

**ORDINANCE NO. 2018-11**

**ORDINANCE OF THE BOROUGH OF RED BANK,  
COUNTY OF MONMOUTH, NEW JERSEY  
AMENDING AND SUPPLEMENTING  
CHAPTER 364, FLOOD HAZARD PREVENTION**

Councilman Zipprich offered the following ordinance and moved its adoption:

**WHEREAS**, the State of New Jersey has required that all municipalities enact model Flood Hazard Prevention Ordinances;

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of Red Bank that Chapter 354 of the Revised General Ordinances of the Borough of Red Bank, Monmouth County, "Flood Hazard Prevention" is hereby amended and supplemented as follows:

**SECTION ONE:**

Chapter 364, "Flood Hazard Prevention" is hereby amended and replaced in its entirety as follows:

**§ 364-1** 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 Governing Body of the Borough of Red Bank, of Monmouth County, New Jersey does ordain as follows:

**§ 364-2** Findings of fact.

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

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

**§ 364-3** Purpose.

It is the purpose of this chapter 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:

A. To protect human life and health;

B. To minimize expenditure of public money for costly flood control projects;

C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. To minimize prolonged business interruptions;

- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### § 364-4 Methods of reducing flood losses.

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

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

#### § 364-5 Definitions.

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

##### **ADVISORY BASE FLOOD ELEVATION (ABFE)**

The elevation shown on a community's Advisory Flood Hazard Map that indicates the advisory still water elevation plus wave effect (ABFE = SWEL + wave effect) resulting from a flood that has a one-percent or greater chance of being equaled or exceeded in any given year.

[Added 11-6-2013 by Ord. No. 2013-25]

##### **ADVISORY FLOOD HAZARD AREA (AFHA)**

The land in the floodplain within a community subject to flooding from the one-percent annual chance event depicted on the Advisory Flood Hazard Map.

[Added 11-6-2013 by Ord. No. 2013-25]

##### **ADVISORY FLOOD HAZARD MAP**

The Official Map on which the Federal Emergency Management Administration has delineated the areas of advisory flood hazards applicable to the community.

[Added 11-6-2013 by Ord. No. 2013-25]

## **APPEAL**

A request for a review of the Borough Engineer's interpretation of any provision of this chapter or a request for a variance.

[Amended 11-6-2013 by Ord. No. 2013-25]

## **AREA OF SHALLOW FLOODING**

A designated AO, AH, or VO 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 foot 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**

The 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**

The flood having a one-percent chance of being equaled or exceeded in any given year.

## **BASE FLOOD ELEVATION (BFE)**

The flood elevation shown on a published Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-30, the elevation represents the water surface elevation resulting from a flood that has a one-percent or greater chance of being equaled or exceeded in any given year. For zones VE and V1-30, the elevation represents the still water elevation (SWEL) plus wave effect (BFE = SWEL + wave effect) resulting from a flood that has a one-percent or greater chance of being equaled or exceeded in any given year.

[Added 11-6-2013 by Ord. No. 2013-25]

## **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 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.

[Added 11-6-2013 by Ord. No. 2013-25]

## **BEST AVAILABLE FLOOD HAZARD DATA ELEVATION**

The most recent available flood elevation FEMA has provided. The best available flood hazard data elevation may be depicted on an Advisory Flood Hazard Area Map, work map, or preliminary FIS and FIRM.

[Added 11-6-2013 by Ord. No. 2013-25]

## **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.

## **COASTAL A ZONE**

The portion of the Special Flood Hazard Area (SFHA) starting from a Velocity (V) Zone and extending up to the landward Limit of the Moderate Wave Action delineation. Where no V Zone is mapped the Coastal A Zone is the portion between the open coast and the landward Limit of the Moderate Wave Action delineation. Coastal A Zones may be subject to wave effects, velocity flows, erosion, scour, or a combination of these forces. Construction and development in Coastal A Zones is to be regulated the same as V Zones/Coastal High Hazard Areas.

## **COASTAL HIGH HAZARD AREA**

An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources.

