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| Section | Text | Reference / Regulation | Comments |
| Ordinance  Header | ORDINANCE FOR ADOPTION OF THE FLOODPLAIN MANAGEMENT REGULATIONS  OF {COMMUNITY}  ORDINANCE NO. XX-XX  AN ORDINANCE BY THE {*community’s governing body*} AMENDING THE {*name of community*} CODE OF ORDINANCES TO REPEAL {*insert appropriate chapter/section numbers*}; TO ADOPT A NEW {*insert appropriate chapter/section numbers*}; TO ADOPT FLOOD HAZARD MAPS; TO DESIGNATE A FLOODPLAIN ADMINISTRATOR; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE. | FEMA MCCO |  |
| Whereas 1 | WHEREAS, the Legislature of the State of New Jersey has, in in N.J.S.A. 40:48 et seq. and N.J.S.A. 40:55D , et seq., conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and | FEMA MCCO  NJSA 40:48 (“Police Power”)  NJSA 40:55D (“the Municipal Land Use Law”) |  |
| Whereas 2 | WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of {*name of community***}** and such areas may be subject to periodic inundation which may result 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 | FEMA MCCO |  |
| Whereas 3 | WHEREAS, the {name of community} was accepted for participation in the National Flood Insurance Program on {date of regular program entry} and the {Community's governing body} desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59, 60, 65 and 70 necessary for such participation;; and | FEMA MCCO |  |
| Whereas 4 | WHEREAS, the {*name of community*} is required, pursuant to N.J.A.C. 5:23, to administer and enforce the State building code, and such building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas; and | FEMA MCCO  NJAC 5:23 (“The Uniform Construction Code”) |  |
| Whereas 5 | WHEREAS, the {*name of community*} is required, pursuant to N.J.S.A. 40:49-5, to enforce zoning codes that secure safety from floods and contain certain provisions that apply to the development of lands; and |  |  |
| Whereas 6 | WHEREAS, the {name of community}is required, pursuant to N.J.S.A.58:16A-57, within 12 months after the delineation of any flood hazard area, to adopt rules and regulations concerning the development and use of land in the flood fringe area which at least conform to the standards promulgated by the New Jersey Department of Environmental Protection (NJDEP). | Flood Control - Rules and regulations by affected municipality or other responsible entity for development and use of land in flood fringe area |  |
| Now /Section 1 Recitals | NOW, THEREFORE, BE IT ORDAINED by the {*community’s governing body*} of {*name of community*} that the following floodplain management regulations are hereby adopted.  SECTION 1. RECITALS.  The foregoing whereas clauses are incorporated herein by reference and made a part hereof.  SECTION 2. These regulations specifically repeal and replace the following ordinance(s) and regulation(s): {*insert citation to existing floodplain management regulations that will be replaced by these regulations and, if applicable, citation(s) to other ordinances that have flood provisions, such as subdivision regulations, that also will be replaced by these regulations*}. | FEMA MCCO |  |
| Scope/101/1 | SCOPE AND ADMINISTRATIONTitle.  These regulations, in combination with the flood provisions of the Uniform Construction Code (UCC), N.J.A.C. 5:23 (hereinafter “Uniform Construction Code,” consisting of the Building Code, Residential Code, Rehabilitation Subcode and related codes), and the New Jersey Flood Hazard Area Control Act (hereinafter “FHACA”), N.J.A.C. 7:13, shall be known as the Floodplain Management Regulations of {*name of community*} (hereinafter “these regulations”). | FEMA MCCO with references added for NJAC 7:13 and 5:23 |  |
| 101.2 | Scope. These regulations, in combination with the flood provisions of the Uniform Construction Code and FHACA shall apply to all proposed development in flood hazard areas established in Section 102 of these regulations. | FEMA MCCO |  |
| 101.3 | * + 1. Purposes and objectives.  The purposes and objectives of these regulations are to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas through the establishment of comprehensive regulations for management of flood hazard areas, designed to:  1. Protect human life and health 2. Prevent unnecessary disruption of commerce, access and public service during times of flooding. 3. Manage the alteration of natural floodplains, stream channels and shorelines; 4. Manage filling, grading, dredging and other development which may increase flood damage or erosion potential. 5. Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards. 6. Contribute to improved construction techniques in the floodplain. 7. Minimize damage to public and private facilities and utilities. 8. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas. 9. Minimize the need for rescue and relief efforts associated with flooding. 10. Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas. 11. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events. 12. Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 Code of Federal Regulations, Section 59.22. | FEMA MCCO with the inclusion of “Protect human life and health.” from NJAC 7:13-1.1(c)1  44 CFR 59.22 |  |
| 101.4 | Coordination with Building Codes  Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Building Code, that the {*name of community*} administer and enforce the State building codes, the {*community’s governing body*} of {*name of community*} does hereby acknowledge that the Uniform Construction Code contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the Uniform Construction Code. | FEMA MCCO  UCC - NJAC 5:53 |  |
