

BOROUGH OF CRESSKILL  
ORDINANCE NO. 19-09-1541

AN ORDINANCE TO AMEND CHAPTER 132 FLOOD DAMAGE PREVENTION

WHEREAS, Chapter 132 of the General Ordinance of the Borough of Cresskill entitled Flood Damage Prevention was last amended by ordinance No. 95-18-1134; and

WHEREAS, the Mayor and Council recognize that Flood Damage causes a public health concern and safety hazard detrimental to the health and general welfare of the public and

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Cresskill, County of Bergen, State of New Jersey, as follows:

SECTION I

The Borough code of the Borough of Cresskill, County of Bergen, State of New Jersey is hereby amended and supplemented to amend Chapter 132 entitled "Flood Damage Prevention" so that the following Amendments shall be deemed as an overlay to the existing Ordinance which shall supplement, modify or amend the existing Ordinance Chapter 132 et. seq.

§ 132-1 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 the public health, safety, and general welfare of its citizenry. Therefore, the governing body of the Borough of Cresskill, of Bergen County, New Jersey does ordain as follows:

§ 6132-5 Definitions and word usage

AH ZONE

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

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.

AREA OF SPECIAL FLOOD HAZARD

Land in the floodplain within a community subject to a one-percent 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 ELEVATION (BFE)

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.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM)

The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

EROSION

The process of gradual wearing away of land masses.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at 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.

FLOODPROOFING

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.

#### FREEBOARD

A factor of safety usually expressed in feet above a flood level for purposes of flood plain 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

The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

#### LOWEST FLOOR

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 building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of other applicable elevation design requirements of 44 CFR Section 60.3

#### SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed forty (40) percent of the market value of the structure before the damage occurred. Substantial Damage also means flood-related damages sustained by a structure on two or more separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

#### SUBSTANTIAL IMPROVEMENT

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

#### VIOLATION

The failure of a structure or other development to be fully compliant with this chapter. 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.

#### § 132-6 Applicability.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Cresskill, Bergen County, New Jersey.

#### § 132-7 Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled the "Flood Insurance Study of Bergen County, New Jersey," dated August 28, 2019 with accompanying Flood Insurance Rate Map Panels 203, 204, 210, 211, 212 and 220 of 332, dated August 28, 2019, is hereby adopted by reference and declared to be a part of this chapter as hereafter amended. The Flood Insurance Study is on file at the Cresskill Municipal Building, 67 Union Avenue, Cresskill, New Jersey, 07626.

#### § 132-8 Compliance required; violation and penalties.

No structure or land shall hereafter be constructed, re-located to, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violation 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 knowingly violates a provision of this chapter or a rule, regulation or order adopted pursuant to this chapter shall be subject to a penalty of not more than \$2,500 for each offense and any person who otherwise violates a provision of this chapter shall be subject to a penalty of not more than \$1,500 for each offense, both to be collected by the Department in a summary proceeding under the "Penalty

Enforcement Law" (N.J.S.A. 2A:58-1 et seq.), and in any court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day which it continues shall constitute an additional, separate and distinct offense. The Department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the Department as may appear appropriate and equitable under all of the circumstances. All moneys recovered in any such action, together with the costs recovered therein, shall be paid to the Environmental Services Fund. Nothing herein contained shall prevent the Borough of Cresskill from taking such other lawful action as is necessary to prevent or remedy any violation.

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Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

#### § 132-12 Development permits.

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 § 132-7. Application for a development permit shall be made on forms furnished by the Borough of Cresskill and may include, but not be limited to, plans, in duplicate, drawn to scale showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required:

- A. The elevation, in relation to sea level, of the lowest floor (including basement) of all structures.
- B. The 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 § 132-18B.
- D. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

#### § 132-14 Duties and responsibilities of the Chief Construction Official.

D. The Chief Construction Official 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.

#### F. SUBSTANTIAL DAMAGE REVIEW

- a) After an event resulting in building damages, assess the damage to structures due to flood and non-flood causes.
- b) Record and maintain the flood and non-flood damage of substantial damage structures and provide a letter of Substantial Damage Determination to the owner and the New Jersey Department of Environmental Protection, Bureau of Flood Control.
- c) Ensure substantial improvements meet the requirements of sections 5.2-1, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, 5.2-2, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION and 5.2-3, SPECIFIC STANDARDS, MANUFACTURED HOMES.

#### § 132-15 APPEALS BOARD

- A. The Planning Board, as established by the Borough of Cresskill, shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Chief Construction Official in the enforcement of the Administration of this Chapter.
- C. Those aggrieved by the decision of the Chief Construction Official, or any taxpayer, may appeal such decision to the Borough Zoning Board as provided in §38-37
- D. In passing upon such applications, the Zoning Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
  1. The danger that materials may be swept onto other lands to the injury of others;
  2. The danger to life and property due to flooding or erosion damage;
  3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  4. The importance of the services provided by the proposed facility to the community;
  5. The necessity to the facility of a waterfront location, where applicable;
  6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and flood plan management program of that area;
  9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
  11. The costs of provided governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges
- E. Upon consideration of the factors of Subsection D and the purposes of this chapter, the Zoning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The Zoning Board shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

§ 132-17 General standards for flood hazard reduction.

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:

C. Utilities.

(4) For all new construction and substantial improvements the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. 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.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed new development which contain at least 50 lots or five acres (whichever is less).

E. (1) A minimum of two openings in at least two (2) exterior walls of each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

§ 132-18 Specific standards for flood hazard reduction.

In all areas of special flood hazards where base flood elevation data have been provided as set forth in §132-7, Basis for establishing areas of special flood hazard, or in §132-14B, Use of other base flood and floodway data the following standards are required:

Existing Subsections §132-18(A)(B) and (C) are hereby deleted in their entirety.

- A. Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
- B. Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floodproofed so that below the base flood level of the structure is watertight with walls substantially impermeable to the passage of water, have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy and 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 verification shall be provided to the official as set forth in §132-14C(2).
- C. Manufactured homes.
  1. Manufactured homes shall be anchored in accordance with §132-17A(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.

## SECTION II

All other Ordinances of the Borough, or parts thereof, which are in conflict with this Ordinance, are hereby repealed to the extent of such conflict.

## SECTION III

If any section, subsection, paragraph, subdivision, or sentence of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such decision shall apply only to the section, subsection, paragraph, subdivision, sentence, clause, phrase or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

## SECTION IV

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

## SECTION V

If any provision of this Ordinance Amending Chapter 132 et. seq. conflicts with the current Chapter 132 et. seq., it shall be conclusively presumed that the language in the Amended Ordinance shall control.