[Added 11-6-2013 by Ord. No. 2013-25]

## **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.

[Added 11-6-2013 by Ord. No. 2013-25]

## **ELEVATED BUILDING**

A nonbasement building:

- A. Built, in the case of a building in an area of special flood hazard, to have the top of the elevated floor or, in the case of a building in a Coastal High-Hazard Area or Coastal A Zone, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level base flood elevation plus freeboard by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water; and
- B. Adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an area of special flood hazard, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In Areas of Coastal High Hazard and Coastal A Zones "elevated buildings" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

## **EXISTING MANUFACTURED HOME PARK OR SUBDIVISION**

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

[Added 11-6-2013 by Ord. No. 2013-25]

## **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.

[Added 11-6-2013 by Ord. No. 2013-25]

## **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.

## **FLOOD or FLOODING**

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

- A. The overflow of inland or tidal waters; and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

## **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.

[Added 11-6-2013 by Ord. No. 2013-25]

## **FREEBOARD**

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

## **HIGHEST ADJACENT GRADE**

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

## **HISTORIC STRUCTURE**

Any structure that is:

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

## **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.

## **LIMIT OF MODERATE WAVE ACTION (LiMWA)**

Inland limit of the area affected by waves greater than 1.5 feet during the Base Flood. Base Flood conditions between the V Zone and the LiMWA will be similar to, but less severe than those in the V Zone.

## **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 nonelevation design requirements of 44 CFR Section 60.3.

[Amended 11-6-2013 by Ord. No. 2013-25]

## **MANUFACTURED HOME**

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

## **MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION**

A parcel (or contiguous parcels) of land divided into two 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.

## **PRELIMINARY FLOOD INSURANCE RATE MAP (FIRM)**

The draft version of the FIRM released for public comment before finalization and adoption.

[Added 11-6-2013 by Ord. No. 2013-25]

## **PRIMARY FRONTAL DUNE**

A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves from coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from the relatively steep slope to a relatively mild slope.

[Added 11-6-2013 by Ord. No. 2013-25]

## **RECREATIONAL VEHICLE**

A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the longest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

## **SAND DUNES**

Naturally occurring or man-made accumulations of sand in ridges or mounds landward of the beach.

[Added 11-6-2013 by Ord. No. 2013-25]

## **START OF CONSTRUCTION**

For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348),<sup>[1]</sup> 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 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 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 its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

## **SUBSTANTIAL IMPROVEMENT**

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% 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:

[Amended 11-6-2013 by Ord. No. 2013-25]

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local Code Enforcement Officer and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

## **VARIANCE**

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

## **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.

[Added 11-6-2013 by Ord. No. 2013-25]

### **§ 364-6 Lands to which this chapter applies.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Borough of Red Bank, Monmouth County, New Jersey.

### **§ 364-7 Basis for establishing areas of special flood hazard.**

- A. The areas of special flood hazard for the Borough of Red Bank, Community No. 340321, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) A scientific and engineering report "Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions)," dated June 20, 2018..
- (2) Flood Insurance Rate Map for Monmouth County, New Jersey (All Jurisdictions), as shown on index and panels 34025C0177F, 34025C0179F, 34025C0181F, 34025C0183G, whose effective date is June 20, 2018.
- (3) Best available flood hazard data. These documents shall take precedence over effective panels and FIS in construction and development regulations only. Where the effective mapping or base flood elevation conflict or overlap with the best available flood hazard data, whichever imposes the more stringent requirement shall prevail.

[Added 11-6-2013 by Ord. No. 2013-25]

B. The foregoing documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and maps are on file at 90 Monmouth Street, Red Bank, NJ 07701-1614, and shall further remain on file in the office of the Borough Engineer.

**§ 364-8 Violations and penalties.**

No structure or land shall hereafter be constructed, re-located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter 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 chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined, imprisoned, or both, in accordance with the general penalty provision in Chapter 1, Article II, General Penalty, of the Code of the Borough of Red Bank for each violation, and in addition, shall pay all costs and expenses involved in the case, including reasonable attorney's fees. Nothing herein contained shall prevent the Borough of Red Bank from taking such other lawful action as is necessary to prevent or remedy any violation.