| 101.5 | * 1. Ordinary Building Maintenance and Minor Work   Improvements defined as ordinary building maintenance and minor work projects by the Uniform Construction Code including non-structural replacement-in-kind of windows, doors, cabinets, plumbing fixtures, decks, walls, partitions, new flooring materials, roofing, etc. shall be evaluated by the Floodplain Administrator through the floodplain development permit to ensure compliance with the Substantial Damage and Substantial Improvement Section 102.13 of this ordinance. | 44 CFR 60.3  NJAC 5:23-6.3A | FEMA requires reviews of substantial improvements to structures in the floodplain. With the removal of this work from NJAC 5:23 through the NJ Register on March 5, 2018, ordinary building maintenance and minor work must be reviewed by the Floodplain Administrator to ensure compliance with the NFIP. Additional information on types of improvements is available in *FEMA P-758 Substantial Damage/Substantial Improvement Desk Reference.* |
| 101.6 | * 1. Warning.  The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. | FEMA MCCO |  |
| 101.7 | Other laws.  The provisions of these regulations shall not be deemed to nullify any provisions of local, State or federal law. | FEMA MCCO |  |
| 101.8  101.8.1 Solid Waste Disposal in Floodplains and Floodways | Violations and Penalties for noncompliance. No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation under N.J.S.A. 40:49-5. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to one (1) or more of the following: a fine of not more than $1250 [or optional higher threshold amount up to $2000 under N.J.S.A 40:49-5], imprisonment for a term not exceeding ninety(90) days or a period of community service not exceeding 90 days.Each day in which a violation of an ordinance exists shall be considered to be a separate and distinct violation subject to the imposition of a separate penalty for each day of the violation as the Court may determine except that the owner will be afforded the opportunity to cure or abate the condition during a 30 day period and shall be afforded the opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the 30 day period, a fine greater than $1250 [or optional higher threshold amount up to $2000 under N.J.S.A. 40:49-5] may be imposed if the court has not determined otherwise, or if upon reinspection of the property, it is determined that the abatement has not been substantially completed.Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance. 101.8.1 Solid Waste Disposal in a Flood Hazard Area. Any person who has unlawfully disposed of solid waste in a floodway or floodplain who fails to comply with this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $2500 or up to a  maximum penalty by a fine not exceeding $10,000 under N.J.S.A. 40:49-5. | FEMA MCCO requirement. However, language references NJSA 40:49-5 (“Penalties for Violations of Municipal Ordinances”) | $1250 is the minimum fine. Municipalities may increase fines up to $2000 per the Statute.  FEMA provided feedback that existing language did not definitely describe or provide a path for compliance, especially for illegal conversions below the lowest floor.  The 30-Day compliance period for zoning violations is per the Statute. This language provides clarity on the time limits necessary to achieve compliance for violations of this ordinance.  The language was developed based upon model ordinance language available on the League of Municipalities website for NJSA 40:49-5.  Solid Waste Disposal in floodways: NJAC 7:13-2.4 regulates the storage of unsecured materials in the floodplain. Any unpermitted unsecured material meeting the definition of solid waste which has not been permitted by NJAC 7:13 and meets the definition for Solid Waste Disposal in NJAC 7:26 (and also defined in this ordinance) can be regulated by NJSA 40:49-5 with higher fines than for other floodplain violations. Regulation of solid waste is especially important if it is being used illegally as fill or has the potential to obstruct drainage culverts and cause flood damage to property outside of the areas regulated by this ordinance. Egregious non-compliance can also be pursued under State law which has a higher fine structure. |
| 101.9 | Abrogation and greater restrictions. These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern. | FEMA MCCO |  |
| 102.1 Applicability/Genera | APPLICABILITY102.1 General.These regulations, in conjunction with the Uniform Construction Code, provide minimum requirements for development located in flood hazard areas, including the subdivision of land and other developments; site improvements and installation of utilities; placement and replacement of manufactured homes; placement of recreational vehicles; new construction and alterations, repair, reconstruction, rehabilitation or additions of existing buildings and structures; substantial improvement of existing buildings and structures, including repair of substantial damage; installation of tanks; temporary structures and temporary or permanent storage; utility and miscellaneous Group U buildings and structures; and certain building work exempt from permit under the building codes; and other buildings and development activities. | FEMA MCCO |  |
