

Mayor Nolan offered the following ordinance as amended pass final reading and moved its final adoption:

**O-13-5**

**AN ORDINANCE OF THE BOROUGH OF HIGHLANDS IN THE COUNTY OF MONMOUTH AND STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 21 ZONING AND LAND USE REGULATIONS, OF THE GENERAL ORDINANCES OF THE BOROUGH OF HIGHLANDS**

**WHEREAS**, 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 the public health, safety and general welfare of its citizenry; and

**WHEREAS**, the Borough of Highlands wishes to adopt the Advisory Base Flood Elevations and Maps as recommended by the Federal Emergency Management Agency;

**WHEREAS**, the Borough of Highlands finds that it is in its best interest to amend and supplement Chapter 21 of the General Ordinances of the Borough of Highlands, entitled “Zoning and Land Use Regulations” to incorporate the Advisory Base Flood Elevations and Maps as recommended by the Federal Emergency Management Agency.

**NOW THEREFORE BE IT ORDAINED**, by the Governing Body of the Borough of Highlands, the County of Monmouth, in the State of New Jersey, as follows:

**NOTE:** All additions are shown in **bold italics with underlines**. The deletions are shown as **~~strikeovers in bold italics~~**. Sections of Chapter 21 that will remain unchanged are shown in normal type.

**Section 1.** Chapter 21, Part 1, Article II, Section 8, “Definitions” shall be amended to read as follows:

**GRADE PLANE** — ~~*A reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Finished grade shall be preconstruction grade on level sites grade and not in excess of two (2) feet above the preconstruction grade on the upland side(s) of a structure on sloping sites. Shall be defined as follows:*~~

- 1. Areas located outside the Flood Hazard Area: A reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Finished grade shall be preconstruction grade on level sites and not in excess of two (2) feet above the preconstruction grade on the upland side(s) of a structure on sloping sites.**
- 2. Areas or portions of the building area of a lot located within the Flood Hazard Area: The reference plane shall be the more restrictive of the Base**

Flood Elevation or Advisory Base Flood Elevation of the Flood Hazard Area plus one (1) foot.

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FLOOD HAZARD AREA — ~~That area encompassing the floodway and adjacent portions of the flood plain fixed by the hydraulic gradient line established by the nearest downstream bridge structure except that in no case shall it exceed the elevations established for determining the floodplain.~~ Land, and the space above that land, which lies below the flood hazard area design flood elevation. Structures, fill and vegetation that are situated on land that lies below the flood hazard area design flood elevation are described as being “in” or “within” the flood hazard area. The inner portion of the flood hazard area is called the floodway and the outer portion of the flood hazard area is called the flood fringe. There are two types of flood hazard areas:

1. Tidal flood hazard area, in which the flood hazard area design flood elevation is governed by tidal flooding from the Atlantic Ocean. Flooding in a tidal flood hazard area may be contributed to or influenced by stormwater runoff from inland areas, but the depth of flooding generated by the tidal rise and fall of the Atlantic Ocean is greater than flooding from any fluvial sources; and

2. Fluvial flood hazard area, in which the flood hazard area design flood elevation is governed by stormwater runoff. Flooding in a fluvial flood hazard area may be contributed to or influenced by elevated water levels generated by the tidal rise and fall of the Atlantic Ocean, but the depth of flooding generated by stormwater runoff is greater than flooding from the Atlantic Ocean.

FLOOD HAZARD AREA DESIGN ELEVATION — ~~The highest elevation, expressed in feet above sea level, of the flood of record or as determined by the criteria set forth for determining the floodplain.~~ The peak water surface elevation that will occur in a water during the flood hazard area design flood.

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FLOODPROOFING — ~~A combination of structural provisions and changes or adjustments to properties and structures subject to flooding for the reduction or elimination of flood damage to properties, water and sanitary facilities, and other utilities, structures and the contents of buildings.~~ Measures applied to a building that are intended to prevent or provide resistance to displacement, buoyancy and damage from flooding up to a certain elevation, so as to eliminate or reduce potential flood damage to the building and its contents. There are two types of flood-proofing:

1. Wet flood-proofing, which are measures that allow floodwaters to enter a building, and thereby balance hydrostatic pressure on the structure during a flood. Wet flood-proofing generally includes using flood-resistant materials, protecting mechanical and utility equipment, and using openings or breakaway walls; and

2. Dry flood-proofing, which are measures that prevent floodwaters from entering a building. Dry flood-proofing generally includes making the building watertight through sealing openings, installing waterproof doors and windows, or sealing walls with waterproof coatings, impermeable membranes and/or a supplementary layer of masonry or concrete.

FLOODWAY — ~~The portions of the floodplain adjoining the channel which are required to carry and discharge the flow of any natural stream.~~ Land, and the space above that land, which lies within the inner portion of the flood hazard area, and which is mathematically determined to be required to carry and discharge floodwaters resulting from the 100-year flood under certain conditions. The floodway always includes the channel and often includes land adjacent to the channel. The floodway is normally characterized by faster and deeper flows than the flood fringe, which is the portion of the flood hazard area outside the floodway. The "floodway" shall be delineated by the Department of Environmental Protection and Energy at N.J.A.C. 7:13-3.2.