**§ 364-9 Abrogation and greater restrictions.**

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

**§ 364-10 Interpretation.**

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

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

**§ 364-11 Warning and disclaimer of liability.**

The degree of flood protection required by this chapter 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 chapter 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 chapter shall not create liability on the part of Borough of Red Bank, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**§ 364-12 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 § 364-7. Application for a development permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any structure has been floodproofed;
- C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 364-18; and
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**§ 364-13 Designation of Local Administrator/Floodplain Manager.**

[Amended 11-6-2016 by Ord. No. 2013-25]

The Borough Engineer as defined in Chapter 490, Planning and Development Regulations, of the Code of the Borough of Red Bank, is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

**§ 364-14 Duties and responsibilities of Local Administrator/Floodplain Manager.**

[Amended 11-6-2016 by Ord. No. 2013-25]

Duties of the Local Administrator/Floodplain Manager shall include, but not be limited to:

A. Permit review.

- (1) Review all development permits to determine that the permit requirements of this chapter have been satisfied.
- (2) 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.

(3) Review all development permits in the coastal high hazard and Coastal A Zone area to determine if the proposed development alters sand dunes or other natural coastal protections so as to increase potential flood damage.

(4) Review plans for walls to be used to enclose space below the base flood level in accordance with § 364-19C.

B. Use of other base flood and floodway data. When base flood elevation and floodway data has not been provided in accordance with § 364-7, Basis for establishing areas of special flood hazard, the Local Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer § 364-18A, regarding residential construction, and § 364-18B, regarding nonresidential construction.

C. Information to be obtained and maintained.

(1) 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.

(2) For all new or substantially improved floodproofed structures:

- (a) Verify and record the actual elevation (in relation to mean sea level); and
- (b) Maintain the floodproofing certifications required in § 364-12C.

(3) In coastal high hazard and Coastal A Zone areas, certification shall be obtained from a registered professional engineer or architect that the provisions of § 364-19B(1) and 364-19B(2) (a) and (b) are met.

(4) Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of watercourses.

(1) Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Bureau of Flood Control Section 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.

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

E. Substantial Damage Review

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

(2) 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.

(3) Ensure substantial improvements meet the requirements of § 364-18A Section 5.2-1, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, § 364-18B 5.2-2, SPECIFIC STANDARDS NONRESIDENTIAL CONSTRUCTION and § 364-18C 5.2-3, SPECIFIC STANDARDS, MANUFACTURED HOMES.

F. Interpretation of FIRM boundaries. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 364-15.

§ 364-15 Variance procedure.

A. The Planning or Zoning Board of Adjustment of the Borough of Red Bank, whichever has jurisdiction, as established by Borough of Red Bank, shall hear and decide appeals and requests for variances from the requirements of this chapter.

[Amended 11-6-2016 by Ord. No. 2013-25]

B. The Planning or Zoning Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this chapter.

[Amended 11-6-2016 by Ord. No. 2013-25]

C. Those aggrieved by the decision of the Planning or Zoning Board of Adjustment, or any taxpayer, may appeal such decision to the Superior Court of the State of New Jersey, as provided by law.

[Amended 11-6-2016 by Ord. No. 2013-25]

D. In passing upon such applications, the Planning or Zoning Board of Adjustment shall consider all technical evaluations, all relevant factors, including any standards specified in other sections of this chapter, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage; and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (11) 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.

E. Upon consideration of the factors of Subsection D of this section and the purposes of this chapter, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

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

§ 364-16 Conditions for variances.

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that all items in § 364-15D have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

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

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

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

E. Variances shall only be issued upon:

- (1) A showing of good and sufficient cause;
- (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- (3) 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 § 364-15D, or conflict with existing local laws or ordinances.

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

§ 364-17 General standards.

[Amended 11-6-2016 by Ord. No. 2013-25]

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, is required:

A. Anchoring.

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

(2) All manufactured homes 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.

B. Construction materials and methods.

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

C. Utilities.

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

D. Subdivision proposals.

- (1) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
- (2) 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;
- (3) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).

E. Enclosure openings. All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings in at least two (2) exterior walls of each enclosed area, having a total net area of not less than one 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 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.

§ 364-18 Specific standards.

