BOROUGH OF OAKLAND
BERGEN COUNTY, NEW JERSEY
ORDINANCE 19-CODE-788

AN ORDINANCE TO REPEAL AND REPLACE CHAPTER XIV OF THE CODE OF
THE BOROUGH OF OAKLAND ENTITLED “FLOOD DAMAGE PREVENTION”

CHAPTER XIV FLOOD DAMAGE PREVENTION.

14-1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND
OBJECTIVES.

14-1.1 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 Mayor and Council of the Borough of Oakland, of Bergen County, New Jersey does
ordain as follows:

14-1.2 Findings of Fact.
a. The flood hazard areas of the Borough of Oakland 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 obstruction in areas of special flood hazards
   which increase flood heights and velocities and when inadequately anchored, damage uses in other
   areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage
   also contribute to the flood loss.
   (Ord. #87-81, §2.2)

14-1.3 Statement of 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 expenditures 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 and bridges located in areas of special flood hazard;
f. To 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;
g. To ensure that potential buyers are notified that property is in an area of special flood hazard;
h. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
i. To prevent the installation of structures which increase flood heights;
j. To remove the impediment to community growth created by recurrent flooding; and

k. To prevent further inappropriate development in unprotected flood plans, thus reducing future expenditures for protective measures.

It is further stated that the purpose and intent of this Chapter is also to preserve and perpetuate in an open and natural state certain lake, water areas and watercourses, hereinafter described, because their unique physical features are deemed desirable and functional as natural drainageways and water retention areas, natural habitat for plant and animal life, green space, and other uses beneficial to the health, safety and welfare of the community.

The regulations of this Chapter are designed not only to preserve certain natural features as above stated, but also to protect the Borough from costs incurred in compensation for problems created by unsuitable development. Erosion control, flood control, control of defoliation and protection of aquifer recharge areas are all legitimate concerns affecting the health and safety of the citizens of the Borough, and as such, subject to control under this Chapter.

The areas herein described contain valuable environmental qualities which, in order to conserve the Municipality's natural resources, preserve the amenities of its environment, prevent the overcrowding of land, avoid undue concentration of population, and alleviate severe flooding problems, have been determined to best be retained in substantially an undeveloped state. (Ord. #87-81, §2.3)

14-1.4 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 flood plans, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

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 flood waters or which may increase flood hazards in other areas.

(Ord. #87-81, §2.4)

14-2 DEFINITIONS.

As used in this Chapter:

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

*AO Zone* shall mean 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.

*Appeal* shall mean a request for a review of the Construction Official’s interpretation of any provision of this Chapter or a request for a variance.

*Applicant* shall mean any person, partnership, corporation or public agency requesting permission to engage in land disturbance activity, construction or development.

*Approved plan* shall mean a plan to control surface water run-off which has been approved by the Planning Board of the Borough.
Area of shallow flooding shall mean a designated AO Zone on the Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater chance of flooding in a given year. The base flood depths range from one to three (1"—3") feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard shall mean the land in the floodplain within a community subject to a one percent (1%) 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 shall mean a flood having a one (1%) percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) shall mean 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 1-percent or greater chance of being equaled or exceeded in any given year.

Basement shall mean any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall shall mean 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.

Channel shall mean the bed and banks of a river, stream, drainage ditch, watercourse, or any other body of water which conveys the normally occurring flow.

Critical area shall mean any area which should not be disturbed by uses incompatible with the paramount public interest in the management of surface water run-off and attendant environmental damage. Examples of critical impact areas include, but are not limited to, lakes, ponds, flood plains and flood hazard areas designated stream corridors, steep slopes, swamps, marshes, bogs, watercourses, identified aquifer recharge and discharge areas, and heavily wooded areas.

Cumulative Substantial Improvement shall mean 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 shall mean 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.

Drainageway shall mean any watercourse, trench, ditch, depression or other hollow space in the ground, natural or artificial which collects or discharges surface water from land.

Elevated building shall mean 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 movement of flood waters.

Erosion shall mean the process of gradual wearing away of land masses.

Existing Manufactured Home Park or Subdivision shall mean 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 shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from:

a. The overflow of island or tidal waters and/or

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

Flood Insurance Rate Map (FIRM) shall mean the official map on which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary-Floodway-Floodway Map and the water surface elevation of the base flood.