| 102.2 | 102.2 Establishment of Flood Hazard Areas.The {*name of community*} was accepted for participation in the National Flood Insurance Program on {*date of regular program entry or date of first floodplain management ordinance, whichever is earlier*}.The National Flood Insurance Program (NFIP) floodplain management regulations encourage that all Federal, State, and Local regulations that are more stringent than the minimum NFIP standards take precedence in permitting decisions. The FHACA requires that the effective map, most recent preliminary FEMA mapping and flood studies, and Department delineations be compared to determine the most restrictive mapping. The FHACA also regulate unstudied flood hazard areas in watersheds measuring 50 acres or greater in size and most riparian zones in New Jersey. Because of these higher standards, the regulated flood hazard area in New Jersey may be more expansive and more restrictive than the FEMA Special Flood Hazard Area. Maps and studies that establish flood hazard areas are on file at the {*name and address of the office of the Floodplain Administrator*}.The following sources identify flood hazard areas in this jurisdiction and must be considered when determining the Best Available Flood Hazard Data Area: | NJAC 7:13-3  44CFR 60.3 |  |
| 102.2.1 | Effective Flood Insurance Study. Special Flood Hazard Areas (SFHAs) identified by the Federal Emergency Management Agency in a scientific and engineering report entitled {*full title of the FIS*} dated {*effective date of FIS*} and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 102.2(1) whose effective date is {effective date of appendix map} are hereby adopted by reference. | NJAC 7:13-3 |  |
| 102.2 | * + - * 1. Federal Best Available Information. {*community name*} shall utilize federal flood information as listed in the table below that provides more detailed hazard information, higher flood elevations, larger flood hazards areas, and results in more restrictive regulations. This information may include but is not limited to: preliminary flood elevation guidance from FEMA (such as Advisory Flood Hazard Area Maps, Work Maps or Preliminary FIS and FIRM), Additional Federal Best Available studies issued after the date of this ordinance must also be considered. These studies are listed on FEMA’s Map Service Center. This information shall be used for floodplain regulation purposes only. | NJAC 7:13-3 |  |
| 102.2.3 | * + - * 1. Other Best Available Data. {*community name*} shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the {*name of community*}. Other “best available information” may not be used which results in less restrictive flood elevations, design standards, or smaller flood hazard areas than the sources described in Section 102.2 (1) and (2), above. This information shall be used for floodplain regulation purposes only.   Optional Higher Standard – The community may develop more restrictive flood zone mapping with larger areal extents or more restrictive elevations by resolution and incorporating these maps into this ordinance. A record shall be kept in this ordinance of the more restrictive map in the following Table, renumbering subsequent tables as necessary. |  | ABFE Maps should be addressed here. Also, any local higher standard mapping developed for Community Rating System credit or pursuant to ASCE 24 can be addressed here. Records must be kept of when these maps are used for regulatory purposes. |
| 102.2.4 | * + - * 1. State Regulated Flood Hazard Areas.   For State regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the “Flood Hazard Area Control Act Design Flood Elevation”, as defined in Section 201, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the Special Flood Hazard Areas (SFHAs) as identified by FEMA. The following is a list of New Jersey State studied waters in this community under the FHACA and their respective map identification areas. | NJAC 7:13-3 | To determine whether a project is within a 50 acre watershed, an applicability determination may be requested by the applicant during the State permit process under NJAC 7:13-2.5. |
| 102.3 | 102.3 Establishing the Local Design Flood Elevation (LDFE). The Local Design Flood Elevation (LDFE) is established in the flood hazard areas determined in Section 102.2, above, using the best available flood hazard data sources, and the Flood Hazard Area Control Act minimum Statewide elevation requirements for lowest floors in A, Coastal A, and V zones, ASCE 24 requirements for critical facilities as specified by building code, plus additional freeboard as specified by this ordinance.At a minimum, the Local Design Flood Elevation shall be as follows: | NJAC 7:13-3  NJAC 7:13-12 |  |
| 102.3.1 | 1. For a delineated watercourse, the elevation associated with the Best Available Flood Hazard Data Area determined in Section 102.2, above plus one foot as described by N.J.A.C. 7:13 [or higher standard feet] of freeboard; or | NJAC 7:13-3  NJAC 7:13-12 |  |
| 102.3.2 | 1. For any undelineated watercourse (where mapping or studies described in 102.2 (1) and (2) above are not available) that has a contributory drainage area of 50 acres or more, the applicants must provide one of the following to determine the Local Design Flood Elevation:    1. a. A copy of an unexpired NJDEP Flood Hazard Area Verification plus one foot [or higher standard feet] of freeboard and any additional freeboard as required by ASCE 24; or    2. b. A determination of the Flood Hazard Area Design Flood Elevation using Method 5 or Method 6 (as described in N.J.A.C. 7:13) plus one foot or [higher standard feet] of freeboard and any additional freeboard as required by ASCE 24. Any determination using these methods must be sealed and submitted according to Section 105.2-3. | NJAC 7:13-3  NJAC 7:13-12  Method 5 – NJAC 7:13-3.5  Method 6 – NJAC 7:13-3.6 |  |
| 102.3.3 | 1. AO Zones – For Zone AO areas on the municipality’s FIRM (or on preliminary flood elevation guidance from FEMA), the Local Design Flood Elevation is determined from the FIRM panel as the highest adjacent grade plus the depth number specified plus one foot [or higher standard feet of freeboard . If no depth number is specified, the Local Design Flood Elevation is three (3) feet [or more feet above highest adjacent grade. | NJAC 7:13-3  NJAC 7:13-12 | 44 CFR 60.3(c)7 requires 2 feet but NJAC 7:13-12 adds 1 foot of freeboard to the zone elevation |
