

Chapter 8

Floodplains

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Part 1**General Provisions****§8-101. Intent.**

The intent of this Chapter is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with Federal and State floodplain management requirements.

(Ord. 2012-4, 6/13/2012, §27-1401)

§8-102. Applicability.

1. It shall be unlawful for any person, partnership, business, or corporation to undertake, or cause to be undertaken, any construction or development anywhere in the identified floodplain area within the Borough unless a permit has been obtained from the Floodplain Administrator.

2. A permit shall not be required for minor repairs to existing buildings or structures.

(Ord. 2012-4, 6/13/2012, §27-1402)

§8-103. Abrogation and Greater Restrictions.

This Chapter supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Chapter, the more restrictive shall apply.

(Ord. 2012-4, 6/13/2012, §27-1403)

§8-104. Warning and Disclaimer of Liability.

1. The degree of flood protection sought by the provisions of this Chapter is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas will be free from flooding or flood damages.

2. This Chapter shall not create liability on the part of the Borough or any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made there under.

(*Ord. 2012-4, 6/13/2012, §27-1405*)

Part 2**Administration****§8-201. Designation of the Floodplain Administrator.**

The Building Code Official within the Code Enforcement Department is hereby appointed to administer and enforce this Chapter and is referred to herein as the Floodplain Administrator.

(Ord. 2012-4, 6/13/2012, §27-1406)

§8-202. Permits Required.

A permit shall be required before any construction or development is undertaken within any identified floodplain area within the Borough.

(Ord. 2012-4, 6/13/2012, §27-1407)

§8-203. Duties and Responsibilities of the Floodplain Administrator.

1. The Floodplain Administrator shall issue a permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

2. In the case of existing structures, prior to the issuance of any development/permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.

3. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. She or he shall make as many inspections during and upon completion of the work as are necessary.

4. In the discharge of her or his duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises, or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Chapter.

5. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Council for whatever action it considers necessary.

6. The Floodplain Administrator shall consider the requirements of 34 Pa.Code and the current applicable edition of the IBC and IRC State Building Codes.

(Ord. 2012-4, 6/13/2012, §27-1408)

§8-204. Application Procedures and Requirements.

1. Application for such a permit within an identified floodplain area shall be made, in writing, to the Floodplain Administrator on forms supplied by the Borough.

Such application shall contain the following:

- A. Name and address of the applicant.
- B. Name and address of the owner of the land on which proposed construction is to occur.
- C. Name and address of contractor.
- D. Site location including address.
- E. Listing of other permits required.
- F. Brief description of the proposed work and estimated cost, including a breakdown of flood-related cost and the market value of the building before the flood damage occurred where applicable.

G. A sealed engineer's plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

2. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:

A. All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances.

B. All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage.

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. Structures will be anchored to prevent flotation, collapse, or lateral movement.

E. Building materials are flood resistant.

F. Appropriate practices that minimize flood damage have been used.

G. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.

3. Applicant shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:

A. A completed permit application form.

B. A sealed engineer's plan of the entire site, clearly and legibly drawn at a scale of 1 inch being equal to 100 feet or less, showing the following:

(1) North arrow, scale, and date.

(2) Topographic contour lines, if available.

(3) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development.

(4) The location of all existing streets, drives, and other access ways.

(5) The location of any existing bodies of water or watercourses, identified

floodplain areas, and, if applicable, information pertaining to the floodway, and the flow of water including direction and velocities.

C. Plans of all proposed buildings, structures, and other improvements, drawn at suitable scale showing the following:

(1) The proposed lowest flood elevation of any proposed building based upon North American Vertical Datum of 1988.

(2) The elevation of the base flood.

(3) Supplemental information as may be necessary under 34 Pa.Code, the current applicable edition of the State IBC and IRC Building Codes.

D. The following data and documentation:

(1) If available, information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with a base flood.

(2) Detailed information concerning any proposed floodproofing measures and corresponding elevations.

(3) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within any identified floodplain areas when combined with all other existing and currently proposed development, will not increase the base flood elevation as designated in §8-302.

(4) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.

Such a statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure or the development.

