

ORDINANCE NO. 19-2022
AN ORDINANCE AMENDING CHAPTER 145 FLOOD DAMAGE PREVENTION
ARTICLE IV ADMINISTRATION OF THE CODE OF THE CITY OF MARGATE CITY,
COUNTY OF ATLANTIC AND STATE OF NEW JERSEY

NOW THEREFORE BE IT ORDAINED by the Commissioners of the City of Margate, County of Atlantic and State of New Jersey as follows:

SECTION 1. Margate City Code **Chapter 145** is hereby amended to the following sections:

Article IV
Administration

The Floodplain Development Permit Application assists communities in evaluating the impact of activities proposed within New Jersey regulated flood plains or FEMA's Special Flood Hazard Areas (SFHA's). All activities must be in compliance with the regulations and standards set forth by local, state, and federal entities. For residents and property owners to be eligible for national flood insurance rates under the National Flood Insurance Program (NFIP), for communities to receive certain kinds of federal monies, the community must agree to certain floodplain development standards.

§ 145-12 Measurement of elevations; development permit.

- A. All elevations shall be measured in feet relative to the North American Vertical Datum of 1988 (NAVD88). The use of National Geodetic Vertical Datum of 1929 shall not be acceptable.
- B. A floodplain development permit application shall be submitted, prior to undertaking any development activities, to the Floodplain Management Administrator on forms furnished by him or her and must include, but not be limited to, the following plans, in duplicate, drawn to scale, showing the nature, location, dimensions, and elevations of the area under consideration for development; existing structure(s) and other features; proposed structure(s); earthen fill; storage of materials or equipment; drainage facilities; perimeter setbacks; environmental features such as base floodplain areas, wetlands, and other protected areas; and the location of the foregoing. Specifically, the following information, certified by a professional who is authorized to certify such information in the State of New Jersey, is required:
 - (1) Application stage:
 - (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 Article V;
 - (d) Existing and proposed infrastructure;
 - (e) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
 - (f) Building plans for any walls to be used to enclose space below the base flood elevation.
 - (g) An estimate prepared by an estimating firm of the total cost of building improvements using qualified labor and materials obtained at market prices, or similar estimate signed by a licensed architect or engineer or a signed bona fide contractor bid.
 - (2) Construction stage. Upon the placement of the top of block, the lowest floor or floodproofing by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the lowest floor or floodproofed elevation, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer who is authorized to certify such information in the State of New Jersey and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk.
- C. The Floodplain Administrator shall review the lowest floor elevation and floodproofing certificate. Should these documents be found not in conformance with the requirements of this chapter, the permit holder shall immediately cease further work and shall correct any deficiencies. Failure of the permit holder to submit the surveyed lowest floor elevation and floodproofing certificate, and failure to correct said deficiencies required hereby, shall be the cause to issue a stop-work order for the project.

§ 145-13 **Designation of Floodplain Management Administrator.**

The governing body of the City of Margate City hereby ~~appoints~~ authorizes the ~~appointment of a Construction Official/~~ Floodplain Administrator to administer and implement the provisions of this chapter, by granting or denying development permit applications in accordance with its provisions, and he/she is hereby referred to as the ~~"Floodplain Management Administrator" or the~~ "Floodplain Administrator."

The Floodplain Administrator shall serve as the chairperson of an administrative committee known as the Floodplain Development Committee which shall consist of the Floodplain Administrator, Zoning Officer and Technical Assistant to the Construction Official or such other officials who may be appointed by resolution of the governing body.

§ 145-14 **Duties and responsibilities of Administrator.**

Duties of the ~~Construction Official/~~ Floodplain Administrator shall include, but not be limited to:

- A. Permit review. The ~~Construction Official/~~ Floodplain Administrator in conjunction with the floodplain development committee shall:
 - (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 certified plans and specifications for compliance with the requirements of this chapter.
 - (4) Review all development permits in the areas of special flood hazard, except in the coastal high-hazard area, to determine if the proposed development adversely affects the flood-carrying capacity of the areas of special flood hazard. For the purpose of this chapter, "adversely affects" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will increase the water surface of the base flood more than 0.2 foot at any point.
 - (5) Review all development permits in the coastal high-hazard area and Coastal A Zone of the area of special flood hazard to determine if the proposed development alters sand dunes or other natural coastal protections so as to increase potential flood damage.
 - (6) Review plans for walls to be used to enclose space below the base flood elevation.
 - (7) Coordinate with Planning, Zoning, and Public Works and other departments in the community to assure that the requirements of this chapter are fully met.
 - (8) Participate actively in evaluating the variance requests and provide input and recommendations in variance hearings/proceedings.
- B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 145-7, Basis for establishing areas of special flood hazard, the ~~Construction Official/~~ Floodplain 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 § 145-17A, Specific provisions for flood hazard reduction, Residential construction, and § 145-17B, Specific provisions for flood hazard reduction, Nonresidential construction.
- C. Information to be obtained and maintained. The Administrator shall:
 - (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 § 145-12B(1)(c).
 - (3) Maintain for public inspection all records pertaining to the provisions of this chapter.
 - (4) In coastal high-hazard areas and Coastal A Zones, obtain certification from a registered professional engineer or architect that the elevation requirements of § 145-18B(1) and anchoring requirements of § 145-18B(2) have been met.
- D. Alteration of watercourses. The Administrator shall:

- (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.
- E. Interpretation of FIRM boundaries. The Administrator shall make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (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 this chapter.
- F. Critical facilities. Construction of new critical facilities shall have the lowest floor elevated at two feet above the base flood elevation. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the maximum extent possible.
- G. Substantial damage review. The Administrator shall:
- (1) After an event resulting in building damages, assess the damage to structures due to flood and nonflood causes.
 - (2) Record and maintain the flood and nonflood 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 §§ 145-17 and 145-18.

§ 145-15 **Variance procedures.**

A. Appeal Board.

- (1) The Planning Board, as established by the City of Margate City, shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The Planning Board of the City of Margate City shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the ~~Construction Official~~/Floodplain Administrator 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 in N.J.S.A. 40:55D-17h and 40:55D-18.
- (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 floodplain 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

floodwaters and the effects of wave action, if applicable, expected at the site;


- (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; and
- (l) The request for a variance is not an after-the-fact request.
- (5) Upon consideration of the factors of this chapter 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 ~~Construction Code Official~~/Floodplain Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

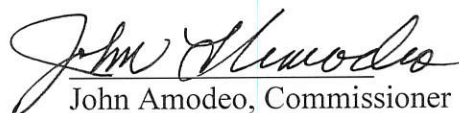
B. Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures below the base flood level, provided that the items in Subsection A(4)(a) through (I) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification 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 an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary deviation from the requirements of this chapter.
- (4) Variances may be issued when there is:
 - (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, or extraordinary public expense, create a nuisance, cause fraud on or victimization of the public as identified in § 145-15, or conflict with existing local laws or ordinance.
- (5) 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.

SECTION 2. All ordinances or parts of ordinances inconsistent with any terms of this ordinance are hereby repealed to the extent of such inconsistency only.

SECTION 3. This ordinance shall take effect upon its final passage and publication as required by law.


Michael Becker, Mayor


John Amodeo, Commissioner


Maury Blumberg, Commissioner

Board of Commissioners of the City of Margate City, NJ

Introduction: October 6, 2022

Advertisement: October 11, 2022

Adoption: October 20, 2022

Advertisement: October 24, 2022