

16-08 Amendment
ORDINANCE OF THE BOROUGH OF MERCHANTVILLE,
COUNTY OF CAMDEN, STATE OF NEW JERSEY ADDING
CHAPTER 33A, FLOOD DAMAGE PREVENTION, TO THE
CODE OF THE BOROUGH OF MERCHANTVILLE

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Merchantville, County of Camden, and State of New Jersey that Chapter 33A, Flood Damage Prevention, is hereby added to the Code of the Borough of Merchantville, as follows:

ARTICLE I. SECTION 33A-1 Statutory Authorization, Findings of Fact and Statement of Purpose.

A. 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 Merchantville of Camden County, New Jersey does ordain as follows:

B. Findings of Fact:

1. The flood hazard areas of the Borough of Merchantville 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.

2. 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 flood proofed, elevated or otherwise

protected from flood damage also contribute to the flood loss.

C. 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:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. 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;
6. Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

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

1. 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;

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

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

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

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

ARTICLE II. SECTION 33A-2 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.

Appeal — A request for a review of the Borough Clerk’s interpretation of any provision of this ordinance or a request for a variance.

Base Flood —A flood having a one percent 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.

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.

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:

- a) The overflow of inland or tidal waters and/or
- b) 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.

Flood proofing — 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.

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.

Lowest Floor — The lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable 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 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 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 condition before damage would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

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

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.

ARTICLE III. SECTION 33A-3 General Provisions.

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

B. The areas of special flood hazard for the Borough of Merchantville, Community ID # 340569, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

1. **A scientific and engineering report “Flood Insurance Study, Camden County, New Jersey (All Jurisdictions)” dated (August 17, 2016).**

2. **“Flood Insurance Rate Map for Camden County, New Jersey (All Jurisdictions)” as shown on Index and panels: (34007C0029F & 34007C0033E) whose effective date is (August 17, 2016).**

3. The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study, maps and advisory documents are on file at 1 West Maple Avenue, Merchantville, New Jersey.

C. 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 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 be liable for a fine not exceeding \$2,000.00, or imprisonment in the county jail for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or any combination of the penalties so listed, in the discretion of the Judge of the Municipal Court before whom such violation is heard and conviction made. Nothing herein contained shall prevent the Borough of Merchantville, from taking such other lawful action as is necessary to prevent or remedy any violation.

D. 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.

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

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and,
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

F. 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.

G. This ordinance shall not create liability on the part of the Borough of Merchantville, 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

ARTICLE IV. SECTION 33A-4 Administration.

A. 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 Chapter 33A-3(B). Application for a Development Permit shall be made on forms furnished by the Borough Clerk 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:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
2. Elevation in relation to mean sea level to which any structure has been flood proofed.
3. Description of the extent to which any watercourse will be altered or relocated

as a result of proposed development.

B. The Borough Clerk is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

C. Duties of the Borough Clerk shall include, but not be limited to:

1. PERMIT REVIEW

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

b. 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.

2. USE OF OTHER BASE FLOOD DATA - When base flood elevation data

has not been provided in accordance with Chapter 33A-3(B), the Borough Clerk shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State or other source, in order to administer Chapter 33A-5(A) and Chapter 33A-5(A).

3. INFORMATION TO BE OBTAINED AND MAINTAINED

a. 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.

b) Maintain for public inspection all records pertaining to the provisions of this ordinance.

4. ALTERATION OF WATERCOURSES

a) Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and 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.

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

5. SUBSTANTIAL DAMAGE REVIEW

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

b) 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, Dam Safety and Flood Control Section.

6. 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 Chapter 33A-4(D).

D. VARIANCE PROCEDURE

1. APPEAL BOARD

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

b) The Joint 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 Borough Clerk in the enforcement or administration of this ordinance.

c) Those aggrieved by the decision of the Joint Land Use Board, or any taxpayer, may appeal such decision to the Superior Court of New Jersey, as provided by statute.

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

waters 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 Chapter 33A-4(D)(1)(d) and the purposes of this ordinance, the Joint Land Use Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

f) The Borough Clerk shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

2. CONDITIONS FOR VARIANCES

a) 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 Chapter 33A-4(D)(1)(d) has been fully considered. As the lot size increases beyond the one-half 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 only be issued upon a determination that the variance

is the minimum necessary, considering the flood hazard, to afford relief.

d) 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 Chapter 33A-4(D)(1)(d), or conflict with existing local laws or ordinances.

e) 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.

ARTICLE V. SECTION 33A-5 Provisions for Flood Hazard Reduction

A. 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:

1. ANCHORING

a. All new construction and substantial improvements shall be anchored

to prevent flotation, collapse, or lateral movement of the structure.

b. 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.

2. CONSTRUCTION MATERIALS AND METHODS

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

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

3. UTILITIES

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

b. 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;

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

d. 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.

4. SUBDIVISION PROPOSALS

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

b. 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;

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

d. 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).

5. 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 (2) openings in at least two 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.

6. MANUFACTURED HOMES

1. Manufactured homes shall be anchored in accordance with Chapter 33A-5(A)(1).

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

- a. Be consistent with the need to minimize flood damage,
- b. Be constructed to minimize flood damage,
- c. Have adequate drainage provided to reduce exposure to flood damage.

ARTICLE VI.

All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

ARTICLE VII.

This Ordinance shall take effect upon passage and publication according to law.

THE BOROUGH OF MERCHANTVILLE

BY: _____
EDWARD F. BRENNAN, MAYOR

ATTEST:

DENISE BROUSE, BOROUGH CLERK

The foregoing ordinance was introduced by Mayor and Council at the regular meeting held on August 8, 2016. This Ordinance will be considered for adoption on final reading and public hearing to be held on September 12, 2016 at 7:30 p.m. in the Council Chambers, Merchantville Borough Hall, One West Maple Avenue, Merchantville, New Jersey.

The purpose of this Ordinance is to adopt the model Flood Damage Prevention Ordinance as required by the State of New Jersey. A copy of this Ordinance is available at no charge to the general public between the hours of 8:30 AM to 4:30 PM, Monday through Friday (Legal Holidays excluded), at the Office of the Borough Clerk, Merchantville Borough Hall, One West Maple Avenue, Merchantville, New Jersey 08109.