(5) Detailed information needed to determine compliance with §§8-403.E, "Storage," and 8-404, "Development Which May Endanger Human Life," including:

(a) The amount, location, and purpose of any materials or substances referred to in §§8-403.E and 8-404 which are intended to be used, produced, stored, or otherwise maintained on site.

(b) A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in §8-404 during a base flood.

(6) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

4. Applications for permits shall be accompanied by a fee, payable to the Borough, based upon the permit fee schedule adopted by the Borough Council.

(Ord. 2012-4, 6/13/2012, §27-1409)

§8-205. Review of Application by Others.

A copy of all plans and application for any proposed construction or development

in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies or individuals for review and comment.

(*Ord. 2012-4, 6/13/2012, §27-1411*)

§8-206. Changes.

After the issuance of a permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit, or any of the plans, specifications, or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to the Floodplain Administrator for consideration.

(*Ord. 2012-4, 6/13/2012, §27-1412*)

§8-207. Placards.

In addition to the permit, the Floodplain Administrator shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the permit, show the date of its issuance, and be signed by the Floodplain Administrator.

(*Ord. 2012-4, 6/13/2012, §27-1413*)

§8-208. Enforcement.

1. *Notices.* Notices shall be sent in accordance with the regulations and requirements set forth in the Municipalities Planning Code, 53 P.S. §10101 *et seq.*

2. *Penalties.* Any person who fails to comply with any or all of the requirements or provisions of this Chapter or who fails or refuses to comply with any notice, order, or direction of the Floodplain Administrator or any other authorized employee of the Borough, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs together with reasonable attorney fees and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Chapter. The imposition of a fine or penalty for any violation of, or noncompliance with, this Chapter shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Chapter may be declared by the Council to be a public nuisance and abatable as such. [*Ord. 2015-4*]

(*Ord. 2012-4, 6/13/2012, §27-1415; as amended by Ord. 2015-4, 9/8/2015*)

§8-209. Appeals.

1. Any person aggrieved by any action or decision of the Floodplain Administrator

concerning the administration of the provisions of this Chapter may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within 30 days after the decision, determination, or action of the Floodplain Administrator.

2. Upon receipt of such appeal the Zoning Hearing Board shall set a time and place, within not less than 10 or not more than 30 days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.

3. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief there from by appeal to court, as provided by the laws of this State, including the Pennsylvania Flood Plain Management Act, 32 P.S. §679.101 *et seq.*

(Ord. 2012-4, 6/13/2012, §27-1416)

Part 3**Identification of Floodplain Areas****§8-301. Identification.**

1. The identified floodplain area shall be:

A. Any areas of the Borough, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated July 3, 2012, and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

B. Any community identified flood hazard areas.

2. The above referenced FIS and FIRMs, and any subsequent revisions and amendments, are hereby adopted by the Borough and declared to be part of this Chapter.

(Ord. 2012-4, 6/13/2012, §27-1417)

§8-302. Description and Special Requirements of Identified Floodplain Areas.

The identified floodplain area shall consist of the following specific areas/districts:

A. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no 1 percent annual chance flood elevations have been provided.

In lieu of the above, the Borough may require the applicant to determine the elevation with hydrologic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineer or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough.

B. Community identified flood hazard areas shall be those areas where the Borough has identified local flood hazard or ponding areas, as 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, soils, or approximate study methodologies.

(Ord. 2012-4, 6/13/2012, §27-1418)

§8-303. Changes in Identification Area.

The identified floodplain area may be revised or modified by the Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the FEMA. Additionally, as soon as practicable, but not later than 6 months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data.

(Ord. 2012-4, 6/13/2012, §27-1419)

§8-304. Boundary Disputes.

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Borough Engineer and any party aggrieved by this decision or determination may appeal to the Zoning Hearing Board. The burden of proof shall be on the applicant.

(Ord. 2012-4, 6/13/2012, §27-1420)

§8-305. Jurisdictional Boundary Changes.

Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in 44 CFR §60.3.

(Ord. 2012-4, 6/13/2012, §27-1421)

Part 4**Technical Provisions****§8-401. General.**

1. *Alteration or Relocation of Watercourse.* No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Borough, and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.

