



ORDINANCE NO. 2018-05

**AN ORDINANCE TO AMEND CHAPTER 138
OF THE CODE OF BRIDGEVILLE RELATING TO
FLOOD DAMAGE REDUCTION.**

WHEREAS, the Commissioners of Bridgeville have all powers granted to municipal corporations and to cities by the Constitution and general law of the State of Delaware, including the implied powers necessary to carry into execution all the powers granted; and

WHEREAS, the Federal Emergency Management Agency has requested that the Commissioners of Bridgeville adopt the below amendment to the Flood Damage Reduction Ordinance; and

WHEREAS, the Commissioners are of the opinion that an amendment to the Code as it relates to Flood Damage Reduction is necessary for the health, peace, safety and wellbeing of the residents of Bridgeville.

NOW, THEREFORE, THE COMMISSIONERS OF BRIDGEVILLE HEREBY ORDAIN:

Section 1. Amend Chapter 138-4 titled "Basis for establishing special flood hazard areas" of the Code of Bridgeville, by deleting the text ~~stricken through~~ and adding the underlined text, as follows:

§ 138-4 Basis for establishing special flood hazard areas.

A. For the purposes of these regulations, the following are adopted by reference as a part of these regulations and serve as the basis for establishing special flood hazard areas:

(1) The FEMA Flood Insurance Study for Sussex County, Delaware, and Incorporated Areas, dated ~~March 16, 2015~~ June 20, 2018, and all subsequent amendments and/or the most-recent revision thereof.

(2) The FEMA Flood Insurance Rate Map for Sussex County, Delaware, and Incorporated Areas, dated ~~March 16, 2015~~ June 20, 2018, and all subsequent amendments and/or the most-recent revision thereof.

(3) Other hydrologic and hydraulic engineering studies and/or maps prepared pursuant to these regulations or for other purposes, and which establish base flood elevations, delineate one-hundred-year floodplains, floodways or other areas of special flood hazard.

(4) The Town of Bridgeville may identify and regulate new local flood hazard or ponding areas. These areas should be delineated and adopted on a "local flood hazard map" using best-available topographic data and locally derived information such as flood of record, historic high-water marks or approximate study methodologies.

(5) Where field-surveyed topography indicates that ground elevations are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a flood hazard map, the area shall be considered as a special flood hazard area.

B. Maps and studies that establish special flood hazard areas are on file at the Bridgeville Town Office, 101 North Main Street, Bridgeville, DE 19933.

Section 2. Amend Chapter 138-32 titled "Variances" of the Code of Bridgeville, by deleting the text ~~stricken through~~ and adding the underlined text, as follows:

§ 138-32 Variances.

The Town of Bridgeville's Board of Adjustment shall have the power to authorize, in specific cases, such variances from the requirements of these regulations, not inconsistent with federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

A. Application for a variance.

(1) Any owner, or agent thereof, of property for which a variance is sought shall submit an application for a variance to the floodplain administrator.

(2) At a minimum, such application shall contain the following information: name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request. Each variance application shall specifically address each of the considerations in § 138-32B and the limitations and conditions of § 138-32C.

B. Considerations for variances. In considering variance applications, the Board of Adjustment shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:

- (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 development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
- (4) The importance of the services provided by the proposed development to the community.
- (5) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.
- (6) The necessity to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.
- (7) The compatibility of the proposed use with existing and anticipated development.
- (8) The relationship of the proposed use to the Comprehensive Plan for 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 providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical, and water systems, and streets and bridges.

C. Limitations for variances.

- (1) An affirmative decision on a variance request shall only be issued upon:
 - (a) A showing of good and sufficient cause. A "good and sufficient" cause is one that deals solely with the physical characteristics of the property and cannot be based on the character of the planned construction or substantial improvement, the personal characteristics of the owner or inhabitants, or local provisions that regulate standards other than health and public safety standards.

(b) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.

(c) A determination that the granting of a variance for development within any designated floodway, or special flood hazard area with base flood elevations but no floodway, will not result in increased flood heights beyond that which is allowed in these regulations.

(d) A determination that the granting of a variance will not result in additional threats to public safety, create extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.

(e) A determination that the structure or other development is protected by methods to minimize flood damages.

(f) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Upon consideration of the individual circumstances, the limitations and conditions, and the purposes of these regulations, the Board of Adjustment may attach such conditions to variances as it deems necessary to further the purposes of these regulations.

(3) The Board of Adjustment shall notify, in writing, any applicant to whom a variance is granted for a building or structure with a lowest floor elevation below the base flood elevation that the variance is to the floodplain management requirements of these regulations only and that the cost of federal flood insurance will be commensurate with the increased risk.

(4) No variance shall be granted for an accessory structure exceeding 600 square feet. A signed Non-Conversion Agreement is required as a condition of receiving the variance. The Non-Conversion Agreement must be recorded with the Deed for the property where the accessory structure exists. If a variance is granted and the accessory structure is not elevated or dry flood proofed, conditions in Chapter 138-29 apply.

Section 3. This Ordinance shall become effective upon its adoption by a majority of all Commissioners.

COMMISSIONERS OF BRIDGEVILLE

By: Shawn M. Dowell
President

Attest: [Signature]
Secretary

First Reading: October 8, 2018

Second Reading: November 19, 2018

Adopted: November 19, 2018