SUBSTANTIAL IMPROVEMENT AND SUBSTANTIALLY IMPROVED — The costs of repairs equaling fifty percent (50%) or more of the market value of the structure as determined by the Flood Plan Administrator.

**Section 2.** Chapter 21, Part 4, Article XIV, Section 82, "Residential Uses and Districts" shall be amended to read as follows:

A. The following regulations shall apply to all residential uses and districts.

1. Each residential unit shall have two (2) on-site parking spaces for its exclusive use. These spaces may be provided within a garage or driveway. In addition to the two (2) spaces per unit, multifamily developments shall provide visitor parking at a rate of one-half (1/2) space per unit.

2. Any residential structure may be elevated to comply with the flood regulations of Part 7, and/or provide the required off-street parking under the structure, upon issuance of flood and building permits, provided there is no increase in the building coverage or floor area of the structure other than the addition of parking under the structure.

3. Any residential structure, outside the flood area, may be elevated to provide the required off-street parking under the structure, provided that ~~the garage ceiling height does not exceed eight (8) feet and~~ there is no increase in the building coverage or in the floor area of the structure other than the addition of parking under the structure.

4. Family day care homes, as defined in N.J.S.A. 40:55D-66.5b., shall be permitted in all residential districts in accordance with the provisions of N.J.S.A. 40:55D-66.5.

5. Community Residences. Community residences for the developmentally disabled, community shelters for victims of domestic violence, community residences for the terminally ill and community residences for persons with head injuries shall be a permitted use in all residential districts, and the requirements therefore shall be the same as for single family dwelling units located within such districts.  
(Ord. No. O-07-06 § 24)

**Section 3.** Chapter 21, Part 4, Article XIV, Section 83, “Business Uses and Districts” shall be amended to read as follows:

A. The following regulations shall apply to all business uses and districts.

1. Parking shall be provided in accordance with the parking standards in subsection 21-65.15 and may be provided either on or off site. Where parking is provided off site, the applicant may either provide dedicated private parking or participate in the development of public parking and associated access improvements.

2. Pedestrian access shall be provided from off-tract and municipal parking areas to commercial uses and between commercial uses and other attractions to encourage the use of off-site parking areas and pedestrian mobility.

3. A lot in an R-2 district which adjoins a B-1 or B-2 district may be used to provide access to any adjoining lot in the B-1 or B-2 district or for accessory parking to such adjoining lot.

4. Seasonal outdoor activities related to the principal use may be permitted with minor site plan approval. Such uses include, but are not limited to, outdoor eating areas for a restaurant, bicycle rentals for tourist related or sports uses, marine sales for waterfront marine uses.

**5. All Floodproofing shall be performed in accordance with FEMA regulations and the New Jersey Department of Environmental Protection regulations located at N.J.A.C. 7:13-1, et seq., whichever is the more restrictive.**

**Section 4.** Chapter 21, Part 7, Article XXIV, Section 113, “Definitions” shall be amended to read as follows:

**ADVISORY BASE FLOOD ELEVATION (ABFE) —The elevation 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 (AFHA) —The land in the floodplain within a community subject to flooding from the 1% annual chance event depicted on the Advisory Flood Hazard Map.**

**ADVISORY FLOOD HAZARD MAP - The official map on which the Federal Emergency Management Administration has delineated the areas of advisory flood hazards applicable to the community.**

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**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.**

...

**FLOODWAY — Land, and the space above that land, which lies within the inner portion of the flood hazard area, and which is mathematically determined to be required to carry and discharge floodwaters resulting from the 100-year flood under certain conditions. The floodway always includes the channel and often includes land adjacent to the channel. The floodway is normally characterized by faster and deeper flows than the flood fringe, which is the portion of the flood hazard area outside the floodway. The "floodway" shall be delineated by the Department of Environmental Protection and Energy at N.J.A.C. 7:13-3.2.**

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**LIMIT of MODERATE WAVE ACTION (LiMWA) - Inland limit of the area affected by waves greater than 1.5 feet during the base flood. Base flood conditions between the VE Zone and the LiMWA will be similar to, but less severe than those in the VE Zone.**

**Section 5.** Chapter 21, Part 7, Article XXIV, Section 115, “Basis for Establishing Areas of Special Flood Hazard” shall be amended to read as follows:

The areas of special flood hazard for the Borough of Highlands, Community No. 345297, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

A. A scientific and engineering report "Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions)" dated September 25, 2009.

1. A scientific and engineering report "Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions) dated September 25, 2009.

2. Flood Insurance Rate Map for Monmouth County, New Jersey (All Jurisdictions) as shown on Index and panel numbers 34025C0067F, 34025C0086F, 34025C0088F; whose effective date is September 25, 2009.