In all areas of special flood hazards where base flood elevation data have been provided as set forth in § 364-7, Basis for establishing areas of special flood hazard, or § 364-14B, regarding the use of other base flood data, the following standards are required. For Coastal A Zone construction see § 364-19 Coastal high hazard area and coastal A zone:

A. Residential construction.

[Amended 11-6-2013 by Ord. No. 2013-25]

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

B. Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure located in an A or AE zone (for Coastal A Zone construction see § 364-19 Coastal high hazard area and coastal A zone) shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or advisory base flood elevation, whichever is more restrictive, plus one foot; or require within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated above the highest adjacent grade one foot above at least as high as the depth number specified in feet (at least three feet if no depth number is specified) or at or above the advisory base flood elevation plus one foot, whichever is more restrictive, and require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures; or together with the attendant utilities and sanitary facilities, shall:

[Amended 11-6-2013 by Ord. No. 2013-25]

- (1) Elevated to or above the base flood elevation (published FIS/FIRM), or the best available flood hazard data elevation or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive, plus one foot; and
- (2) Require within any AO zone on the municipality's DFIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade one foot above the depth number specified in feet (at least three feet if no depth

number is specified) or at or above the best available flood hazard data elevation plus one foot, whichever is more restrictive. And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures; or

- (3) Be floodproofed so that below the base flood level plus one foot, or the best available flood hazard elevation or as required by ASCE/SEI 24-14, Table 6-1, plus one foot (whichever is more restrictive), the structure is watertight with walls substantially impermeable to the passage of water;
- (4) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (5) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in § 364-14C.

C. Manufactured homes.

- (1) Manufactured homes shall be anchored in accordance with § 364-17A.
- (2) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall:
  - i. Be consistent with the need to minimize flood damage,
  - ii. Be constructed to minimize flood damage,
  - iii. Have adequate drainage provided to reduce exposure to flood damage,
  - iv. Be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation (published FIS/FIRM) or the best available flood hazard elevation, plus one foot, or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive; and,
  - v. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

[Amended 11-6-2013 by Ord. No. 2013-25]

§ 364-19 Coastal high hazard area and coastal A zone.

[Added 11-6-2013 by Ord. No. 2013-25]

Coastal high hazard areas (V or VE Zones) are located within the areas of special flood hazard established in § 364-7. These areas have special flood hazards associated with high-velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

A. Location of structures.

- (1) All buildings or structures shall be located landward of the reach of the mean high tide.
- (2) The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or subdivision.

B. Construction methods.

- (1) Elevation. All new construction and substantial improvements shall be elevated on piling or columns so that:
  - (a) The bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to above the base flood elevation, advisory base flood elevation or as required by the Uniform Construction Code (N.J.A.C. 5:23), whichever is more restrictive; and
  - (b) With all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided for in Subsection C(2).
- (2) Structural support.
  - (a) All new construction and substantial improvements shall be securely anchored on piling or columns.
  - (b) The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values, each of which shall have a one-percent chance of being equaled or exceeded in any given year (one-hundred-year mean recurrence interval).
  - (c) There shall be no fill used for structural support.
- (3) Certification. A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of Subsection B(1) and (2)(a) and (b).

C. Space below the lowest floor.

- (1) Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this section shall not enclose the space below the lowest floor unless breakaway walls, open wood latticework or insect screening are used as provided for in this section.
- (2) Breakaway walls, open wood latticework or insect screening shall be allowed below the base flood elevation, provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 10 pounds per square foot and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
  - (a) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
  - (b) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and

nonstructural). Water-loading values used shall be those associated with the base flood. Wind-loading values used shall be those required by applicable state or local building standards.

- (3) If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.
- (4) Prior to construction, plans for any breakaway wall must be submitted to the Building Subcode Official for approval.

D. Sand dunes. Prohibit man-made alteration of sand dunes within Zones Coastal A, VE and V on the community's DFIRM which would increase potential flood damage.

**SECTION TWO:** Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

**SECTION THREE:** If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

**SECTION FOUR:** This Ordinance shall take effect immediately upon its passage and adoption according to law.

Seconded by Councilwoman Horgan and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Councilman Taylor	( x )	( )	( )	( )
Councilman Whelan	( x )	( )	( )	( )
Councilman Yngstrom	( x )	( )	( )	( )
Councilman Ballard	( x )	( )	( )	( )
Councilman Zipprich	( x )	( )	( )	( )
Councilwoman Horgan	( x )	( )	( )	( )

First Reading: March 28, 2018

Final Reading: April 11, 2018

First Reading/Introduction: March 28, 2018  
Second Reading/Public Hearing: April 11, 2018  
Adoption: April 11, 2018  
I hereby certify the above to be a true copy.

Pamela Borghi

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Pamela Borghi, Municipal Clerk