|  | 1. Class IV Critical Facilities - For any proposed development of new and substantially improved Flood Design Class IV Critical Facilities, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 2 feet [or higher standard feet] of freeboard in accordance with ASCE 24. | UCC – ASCE-24-14 Tables 2-1 and 4-1 requirements for Class IV buildings |  |
| 102.3.5 | 1. Class III Critical Facilities - For proposed development of new and substantially improved Flood Design Class III Critical Facilities in coastal high hazard areas, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 1 foot [or higher standard feet] of freeboard in accordance with ASCE 24. | UCC – ASCE-24-14 Table 4-1 requirement for Class III buildings |  |
| 103.1 | DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR 103.1 Floodplain Administrator Designation  The {*insert position title*} is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees. | FEMA MCCO  44 CFR 59.22(b) |  |
| 103.2 | * 1. General.The Floodplain Administrator is authorized and directed to administer the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to Section 107 of these regulations. |  |  |
| 103.3 | 103.3 Coordination.  The Floodplain Administrator shall coordinate with the Construction Official to administer and enforce the flood provisions of the Uniform Construction Code. | FEMA MCCO  44 CFR 59.22(b) |  |
| 103.4 | 103.4 Duties.The duties of the Floodplain Administrator shall include but are not limited to:  1. Review all permit applications to determine whether proposed development is located in flood hazard areas established in Section 102 of these regulations. 2. Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage. 3. Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information. 4. Determine whether additional flood hazard data shall be obtained or developed. 5. Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete. 6. Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 103.13 of these regulations. 7. Coordinate with the Construction Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs. 8. Review requests submitted to the Construction Official seeking approval to modify the strict application of the flood load and flood resistant construction requirements of the Uniform Construction Code, to determine whether such requests require consideration as a variance pursuant to section 107 of these regulations. 9. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available. 10. Require applicants who propose alteration of a watercourse to notify adjacent jurisdictions and the NJDEP Bureau of Flood Engineering, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA). 11. Inspect development in accordance with Section 106 of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits. 12. Prepare comments and recommendations as for consideration when applicants seek variances in accordance with Section 107 of these regulations. 13. Cite violations in accordance with Section 108 of these regulations. 14. Notify the Federal Emergency Management Agency when the corporate boundaries of {*name of community}* have been modified. 15. Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in Section 102.2. | FEMA MCCO  44 CFR 60.3  44 CFR 60.2(h)  44 CFR 65.3  44 CFR 65.4  44 CFR 59.22(a)  NJAC 7:13-11  NJAC 5:23-6.3A | 15) Ordinary Maintenance and Minor Work is added to comply with NFIP Substantial Improvement requirements. |
| 103.5 | 103.5 Use of Changed Technical Data.The Floodplain Administrator and the applicant shall not use changed flood hazard area boundaries or base flood elevations for proposed buildings or developments unless the Floodplain Administrator or applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) and has received the approval of the Federal Emergency Management Agency. A revision of the effective FIRM does not remove the related feature(s) on a flood hazard area delineation that has been promulgated by the NJDEP. A separate application must be made to the State pursuant to N.J.A.C. 7:13 for revision of a flood hazard design flood elevation, flood hazard area limit, floodway limit, and/or other related feature. | FEMA MCCO  NJAC 7:13 -3.7 |  |
| 103.6 | 103.6 Other permits.It shall be the responsibility of the Floodplain Administrator to assure that approval of a proposed development shall not be given until proof that necessary permits have been granted by federal or State agencies having jurisdiction over such development, including section 404 of the Clean Water Act. In the event of conflicting permit requirements, the Floodplain Administrator must ensure that the most restrictive floodplain management standards are reflected in permit approvals. | 44 CFR 60.1(d)  44 CFR 60.3(a) |  |
| 103.7 | * 1. Determination of Local Design Flood Elevations.If design flood elevations are not specified, the Floodplain Administrator is authorized to require the applicant to:      1. Obtain, review, and reasonably utilize data available from a federal, State, or other source, or      2. Determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be performed and sealed by a licensed professional engineer. Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator. The   accuracy of data submitted for such determination shall be the responsibility of the applicant.  It shall be the responsibility of the Floodplain Administrator to verify that the applicant’s proposed Best Available Flood Hazard Data Area and the Local Design Flood Elevation in any development permit accurately applies the best available flood hazard data and methodologies for determining flood hazard areas and design elevations described in 102.2 and 102.3 respectively. This information shall be provided to the Construction Official and documented according to Section103.15. | FEMA MCCO  44 CFR 60.3(c)4 |  |