Flood plain management regulations shall mean zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain 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 shall mean 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.

Floodway shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than two-tenths (0.2') foot.

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

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

Historic structure shall mean 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 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 shall mean 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 buildings lowest floor provided that such enclosure is not built so as to render the structure in violation of other applicable non-elevation design requirements of 44 CFR Section 60.3.

Manufactured home shall mean a structure, trans-portable in one (1) 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 shall mean a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

New manufactured home park or subdivision shall mean 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 flood plain management regulations adopted by the municipality.

Recreational vehicle shall mean a vehicle which is (i) built on a single chassis; (ii) four hundred (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.

Reviewing agency shall mean the Planning Board of the Borough designated as the reviewing agency and shall grant or deny development applications in accordance with the provisions of this Chapter.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348)) shall mean and include 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 one hundred eighty (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 shall mean a walled and rooted building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

Substantial damage shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50%) percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure during a 13-year period the cumulative 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 alteration will not preclude the structure's continued designation as a "historic structure".

Variance shall mean a grant of relief from the requirements of this Chapter which permits construction in a manner that would otherwise be prohibited by this Chapter.

(Ord. #87-81, §3; Ord. #96-315, §§1, 2)
Violation shall mean 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.

14-3 GENERAL PROVISIONS.

14-3.1 Lands to Which This Chapter Applies.
This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Oakland, Bergen County, New Jersey. (Ord. #87-81, §4.1)

14-3.2 Basis for Establishing the Areas of Special Flood Hazard.
The areas of special flood hazard for the Borough of Oakland, Community No. 345309, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
   a) A scientific and engineering report "Flood Insurance Study, Bergen County, New Jersey (All Jurisdictions)" dated August 28, 2019
   b) Flood Insurance Rate Map for Bergen County, New Jersey (All Jurisdictions) as shown on Index and panels 34003C0042H, 34003C0044H, 34003C0053H, 34003C0061H, 34003C0064H, 34003C0063H, 34003C0064H, 34003C0132H, 34003C0151H), whose effective date is August 28, 2019.

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at One Municipal Plaza, Oakland, New Jersey.

14-3.3 Penalties for Noncompliance.
No structure or land shall hereafter be constructed, re-located, extended to, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violations 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 subject to the General Penalty established in Section 1-5 of this Code. Nothing herein contained shall prevent the Borough of Oakland from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. #87-81, §4.3; New)

14-3.4 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. (Ord. #87-81, §4.4)

14-3.5 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 or repeal any other powers granted under State statutes. (Ord. #87-81, §4.5)

14-3.6 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 Chapter shall not create liability on the part of the Borough of Oakland, 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. (Ord. #87-81, §4.6)

14-4 ADMINISTRATION.

14-4.1 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 14-3.2. Application for a Development Permit shall be made on forms furnished by the Planning Board. (Ord. #87-81, §5.1)

14-4.2 Designation of Reviewing Authority.

The Construction Code Official is hereby designated to administer and implement this Chapter by granting or denying development applications and site plan approval in accordance with the provisions contained herein. (Ord. #87-81, §5.2)

14-4.3 Site Plan Approval.

a. No structures shall hereafter be erected, enlarged or expanded in any flood area unless a site plan shall have been submitted to the Construction Code Official for their review and approval. The plan shall be referred to the appropriate Borough agencies by the Construction Code Official for review and comment.

b. Applications shall be made on forms furnished by the Construction Code Official which may include, but not be limited to, the following:

1. Plans in duplicate drawn to scale, showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage or materials; drainage facilities, and the location of the foregoing.

c. The site plan shall, in addition to the information required under the Site Plan Ordinance of the Borough, show the following information:

1. The existing and proposed contours at a contour interval of two (2') feet.

2. Elevation in relation to mean sea level of the lowest proposed floor (including basement) within any proposed structure after its completion.

3. The proposed elevations of the lands involved at the corners of the foundation of any structure or structures.

4. The elevation in relation to mean sea level to which any non-residential structure has been flood-proofed.

5. Plans showing how any nonresidential flood-proofed structure will meet the flood-proofing criteria contained in subsection 14-5.2, and after the structure is built, a certification by a registered professional engineer or architect that the structure, as built meets the criteria of subsection 14-5.2, paragraph b.

6. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
7. The layout of existing and proposed public streets and the nature, extent and location of existing and proposed utilities servicing and to service the premises in question.

8. The elevation of any existing or proposed dumping facilities and overflow elevations of vents or entranceways, if underground. Overflow elevations of sewage treatment plan units.

9. The nature and extent of the construction, alterations or repairs.

10. Proof of encroachment lines obtained from the New Jersey Department of Environmental Protection, if applicable.

11. The extent of filling of the land, if any.

12. Surrounding structures within a two hundred (200') foot radius.

13. Grading in accordance with the recommendations set forth in Data Sheets 72 and 73 of Land Planning Bulletin No. 3, Neighborhood Standards for Northern New Jersey as issued by the Federal Housing Administration.

(Ord. #87-81, §5.2.1)

14-4.4 Duties of the Administrator in Implementing Site Plan Standards.
The duties of the Administrator shall include, but not be limited to, the following:

a. Application and Site Plan Approval.
   1. Review all development and site plan applications to determine that the requirements of this Chapter have been satisfied.
   2. Review all applications and determine or require that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
   3. Review all applications to determine if such proposed development is to be located in the floodway.

b. Permit Review. In reviewing any proposed structure or development within a flood area, the Administrator shall not approve a Site Plan unless it is reasonably assured that:
   1. Any structure can be occupied without peril to the health, or safety of the occupant.
   2. Any structure will not impede the flow of surface waters through any river, stream or other watercourse, natural or artificial.
   3. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow and placed approximately on the same flood flow lines as those adjoining structures.
   4. The site plan takes into account flood plain management programs, if any, already in effect in neighboring areas.

c. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with subsection 14-3.2, Basis for Establishing the Areas of Special Flood Hazard, then the Borough Engineer shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State or other source, in order to administer subsection 14-5.2, paragraph a, Specific Requirements in the Flood Plain.

d. Information to be Ordained 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 substantially improved flood proofed structures:
      (a) Verify and record the actual elevation (in relation to mean sea level); and
(b) Maintain the floodproofing certifications required by this section.

3. Maintain for public inspection all records pertaining to the provisions of this Chapter.

e. Alterations of Watercourses.

1. 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.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

f. Substantial Damage Review

1. After an event resulting in building damages, assess the damage to structures 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 sections 14-5.2-1, Specific Standards, Residential Construction, 14-5.2-2, Specific Standards, Nonresidential Construction and 14-5.2-3, Specific Standards, Manufactured Homes.

g. 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 subsection 14-4.5, Variance Procedure.

(Ord. #87-81, §5.3)

14-4.5 Variance Procedure.

a. Appeal Board.

1. The Planning Board as established by the Borough shall hear and decide appeals and requests for variances from the requirements of this Chapter.
2. The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Construction Official in the enforcement or administration of this Chapter.
3. Those aggrieved by the decision of the Planning Board, or any taxpayer, may appeal such decision to the Superior Court of New Jersey, as provided by law.
4. In passing upon such applications, the Planning Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and:
   (a) The danger that materials may be swept onto other lands to the injury of others;
   (b) The danger to life and property due to flooding or erosion damage;
   (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
   (d) The importance of the services provided by the proposed facility to the community;
   (e) The necessity to the facility of a waterfront location, where applicable;
   (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and flood plain management program of that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) 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

(k) 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.

5. Upon consideration of the facts of subparagraph 4 above, 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.

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

b. Conditions for Variances.

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a) through (j) in paragraph 4 above have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

2. 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.

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

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

5. Variances shall only be issued upon:
   
   (a) A showing of good and sufficient cause;

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

   (c) 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 frauds on or victimization of the public as identified in paragraph a, 4 of this subsection or conflict with existing local laws or ordinances.

6. 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.

(Ord. #87-81, §5.4; Ord. #96-316, §1)

14-4.6 Time Limitations.

The Planning Board shall act upon any site plan provided for in subsection 14-4.4 within the time periods provided in the Land Use Statute, N.J.S.A. 40:55D. (Ord. #87-81, §5.5)
14-5 PROVISIONS FOR FLOOD HAZARD REDUCTION.