**3. The most current Advisory Base Flood Elevation and Advisory Flood Hazard Maps. These documents shall take precedence over previous panels and 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.**

The above documents are hereby adopted and declared to be a part of this Article. The Flood Insurance Study and maps are on file at 171 Bay Avenue, Highlands, New Jersey 00732-1405. (Ord. No. O-09-30 § 21-115)

**Section 6.** Chapter 21, Part 7, Article XXIV, Section 124 “General Standards” shall be amended to read as follows:

In all areas of special flood hazards ~~the following standards are required. (Ord. No. o-09-30§21-124)~~ **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 7.** Chapter 21, Part 7, Article XXIV, Section 124.4, “Subdivision Proposals” shall be amended to read as follows:

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 development which contain at least fifty (50) lots or five (5) acres (whichever is less).~~ **(Ord. No. O-09-30 § 21-124.4) all proposals in the Flood Hazard Area.**

**Section 8.** Chapter 21, Part 7, Article XXIV, Section 125.1 “Residential Construction” shall be amended to read as follows:

A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, **bottom of the lowest horizontal structural member elevated to or above the base flood elevation or advisory base flood elevation whichever is more restrictive.**

~~— B. 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 at least as high as the depth number specified in feet (at least two (2) 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.~~

~~(Ord. No. O-09-30 § 21-125.1)~~

**Section 9.** Chapter 21, Part 7, Article XXIV, Section 125.2 “Nonresidential Construction” shall be amended to read as follows:

In an area of special flood hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall:

A. 1. Either have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated ~~one (1) foot above the base flood elevation~~ at or above the base flood elevation or advisory base flood elevation whichever is more restrictive plus one foot; and

2. Within any ~~A0~~ zone on the municipality's FIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall ~~either~~ have the lowest floor, ~~including basement~~, elevated above the highest adjacent grade one foot above at least as high as the depth number specified in feet the highest adjacent grade (at least ~~two (2)~~ three (3) feet if no ~~depth grade~~ number is specified) or at or above the advisory base flood elevation plus one foot whichever is more restrictive. And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

or

B. 1. Be floodproofed so that below the base flood level plus one foot or advisory base flood elevation plus one foot (whichever is more restrictive) of the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

3. 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 subsection 21-122.3B,2.

(Ord. No. O-09-30 § 21-125.2)

**Section 10.** Chapter 21, Part 7, Article XXIV, Section 125.3 “Manufactured Homes” shall be amended to read as follows:

A. Manufactured homes shall be anchored in accordance with subsection 21-124.1A.

B. 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.

(Ord. No. O-09-30 § 21-125.3)

**Section 11.** Chapter 21, Part 7, Article XXIV, Section 125.4 “Coastal High Hazard Area” shall be amended to read as follows:

Coastal high hazard areas (V or VE Zones) are located within the areas of special flood hazard established in Section 21-115. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

A. Location of Structures.

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

B. Construction Methods.

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 **one (1) foot above the base flood level at or above the base flood elevation, Flood Hazard Area design flood elevation, advisory base flood elevation or as required by the Uniform Construction Code (N.J.A.C. 5:23) whichever is more restrictive provided that the finished floor is at least one foot above** with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided or in subsection 21-125.4B,4.

2. Structural Support.

- a. All new construction and substantial improvements shall be securely anchored on piling or columns.

- b. The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values each of which shall have a one (1%) percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

- c. There shall be no fill used for structural support.

3. Certification. A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of subsection 21-125.4B,1. and 21-125.4B,2a,b.

4. Space Below the Lowest Floor.

- a. Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this Article shall not enclose the space below the lowest floor unless breakaway walls, open wood lattice-work or insect screening are used as provided for in this section.

- b. Breakaway walls, open wood lattice-work or insect screening shall be allowed below the base flood elevation provided that they are intended to collapse



under wind and water loads and without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls which exceed a design safe loading of twenty (20) pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

(1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood and,

(2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

c. If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.

d. Prior to construction, plans for any breakaway wall must be submitted to the Building Sub-Code Official for approval.  
(Ord. No. O-09-30 §§ 21-125.4–21-125.6)

**Section 12.** All Ordinances, or parts thereof, inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of such inconsistency.

**Section 13.** Should any section, paragraph clause or any other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

**Section 14.** This Ordinance shall take effect upon its passage and publication according to law.

Seconded by Ms. Kane and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Ms. Kane, Mayor Nolan

**NAYES:** None

**ABSENT:** None

**ABSTAIN:** None

**DATE:** May 15, 2013

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**CAROLYN CUMMINS**  
**Borough Clerk**

**Intro:** March 20, 2013  
**Publication:** March 29, 2013, Two River Times  
**2<sup>nd</sup> Reading:** April 17, 2013  
**P.H./Amendment:** April 17, 2013  
**2<sup>nd</sup> Public Hearing:** May 15, 2013  
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**Publication:** May 24, 2013, Two River Times