2. Technical or scientific data shall be submitted by the applicant to the FEMA for a letter of map revision (LOMR) as soon as practicable but within 6 months of any new construction, development, or other activity resulting in changes in the BFE. The situations when a LOMR or a conditional letter of map revision (CLOMR) are required are when any development occurring in Zone A which will cause a rise of more than one foot in the base flood elevation (as determined using methodology in §8-302).

3. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Chapter and any other applicable codes, ordinances, and regulations.

4. Within any identified floodplain area (see §8-302), no new construction or development shall be located within the defined floodway; or lacking a defined floodway, within the area measured 50 feet landward from the top of bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.

(Ord. 2012-4, 6/13/2012, §27-1422)

§8-402. Elevation and Floodproofing Requirements.**1. Residential Structures.**

A. In A Zones, where there are no base flood elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation determined in accordance with §8-302 of this Chapter.

B. The design and construction standards and specifications contained in the current applicable IBC and IRC State Building Codes and ASCE 24 and 34 Pa.Code, Chapters 401–405, as amended, shall be utilized.

2. Nonresidential Structures.

A. In A Zones, where there are no base flood elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with §8-302 of this Chapter.

B. Any nonresidential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the W1 or W2 space classification standard contained in the publication entitled “Flood-Proofing Regulations” published by the U.S. Army Corps of Engineers (June 1972, as

amended March 1992), or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.

C. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 Pa.Code, Chapters 401–405, as amended, shall be utilized.

3. *Space below the First Floor.*

A. Fully enclosed space below the lowest flood (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term “fully enclosed space” also includes crawl spaces.

B. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

(1) A minimum of two openings having a net total area of not less than 1 square inch for every square foot of enclosed space.

(2) The bottom of all openings shall be no higher than 1 foot above grade.

(3) Openings may be equipped with screens, louvers, etc., or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. *Historic Structures.* See §8-802 for requirements for the substantial improvement of any historic structures.

(Ord. 2012-4, 6/13/2012, §27-1423)

§8-403. Design and Construction Standards.

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

A. *Drainage Facilities.* Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of runoff onto adjacent properties subject to the Borough Engineer approval.

B. *Water and Sanitary Sewer Facilities and Systems.*

(1) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed, and constructed to minimize or eliminate flood damages and the infiltration of flood waters subject to Borough Engineer approval.

(2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.

(3) No part of any on-site sewage shall be located within any identified floodplain.

(4) The design and construction provisions of the UCC and FEMA #348, Protecting Building Utilities from Flood Damages, and the International Private Sewage Disposal Code shall be utilized.

C. *Other Utilities.* All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

D. *Streets.* The finished elevation of all new streets shall be 1 foot above the regulatory flood elevation.

E. *Storage.* All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in §8-404, "Development Which May Endanger Human Life," shall be stored 2 feet above the regulatory flood elevation or floodproofed to the maximum extent possible.

F. *Placement of Buildings and Structures.* All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

G. *Anchoring.*

(1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

(2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

H. *Floors, Walls, and Ceilings.*

(1) Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.

(2) Plywood used at or below the regulatory flood elevation shall be of a "marine" variety.

(3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.

(4) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other "water-resistant" material.

I. *Paints and Adhesives.*

(1) Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" quality.

(2) Adhesives used at or below the regulatory flood elevation shall be of a "marine" variety.

(3) All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a "marine" paint or other

finishing material.

J. *Electrical Components.*

(1) Electrical distribution panels shall be at least 3 feet above the base flood elevation.

(2) Separate electrical circuits shall serve lower levels and shall be dropped from above.

K. *Equipment.* Water heaters, furnaces, air conditioning and ventilation units, and other electrical, mechanical, or utility equipment or apparatus, shall not be located below the regulatory flood elevation.

L. *Fuel Supply Systems.* All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

M. *Uniform Construction Code Coordination.* The standards and specifications contained in 34 Pa.Code, Chapters 401–405, as amended, and not limited to the following provisions shall apply to the above and other Sections and subsections of this Chapter, to the extent that they are more restrictive and supplement the requirements of this Chapter.

International Building Code (IBC) current applicable State Edition—§§801, 802, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Code (IRC) current applicable State Edition—§§R104, R105, R109, R323, Appendix AE101, Appendix E, and Appendix J.