| 103.8 | 103.8 Requirement to submit new technical data.  Base Flood Elevations may increase or decrease resulting from natural changes (e.g., erosion, accretion, channel migration, subsidence, uplift) or man-made physical changes (e.g., dredging, filling, excavation) affecting flooding conditions. As soon as practicable, but not later than six months after the date of a man-made change or when information about a natural change becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data. | FEMA MCCO  44 CFR 65.4(b)  44 CFR 70.3 |  |
| 103.9 | 103.9 Activities in riverine flood hazard areas.  In riverine flood hazard areas where design flood elevations are specified but floodways have not been designated, the Floodplain Administrator shall not permit any new construction, substantial improvement, or other development, including the placement of fill, unless the applicant submits an engineering analysis prepared by a licensed professional engineer that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the design flood elevation by more than 0,2 foot at any point within the community. | FEMA MCCO  44 CFR 60.3(c)  44 CFR 65.3  44 CFR 65.6  NJAC 7:13 |  |
| 103.9 | 103.9 Floodway encroachment.Prior to issuing a permit for any floodway encroachment, including fill, new construction, substantial improvements and other development or land-disturbing activity, the Floodplain Administrator shall require submission of a certification prepared by a licensed professional engineer, along with supporting technical data, that demonstrates that such development will not cause any increase in the base flood level. | FEMA MCCO  44 CFR 60.3(c)10????  NJAC 7:13 |  |
| 103.10.1 | 103.9.1 Floodway revisions. A floodway encroachment that increases the level at the base flood is authorized if the applicant has applied for a Conditional Letter of Map Revisions (CLOMR) to the Flood Insurance Rate Map (FIRM) and has received the approval of FEMA. | FEMA MCCO  44 CFR 60.3(c)10???? |  |
| 103.11 | 103.10 Watercourse alteration.Prior to issuing a permit for any alteration or relocation of any watercourse, the Floodplain Administrator shall require the applicant to provide notification of the proposal to the appropriate authorities of all adjacent government jurisdictions, as well as the NJDEP Bureau of Flood Engineering and the Division of Land Resource Protection. A copy of the notification shall be maintained in the permit records and submitted to FEMA. | FEMA MCCO  44 CFR 65.3  44 CFR 65.6 |  |
| 103.11.1 | 103.10.1 Engineering analysis. The Floodplain Administrator shall require submission of an engineering analysis prepared by a licensed professional engineer, demonstrating that the flood-carrying capacity of the altered or relocated portion of the watercourse will be maintained, neither increased nor decreased. Such watercourses shall be maintained in a manner that preserves the channel's flood-carrying capacity. | FEMA MCCO  NJAC 7:13-12.1(h) and (i) |  |
| 103.12 | 103.11 Alterations in coastal areas.  The excavation or alteration of sand dunes is governed by the New Jersey Coastal Zone Management (CZM) rules, N.J.A.C. 7:7. Prior to issuing a flood damage prevention permit for any alteration of sand dunes in coastal high hazard areas and Coastal A Zones, the Floodplain Administrator shall require that a New Jersey CZM permit be obtained and included in the flood damage prevention permit application. The applicant shall also provide documentation of any engineering analysis, prepared by a licensed professional engineer that demonstrates that demonstrating that the proposed alteration will not increase the potential for flood damage. | FEMA MCCO  NJAC 7:7  44 CFR |  |
| 103.13 | 103.12 Development in Riparian ZonesAll development in Riparian Zones described in Section 102.2 is prohibited by this ordinance unless the applicant has received an individual or general permit or has complied with the requirements of a permit by rule or permit by certification from NJDEP Division of Land Resource Protection prior to application for a floodplain development permit and the project is compliant with all other Floodplain Development provisions of this ordinance. The width of the riparian zone can range between 50 and 300 feet and is determined by the attributes of the waterbody and designated in the New Jersey Surface Water Quality Standards N.J.A.C. 7:9B.   The portion of the riparian zone located outside of a regulated water is measured landward from the top of bank. Applicants can request a verification of the riparian zone limits or a permit applicability determination to determine State permit requirements under N.J.A.C. 7:13 from the NJDEP Division of Land Resource Protection. | NJAC7:13-4  NJAC 7:9  44 CFR 60.1(d) |  |
| 103.14 | 103.14 Substantial improvement and substantial damage determinations.When buildings and structures are damaged due to any cause including but not limited to man-made, structural, electrical, mechanical, or natural hazard events or are determined to be unsafe as described in N.J.A.C. 5:23; and for applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, ordinary maintenance and minor work, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Construction Official, shall:  1. Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made. 2. Determine and include the costs of all ordinary maintenance and minor work as discussed in Section 102.2 performed in the floodplain regulated by this ordinance in addition to the costs of those improvements regulated by the Construction Official in substantial damage and substantial improvement calculations. 3. Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure. 4. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage. This determination requires the evaluation of previous permits issued for improvements and repairs over a period of [insert number] years prior to the permit application or substantial damage determination as specified in the definition of substantial improvement. This determination shall also include the evaluation of flood related damages over a 10 year period to determine if the costs of repairs at the times of each flood constitutes a repetitive loss as defined by this ordinance. 5. Notify the applicant in writing when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant in writing when it is determined that work does not constitute substantial improvement or repair of substantial damage. The Floodplain Administrator shall also provide all letters documenting substantial damage and compliance with flood resistant construction requirements of the building code to the NJDEP Bureau of Flood Engineering. | FEMA MCCO  NJAC 5:23-6.3A  NJAC 5:23-2.32  44 CFR 60.3  44 CFR 59.1 | FEMA requires reviews of substantial improvements to structures in the floodplain. With the removal of this work from NJAC 5:23 through the NJ Register on March 5, 2018, ordinary building maintenance and minor work must be reviewed by the Floodplain Administrator to ensure compliance with the NFIP. Additional information on types of improvements is available in *FEMA P-758 Substantial Damage/Substantial Improvement Desk Reference.* |
| 103.15 | 103.14 Department records.  In addition to the requirements of the building code and these regulations, and regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood provisions of the building codes, including Flood Insurance Studies, Flood Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; NJDEP delineations; records of issuance of permits and denial of permits; records of ordinary maintenance and minor work, determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required certifications and documentation specified by the Uniform Construction Codes and these regulations, including as-built Elevation Certificates; notifications to adjacent communities, FEMA, and the State related to alterations of watercourses; assurance that the flood carrying capacity of altered waterways will be maintained; documentation related to variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood resistant provisions of the Uniform Construction Code. The Floodplain Administrator shall also record the required elevation, determination method, and base flood elevation source used to determine the Local Design Flood Elevation in the floodplain development permit. | FEMA MCCO  44 CFR 59.22(a)(9)(iii)  44 CFR 60.3  44 CFR 60.6(a)(6) |  |
| 103.16 | 103.15 Liability.  The Floodplain Administrator and any employee charged with the enforcement of these regulations, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Floodplain Administrator and any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of these regulations. | FEMA MCCO |  |
| 104.1 | PERMITS104.1 Permits Required.Any person, owner or authorized agent who intends to conduct any development in a flood hazard area shall first make application to the Floodplain Administrator and shall obtain the required permit. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit. | FEMA MCCO |  |
| 104.2 | 104.2 Application for permit.The applicant shall file an application in writing on a form furnished by the Floodplain Administrator. Such application shall:  1. Identify and describe the development to be covered by the permit. 2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site. 3. Indicate the use and occupancy for which the proposed development is intended. 4. Be accompanied by a site plan and construction documents as specified in Section 105 of these regulations, grading and filling plans and other information deemed appropriate by the Floodplain Administrator. 5. State the valuation of the proposed work, including the valuation of ordinary maintenance and minor work. 6. Be signed by the applicant or the applicant's authorized agent. | FEMA MCCO |  |
| 104.3 | 104.3 Validity of permit.The issuance of a permit under these regulations or the Uniform Construction Code shall not be construed to be a permit for, or approval of, any violation of this appendix or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the Floodplain Administrator from requiring the correction of errors. The Floodplain Administrator is authorized to prevent occupancy or use of a structure or site which is in violation of these regulations or other ordinances of this jurisdiction. | FEMA MCCO |  |
| 104.4 | 104.4 Expiration.  A permit shall become invalid when the proposed development is not commenced within 180 days after its issuance, or when the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The Floodplain Administrator is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. | FEMA MCCO |  |
| 104.5 | 104.5 Suspension or revocation.  The Floodplain Administrator is authorized to suspend or revoke a permit issued under these regulations wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or code of this jurisdiction. | FEMA MCCO |  |
