



## **NOTICE OF ADOPTION OF ORDINANCE**

**PLEASE TAKE NOTICE** that the Governing Body of the Borough of Atlantic Highlands introduced the following Ordinance at their meeting on February 27, 2013. Following a Public Hearing held on March 27, 2013 this Ordinance was finally adopted. . This Ordinance is available for public inspection, and copies will be available at Borough Hall in the Municipal Clerk's office during regular business hours, 8:30 AM to 4:30 PM, Monday through Friday.

Dwayne M. Harris  
Municipal Clerk

# **ORDINANCE 04-2013**

## **ORDINANCE AMENDING THE CODE OF THE BOROUGH OF ATLANTIC HIGHLANDS CHAPTER 183 (FLOOD DAMAGE PREVENTION ORDINANCE)**

**WHEREAS**, the Legislature of the State of New Jersey has in N.J.S.A. 40:48-1 et seq. delegated responsibility to the local Government units to adopt regulations designed to promote public health, safety and general welfare of this citizenry; and

**WHEREAS**, the Mayor and Council of the Borough of Atlantic Highlands has determined that Flood Hazard areas of the Borough of Atlantic Highlands are subjected 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; and

**WHEREAS**, as a result of the foregoing, the Mayor and Council of the Borough of Atlantic highlands have adopted Chapter 183, Sections 183-1 et seq., the Flood Damage Prevention Ordinance; and

**WHEREAS**, the Flood Damage Prevention Ordinance presently utilizes Federal Insurance Administration Flood Profiles as well as Flood Insurance Rate Maps (FIRM's); and

**WHEREAS**, in response to "Superstorm Sandy" the Federal Emergency Management Agency (FEMA) has developed new Advisory Base Flood Elevation (ABFE) Maps to reflect new flood levels sustained during the storm surge of "Superstorm Sandy" which maps have now been adopted as Emergency Regulations and as the rebuilding standard for the entire State in order to provide families, businesses and communities with the best assessment of risk in order to better

mitigate damage from future storm and flooding events, avoid higher flood insurance costs and begin the rebuilding process; and

**WHEREAS**, the Borough of Atlantic Highlands has determined that it is appropriate to give recognition to these regulations and to revise the Flood Damage Prevention Ordinance to incorporate said regulations.

**NOW, THEREFORE, BE IT ORDAINED** that Chapter 183 of the Development Regulations of the Borough of Atlantic Highlands be and are hereby amended as follows:<sup>1</sup>

Section 183-1 – no change.

Section 183-2 – no change.

Section 183-3 – no change.

Section 183-4 – no change.

Section 183-5 – Definitions. Add the following definitions:

**Advisory Base Flood Elevation (ABFE) – the elevations shown on a community’s Advisory Flood Hazard Map that indicates the advisory stillwater elevation plus wave effect (ABFE=SWEL + WAVE EFFECT) resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.**

**Advisory Flood Hazard Area (AHFA) – the land in the flood plain within a community subject to flooding from the 1-percent annual chance event depicted on the Advisory Flood Hazard Map.**

**Advisory Flood Hazard Map – the official map on which the Federal Emergency Management Administration (FEMA) has delineated the areas of advisory flood hazards applicable to the community.**

**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 Way – the channel of a river or other water course 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 0.2 ft.**

Substantial Improvement – any reconstruction, rehabilitation, addition or other improvement of a structure the cost of which **equals or** exceeds fifty percent of the market value of the structure before the “start of construction” of the improvement, this term includes

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<sup>1</sup> Note that new material is **in bold underline**.

structures which have incurred “substantial damage” regardless of the actual repair work performed. 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 insure safe living conditions; or

(2) Any alteration of a “historic structure”, provided that the alteration will not preclude the structures’ continued designation as a “historic structure”.

Section 183-6 – no change.

Section 183-7.A. (3) Advisory Base Flood Elevations and Advisory Hazard Maps dated December 12, 2012. These documents shall take precedence over previous panels FIS in construction and development regulations only. Where the Special Flood Hazard Area (SFHA) and the Advisory Flood Hazard Area (AFHA) maps conflict or overlap, whichever imposes the more stringent requirement shall prevail.

Section 183-8 – no change.

Section 183-9 – no change.

Section 183-10 – no change.

Section 183-11 – no change.

Section 183-12 – no change.

Section 183-13 – no change.

Section 183-14 – no change.

Section 183-15 – no change.

Section 183-16 – 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: . . .

Section 183-16.A. through C. – no change.

Section 183-16.D. (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 of flood damage; and (4) base flood elevation data shall be provided for subdivision proposals and other proposed **new** development which contain at least fifty lots or five acres (whichever is less).

Section 183-17. Specific Standards. In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 183-7, basis for establishing Special Flood Hazard, or in Section 183-14, subsection B, use of other base flood data, the following standards are required:

A. Residential Construction.

(1) 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 **at or above the base flood elevation or advisory base flood elevation whichever is more restrictive plus one foot;**

(2) 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 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.

B. Non-residential Construction. In an area of special flood hazard, all new construction and substantial improvement of any commercial, industrial or other non-residential structure shall **have the lowest floor, including basement together with the attendant utilities and sanitary facilities; either**

**(1) Elevated to or above the base flood elevation or advisory base flood elevation whichever is more restrictive plus one foot; and**

(2) Require within any AO Zone on the Municipality's FIRM that all new construction and substantial improvement of any commercial, industrial or other non-residential structure shall either 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). And, require adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures; or

(a) Be flood proofed so that below the base flood level **plus one foot, or advisory base flood elevation plus one foot, whichever is more restrictive** 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 methods of 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 183-14.C.(2)(b).

C. Manufactured Homes.

(1) Manufactured homes shall be anchored in accordance with Section 183-16.A.(2).

(2) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation **or advisory base flood elevation, plus one foot, whichever is more restrictive.**

**D. Floodways. Located within areas of special flood hazard established Section 183-7 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:**

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

**(2) If Section 183-17.D.(1) is satisfied or all new construction in substantial improvements must comply with Article V. Flood Hazard Reduction.**

**(3) In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative 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.**

Section 183-18.A. – no change

Section 183-18.B.(1) Elevation. All new construction and substantial improvements shall be elevated on piling or columns so that **the bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood elevation, advisory base elevation or as required by the Uniform Construction Code (N.J.A.C. 5:23), whichever is more restrictive, and** with all space below the lowest floor supporting member open so as not to impede the flow of water, except for breakaway walls as provided or in Subsection B.(4).

Section 183-18.B.(2) and (3) – no change

Section 183-18.B.(4)(a)through (c) – no change

Section 183-18.B.(4)(d) Prior to construction, plans for any breakaway wall must be submitted to the **Building Subcode Official** for approval.

Section 183-18.C. – no change

As to the balance of Section 183-18 there are no changes.

**BE IT FURTHER ORDAINED**, that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

**BE IT FURTHER RESOLVED**, that this Ordinance shall take effect immediately upon passage and publication as provided by law.

**Motion:** Approve Ordinance 04-2013

**Moved by** Councilman Lou Fligor, **Seconded by** Councilman Robert Sutton

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

**Yes:** Councilman Roy Dellosso, Councilman Peter T. Doyle, Councilman Lou Fligor, Councilman Jacob Hoffmann, Councilman Robert Sutton.

Public Hearing and Possible Adoption will be held on March 27, 2013 at 7:00pm.

I, Dwayne M, Harris, Municipal Clerk of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body at its meeting held February 27, 2013. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 28th day of February 2013.

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Dwayne M. Harris, RMC  
Municipal Clerk