Note—Sections referenced are from 2009 Edition, respective sections of later editions are to apply.

(Ord. 2012-4, 6/13/2012, §27-1424)

§8-404. Development Which May Endanger Human Life.

1. In accordance with the Pennsylvania Flood Plain Management Act, 32 P.S. §679-101 *et seq.*, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:

A. Will be used for the production or storage of any of the following dangerous materials or substances.

B. Will be used for any activity requiring the maintenance of a supply of any of the following dangerous materials or substances on the premises.

C. Will involved the production, storage, or use of any amount of radioactive substances.

shall be prohibited. The following list of materials and substances are considered dangerous to human life:

- (1) Acetone.
- (2) Ammonia.
- (3) Benzene.
- (4) Calcium carbide.

- (5) Carbon disulfide.
- (6) Celluloid.
- (7) Chlorine.
- (8) Hydrochloric acid.
- (9) Hydrocyanic acid.
- (10) Magnesium.
- (11) Manufactured homes.
- (12) Nitric acid and oxides of nitrogen.
- (13) Petroleum products (gasoline, fuel oil, etc.).
- (14) Phosphorus.
- (15) Potassium.
- (16) Recreational vehicles.
- (17) Sodium.
- (18) Sulphur and sulphur products.
- (19) Pesticides (including insecticides, fungicides, and rodenticides).
- (20) Radioactive substances, insofar as such substances are not otherwise regulated.

2. Within any identified floodplain area, any structure of the kind described in subsection .1, above, shall be prohibited.

(Ord. 2012-4, 6/13/2012, §27-1425)

Part 5**Prohibited Activities****§8-501. General.**

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, 32 P.S. §679.101 *et seq.*, the following activities shall be prohibited within any identified floodplain area:

A. The commencement of any of the following activities; or the construction enlargement of expansion of any structure used, or intended to be used, for any of the following activities:

- (1) Hospitals.
- (2) Nursing homes.
- (3) Jails or prisons.

B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

(Ord. 2012-4, 6/13/2012, §27-1427)

Part 6**Existing Structures in Identified Floodplain Areas****§8-601. Existing Structures.**

The provisions of this Chapter do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of §8-602 shall apply.

(Ord. 2012-4, 6/13/2012, §27-1428)

§8-602. Improvements.

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

A. Any modification, alteration, reconstruction; or improvement of any kind to an existing structure, to an extent or amount of 50 percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Chapter.

B. The above activity shall also address the requirements of 34 Pa.Code, as amended and the current applicable edition of the State IBC and IRC Building Codes.

C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than 50 percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

D. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “repetitive loss” shall be undertaken only in full compliance with the provisions of this Chapter.

(Ord. 2012-4, 6/13/2012, §27-1429)

Part 7**Variances****§8-701. General.**

If compliance with any of the requirements of this Chapter would result in an exceptional hardship to a prospective builder, developer or landowner, the Borough Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.

(*Ord. 2012-4, 6/13/2012, §27-1430*)

§8-702. Variance Procedures and Conditions.

Requests for variances shall be considered by the Borough Zoning Hearing Board in accordance with the procedures contained in §27-1410, the Zoning Ordinance [Chapter 27] and the following:

A. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the BFE.

B. Except for a possible modification of the regulatory flood elevation requirements involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by special permit (or prohibited activities) (Part 5) or to Development Which May Endanger Human Life §8-404.

C. If granted, a variance shall involve only the least modification necessary to provide relief.

D. In granting any variance, the Borough shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Chapter.

E. In reviewing any request for a variance, the Zoning Hearing Board of the Borough shall consider, at a minimum, the following:

(1) There is good and sufficient cause.

(2) Failure to grant the variance would result in exceptional hardship to the applicant.

(3) The granting of the variance will:

(a) Neither result in unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense.

(b) Nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable State or local ordinances and regulations.

F. Whenever a variance is granted, the Borough shall notify the applicant in writing that:

(1) The granting of the variance may result in increased premium rates for flood insurance.

(2) Such variances may increase the risks to life and property.