| 105.1 | SECTION 105 SITE PLANS AND CONSTRUCTION DOCUMENTS  105.1 Information for development in flood hazard areas.  The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:   1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations when necessary for review of the proposed development. For buildings that are located in more than one flood hazard area, the elevation and provisions associated with the most restrictive flood hazard area shall apply. 2. Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 105.2. 3. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 105.2(3) of these regulations. 4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A Zones, new buildings shall be located landward of the reach of mean high tide. 5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation. 6. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose. The applicant shall provide an engineering certification confirming that the proposal meets the flood storage displacement limitations of N.J.A.C. 7:13. 7. Extent of any proposed alteration of sand dunes. 8. Existing and proposed alignment of any proposed alteration of a watercourse. 9. Floodproofing Certifications, V Zone and Breakaway Wall Certifications, Operations and Maintenance Plans, Warning and Evacuation Plans and other documentation required pursuant to FEMA Publications.   The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by these regulations but that are not required to be prepared by a registered design professional when it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance. | FEMA MCCO |  |
| 105.2 | 105.2 Information in flood hazard areas without base flood elevations (approximate Zone A).  Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the applicant shall consult with the Floodplain Administrator to determine whether to: Use the Approximation Method (Method 5) described at N.J.A.C. 7:13 in conjunction with Appendix 1 of the FHACA, to determine the required flood elevation.  1. Obtain, review and reasonably utilize data available from a Federal, State or other source when those data are deemed acceptable to the Floodplain Administrator to reasonably reflect flooding conditions. 2. Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques according to Method 6 as described in N.J.A.C. 7:13. Such analyses shall be performed and sealed by a licensed professional engineer.  Studies, analyses and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator prior to floodplain development permit issuance. The accuracy of data submitted for such determination shall be the responsibility of the applicant. Where the data are to be used to support a Letter of Map Change (LOMC) from FEMA, the applicant shall be responsible for satisfying the submittal requirements and pay the processing fees. | FEMA MCCO |  |
| 105.3 | Analyses and certifications by a Licensed Professional Engineer.As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a licensed professional engineer for submission with the site plan and construction documents:  1. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 105.4 of these regulations and shall submit the Conditional Letter of Map Revision (CLOMR), if issued by FEMA, with the site plan and construction documents. 2. For development activities proposed to be located in a riverine flood hazard area where base flood elevations are included in the FIS or FIRM but floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than 0.2 foot at any point within the jurisdiction. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH. 3. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained neither increasing nor decreasing the channel's flood-carrying capacity. The applicant shall submit the analysis to FEMA as specified in Section 105.4 of these regulations. The applicant shall notify the chief executive officer of all affected adjacent jurisdictions, the NJDEP’s Bureau of Flood Engineering and the Division of Land Resource Protection; and shall provide documentation of such notifications. 4. For activities that propose to alter sand dunes in coastal high hazard areas (Zone V) and Coastal A Zones, an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage and documentation of the issuance of a New Jersey Coastal Zone Management permit under N.J.A.C. 7:7. 5. For analyses performed using Methods 5 and 6 (as described in N.J.A.C. 7:13) in flood hazard zones without base flood elevations (Approximate A zones). | FEMA MCCO |  |
| 105.4 | 105.4 Submission of additional data.  When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change (LOMC) from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant. | FEMA MCCO |  |
| 106.1 | SECTION 106 INSPECTIONS106.1 General. Development for which a permit is required shall be subject to inspection.Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of these regulations or the building code. Inspections presuming to give authority to violate or cancel the provisions of these regulations or the building code or other ordinances shall not be valid. | FEMA MCCO |  |
| 106.2 | 106.2 Inspections of development.The Floodplain Administrator shall inspect all development in flood hazard areas authorized by issuance of permits under these regulations. The Floodplain Administrator shall inspect flood hazard areas from time to time to determine if development is undertaken without issuance of a permit. | FEMA MCCO |  |
| 106.3 | 106.3 Buildings and structures.The Construction Official shall make or cause to be made, inspections for buildings and structures in flood hazard areas authorized by permit in accordance with the Uniform Construction Code, N.J.A.C. 5:23.  1. Lowest floor elevation. Upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 801.2 shall be submitted to the Construction Official on an Elevation Certificate. 2. Lowest horizontal structural member. In V zones and Coastal A zones, Upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 801.2 shall be submitted to the Construction Official on an Elevation Certificate. 3. Installation of attendant utilities (electrical, heating, ventilating, air-conditioning, and other service equipment) and sanitary facilities elevated as discussed in Section 801.2. 4. Final inspection. Prior to the final inspection, certification of the elevation required in Section 801.2 shall be submitted to the Construction Official on an Elevation Certificate. | FEMA MCCO |  |