14-5.1 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, is required:

a. The Planning Board shall also determine, with the advice and assistance of the Borough Engineer, Construction Official and other competent authority that:

1. Proposed construction, repairs or alterations shall use construction materials and utility equipment that are resistant to flood damage. Proposed construction, repairs or alterations shall be designed (or modified) and adequately anchored to prevent flotation collapse or lateral movement of the structure.

2. Construction methods and practices are used that will resist rupture or collapse from water pressure and minimize flood damage.

3. Proposed utilities and facilities such as water, sewer and electrical systems are located, elevated and constructed to minimize or eliminate flood damage. These shall include watertight manholes with vents, raised vents, flap valves, etc. Such systems shall be located to avoid impairment to them or contamination to them during flooding.

4. Drainage is provided to reduce exposure to flood hazards.

5. New or replacement water systems and sanitary sewer systems are designed and located to prevent infiltration, leakage, impairment or contamination during flooding.

6. Insulation of watertight doors.

7. Use of paints, membranes or mortars to reduce seepage of water through walls.

8. Backfill should be of soils with natural low permeability.

9. Eight (8") inches of compacted granular fill beneath ground floor, the fill materials shall act as a french drain.

10. No buried fuel oil tanks shall be permitted unless properly anchored and vented, with the vents two (2') feet above the flood level. In addition, the fill pipe shall also be two (2') feet above the flood level.

11. All mechanical devices and equipment subject to water damage, including furnaces and electrical distribution centers, shall be located at least two (2') feet above flood level.

b. 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 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.

c. 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.
d. **Utilities.**

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the system into flood waters;
3. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
4. d) For all new construction and substantial improvements, 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.

e. **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 new development which contain at least fifty (50) lots or five (5) acres (whichever is less).

f. **Enclosure Openings.** For all new construction and substantial improvements, fully enclosed areas below the lowest floor that 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 (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 conversions or devices provided that they permit the automatic entry and exit of floodwaters.

(Ord. #87-81, §6.1)

14-5.2 Specific Standards

In all areas of special flood hazards where base flood elevation data have been provided as set forth in section 14-3.2, Basis for Establishing the Areas of Special Flood Hazard or in Section 14-4.4c, Use Of Other Base Flood Data, the following standards are required:

5.2-1 Residential Construction

a) 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 (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated at: above the more restrictive base flood elevation plus one (1') foot or as required by ASCE/SEI 24-14, Table 2-1;

b) Require within any AO or AH zone on the municipality's DFIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated above the depth number specified
in feet plus one (1) foot, above the highest adjacent grade (at least three (3) feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

14-5.2-2 Nonresidential Construction

In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure located in an A or AE zone shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities as well as all electrical, heating, ventilating, air-conditioning and other service equipment:

either

a) Elevated at or above the more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1; and

b) Require within any AO or AH zone on the municipality's DFIRM to elevate above the depth number specified in feet plus one (1) foot, above the highest adjacent grade [optional – higher standard – freeboard – replace “one foot” with two feet or three feet] (at least three (3) feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

or

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

b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

c) 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 Section 14-4.4d2(b).

14-5.2-3 Manufactured Homes

a) Manufactured homes shall be anchored in accordance with Section 14-5.1b2.

b) 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 more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1 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 flotation, collapse, and lateral movement.

14-5.3 Floodways
Located within areas of special flood hazard established in Section 14-3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

b) If section 5.3 a) is satisfied, all new construction and substantial improvements must comply with section 14-5 Provisions For Flood Hazard Reduction.

c) In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the accumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

14-6 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.

14-7 ENACTMENT

7.01 ADOPTION

This Ordinance shall be effective on August 14, 2019 and shall remain in force until modified, amended or rescinded by the Borough of Oakland, Bergen County, New Jersey.

ENACTED AND ADOPTED by the Borough Council this 14 day of August, 2019.

ATTEST: Borough Council of the Borough of Oakland,

Lisa M. Duncan, Borough of Oakland, Borough Clerk

By:

Robert Knapp, Council President

APPROVED, this 14th day of August, 2019, by the Mayor of Borough of Oakland

ATTEST:

Lisa M. Duncan, Borough of Oakland Borough Clerk

Linda H. Schwager, Mayor

This is to certify that this is a true copy as adopted by the Mayor and Council of the Borough of Oakland at a meeting held on August 14, 2019.