G. A complete record of all variance requests and related actions shall be maintained by the Borough. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the 1-percent annual chance flood. (*Ord. 2012-4, 6/13/2012, §27-1431*)

Part 8**Definitions****§8-801. General.**

The specific definitions below shall apply to the FPC District only; unless specifically defined below, words and phrases used in this Chapter shall be interpreted so as to give this Chapter its most reasonable application.

(Ord. 2012-4, 6/13/2012, §27-1432)

§8-802. Specific Definitions.

Accessory use or structure—a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal uses or structure.

Base flood—a flood which has a 1 percent chance of being equaled or exceeded in any given year (also called the “100-year flood” or “1-percent annual chance flood”).

Base flood discharge—the volume of water resulting from a base flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

Base flood elevation (BFE)—the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent chance of being equaled or exceeded in any given year.

Basement—any area of the building having its floor below ground level on all sides.

Building—a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

Development—any man-made change to improved or unimproved real estate, including, but not limited to, the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; utilities; filling, grading, and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

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 a 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.

Expansion to an existing manufactured home park or subdivision—the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood—a temporary inundation of normally dry land areas.

Flood Insurance Rate Map (FIRM)—the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards

and the risk premium zones applicable to the community.

Flood Insurance Study (FIS)—the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

Floodplain area—a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river, or watercourse; and any area subject to the unusual and rapid accumulation of surface waters from any source.

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.

Floodway—the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot.

Height adjustment grade—the highest natural elevation of the ground surface prior to construction next to the proposed wall of a structure.

Historic structures—any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by Secretary of the Interior as meeting the requirements for individual listing on the National Register.

B. Certified by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

C. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior.

D. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:

(1) By an approved State program as determined by the Secretary of the Interior.

(2) Directly by the Secretary of the Interior in States without approved programs.

Lowest floor—the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such place is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this Chapter.

Manufactured home—a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreation and other similar vehicles which are placed on a site for more than 180 consecutive days.

Manufactured home park or subdivision—a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Minor repair—the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or veering support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirement; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

New construction—structures for which the state of construction commenced on or after the [effective state date of this floodplain management regulation] adopted by the community and includes any subsequent improvements to such structures. Any construction started after July 18, 1977, and before [effective state date of this floodplain management ordinance] is subject to the ordinance in effect at the time the permit was issued, provided the stat of construction was within 180 days of permit issuance.

New 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 a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Person—an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility, or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

Post-FIRM structure—a structure for which construction or substantial improvement occurred after December 31, 1974, or on or after the community's initial Flood Insurance Rate Map (FIRM) dated July 18, 1977, whichever is later; and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

Pre-FIRM structure—a structure for which construction or substantial improvement occurred on or before December 31, 1974, or before the community's initial Flood Insurance Rate Map (FIRMS) dated July 18, 1977, whichever is later, and, as such, would be required to be complaint with the regulations of the National Flood Insurance Program.

Recreational vehicle—a vehicle which is:

- A. Built on a single chassis.
- B. Not more than 400 square feet, measured at the largest horizontal projections.
- C. Designed to be self-propelled or permanently towable by a light-duty truck.
- D. Not designed for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory flood elevation—the base flood elevation (BEE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of 1½ feet.

Repetitive loss—flood related damages sustained by a structure on two separate

occasions during a 10-year period for which the cost of repairs at the time of each such flood even, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

Special permit—a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or designated portion of, a floodplain.

Special flood hazard area (SFHA)—an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or AH.

Structure—a man-made object having an ascertainable location on or in land or water.

Subdivision—the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development.

Provided, however, that the subdivision by tease of land or agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

Substantial damage—damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent or more of the market value of the structure before the damage occurred.

Substantial improvement—any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 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” or “repetitive loss” regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this Chapter, must comply with all ordinance requirements that do not preclude the structure’s continued designation as an historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or ht State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

Uniform Construction Code (UCC)—the Statewide building code adopted by the Pennsylvania General Assembly in 1999, applicable to new construction in all municipalities whether administered by the Borough, a third party, or the Department of Labor and Industry. Applicable to residential and commercial buildings, the Code adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain

construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

Violation—failure of a structure of other development to be fully compliant with the community's floodplain management regulations. A 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), (d)(3), (e)(2), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

(*Ord. 2012-4, 6/13/2012, §27-1433*)