| 106.4 | 106.4 Manufactured homes.  The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted on an Elevation Certificate to the Floodplain Administrator prior to the final inspection. | FEMA MCCO |  |
| 107.1 | SECTION 107 VARIANCES 107.1 General.  The {body to hear variances} shall hear and decide requests for variances. The {body to hear variances} shall base its determination on technical justifications submitted by applicants, the considerations for issuance in Section 107.5, the conditions of issuance set forth in Section 107.6, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The {body to hear variances} has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations. | FEMA MCCO |  |
| 107.2 | 107.2 Historic structures.  A variance to the substantial improvement section of this ordinance is authorized provided that the repair or rehabilitation of a historic structure is completed according to N.J.A.C. 5:23-6.33, Section 1612 of the International Building Code and R322 of the International Residential Code, the repair or rehabilitation will not preclude the structure's continued designation as a historic structure, the structure meets the definition of the historic structure as described by this ordinance, and the variance is the minimum necessary to preserve the historic character and design of the structure. | FEMA MCCO |  |
| 107.3 | 107.3 Functionally dependent uses.  A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use provided the variance is the minimum necessary to allow the construction or substantial improvement, and that all due consideration has been given to use of methods and materials that minimize flood damage during the base flood and create no additional threats to public safety. | FEMA MCCO |  |
| 107.4 | 107.4 Restrictions in floodways.  A variance shall not be issued for any proposed development in a floodway when any increase in flood levels would result during the base flood discharge, as evidenced by the applicable analysis and certification required in Section 105.3(1) of these regulations. | FEMA MCCO |  |
| 107.5 | 107.5 Considerations.  In reviewing requests for variances, all technical evaluations, all relevant factors, all other portions of these regulations, and the following shall be considered:   1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage. 2. The danger to life and property due to flooding or erosion damage. 3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners. 4. The importance of the services provided by the proposed development to the community. 5. The availability of alternate locations for the proposed development that are not subject to flooding or erosion and the necessity of a waterfront location, where applicable. 6. The compatibility of the proposed development with existing and anticipated development. 7. The relationship of the proposed development to the comprehensive plan and floodplain management program for that area. 8. The safety of access to the property in times of flood for ordinary and emergency vehicles. 9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwater and the effects of wave action, where applicable, expected at the site. 10. 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, streets and bridges. | FEMA MCCO |  |
| 107.6 | 107.6 Conditions for issuance.Variances shall only be issued upon:  1. Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site limit compliance with any provision of these regulations or renders the elevation standards of the building code inappropriate. 2. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable. 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances. 4. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. 5. Notification to the applicant in writing over the signature of the Floodplain Administrator that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage, and that such construction below the base flood level increases risks to life and property. | FEMA MCCO |  |
| 108.1 | SECTION 108 VIOLATIONS  108.1 Violations.  Any development in any flood hazard area that is being performed without an issued permit or that is in conflict with an issued permit shall be deemed a violation. A building or structure without the documentation of elevation of the lowest floor, the lowest horizontal structural member if in a V or Coastal A Zone, other required design certifications, or other evidence of compliance required by the building code is presumed to be a violation until such time as that documentation is provided. | FEMA MCCO |  |
| 108.2 | 108.2 Authority.The Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of property involved, to the owner’s agent, or to the person or persons doing the work for development that is not within the scope of the Uniform Construction Codes, but is regulated by these regulations and that is determined to be a violation. | FEMA MCCO |  |
| 108.3 | 108.3 Unlawful continuance.Any person who shall continue any work after having been served with a notice of violation or a stop work order except such work as the person is directed to perform to remove or remedy a violation or unsafe condition shall be subject to penalties prescribed by N.J.S.A. 40:49-5 as appropriate. | FEMA MCCO  NJSA 40:49-5 |  |
| 108.4 | 108.4 Review Period to Correct Violations  A 30-day period shall be given to the property owner as an opportunity to cure or abate the condition. The property owner shall also be afforded an opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than $1,250.00 [or optional higher threshold amount up to $2000.00 under N.J.S.A. 40:49-5] may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed. | FEMA MCCO  NJSA 40:49-5 |  |