMAN MATTHEW WALKER  
JOSEPH MANCUSO, ROSALIE M. BAKER

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RECREATION .....CHAIRWOMAN ROSALIE M. BAKER, JORGE ALVAREZ, MATTHEW WALKER

FINANCE.....CHAIRMAN JOSEPH MANCUSO, ROSALIE M. BAKER, MATTHEW WALKER

PUBLIC SAFETY/STREET LIGHTS.....CHAIRMAN JORGE ALVAREZ, GREG MCAVADDY, JEFFREY MAROLDA

BLDGS/GROUNDS/IMPROVEMENTS.....CHAIRMAN GREG MCAVADDY, MATTHEW WALKER, JORGE ALVAREZ

**CLERK'S REPORT:**

**Minutes of the regular meeting of June 25, 2018. If no corrections or additions, entertain a motion to approve M \_\_\_\_\_ S \_\_\_\_\_**

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
MANCUSO				
ALVAREZ				
MCAVADDY				

**UNFINISHED BUSINESS:**

**NEW BUSINESS:**

**BILLS PAID AS LISTED: M \_\_\_\_\_ S \_\_\_\_\_**

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
MANCUSO				
ALVAREZ				
MCAVADDY				

**NEXT MEETING: AUGUST 13, 2018**

**MEETING ADJOURNED: M \_\_\_\_\_ S \_\_\_\_\_ RCV**