

TOWNSHIP OF CENTRE  
Berks County, Pennsylvania

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ORDINANCE NO. 76-1997-11

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AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A BUILDING PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF SUCH BUILDING PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE TOWNSHIP OF CENTRE, BERKS COUNTY, PENNSYLVANIA, WHICH ARE SUBJECT TO FLOODING; AND ESTABLISHING PENALTIES FOR ANY PERSONS WHO FAIL, OR REFUSE TO COMPLY WITH, THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

BE IT ENACTED and ORDAINED by the TOWNSHIP OF CENTRE, Berks County, Pennsylvania, herein referred to as "Township", and it is hereby enacted and ordained by the authority of the same as follows:

**ARTICLE I GENERAL PROVISIONS**

Section 1.00 Intent

The intent of this Ordinance 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; and
- E. comply with federal and state floodplain management requirements.

Section 1.01 Applicability

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township, unless a Building Permit has been obtained from the Ordinance Enforcement Officer.
- B. A Building Permit shall not be required for Minor Repairs, as herein defined, to existing buildings or structures.

Section 1.02 Abrogation and Greater Restrictions

This Ordinance supersedes any other conflicting provisions which may be in effect in identified Floodplain Areas. However, all 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 other Township ordinance and the provisions of this Ordinance, the more restrictive provisions shall apply.

Section 1.03 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not effect the remaining portions of this Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

Section 1.04 Warning and Disclaimer of Liability

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may

occur. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance 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.

This Ordinance shall not create liability on the part of the Township or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

## **ARTICLE II ADMINISTRATION**

### **Section 2.00 Building Permits Required**

Building Permits shall be required before any construction or development other than for Minor Repairs, as herein defined, is undertaken within any area of the Township.

### **Section 2.01 Issuance of Building Permit**

- A. The Ordinance Enforcement Officer shall issue a Building Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Ordinance and all other applicable codes and ordinances.
- B. Prior to the issuance of any Building Permit, the Ordinance Enforcement Officer shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.

C. 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 Township and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Bureau of Waterways Engineering.

In addition, the Federal Insurance Administrator and Pennsylvania Department of Community and Economic Development, Strategic Planning and Operations Office, shall be notified by the Township prior to any alteration or relocation of any watercourse.

Section 2.02 Application Procedures and Requirements

A. Application for such a Building Permit shall be made, in writing, to the Ordinance Enforcement Officer on forms supplied by the Township. Such application shall contain the following:

1. name and address of applicant;
2. name and address of owner of land on which proposed construction is to occur;
3. name and address of contractor;
4. site location;
5. listing of other permits required;
6. brief description of proposed work and estimated cost;
7. a plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

B. If any proposed construction or development is located entirely or partially within any identified Floodplain Area, applicants for Building Permits shall provide all the necessary

information in sufficient detail and clarity to enable the Ordinance Enforcement Officer 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; and
- (c) adequate drainage is provide so as to reduce exposure to flood hazards.

Applicants shall file the following minimum information plus any other pertinent information (e.g., any or all of the technical information contained in Section 5.01) as may be required by the Ordinance Enforcement Officer to make the above determination:

- 1. a completed Building Permit Application Form;
- 2. a plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
  - a. north arrow, scale, and date;
  - b. topographic contour lines, if available;
  - c. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
  - d. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;
  - e. the location of all existing streets, drives, and other access ways; and

- f. the location of any existing bodies of water or watercourses, identified Floodplain Areas, and, if available, information pertaining to the Floodway, and the flow of water including direction and velocities.
3. Plans of all proposed Building, Structures and other improvements, drawn at suitable scale showing the following:
  - a. the proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929;
  - b. the elevation of the One Hundred (100) Year Flood;
  - c. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a One Hundred (100) Year Flood; and
  - d. detailed information concerning any proposed Flood proofing measures.
4. The following data and documentation:
  - a. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an FE (Special Floodplain Area), when combined with all other existing and anticipated development, will not increase the elevation of the One Hundred (100) Year Flood more than one (1) foot at any point;
  - b. a document, including a description of the type and extent of Flood proofing measures which have been incorporated into the design of the structure an/or the development, 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 One Hundred (100) Year Flood;
- c. detailed information needed to determine compliance with Section 4.03 F., Storage, and Section 4.04, Development which May Endanger Human Life, including:
    - i) the amount, location and purpose of any materials or substances referred to in Sections 4.03 F. and 4.04 which are intended to be used, produced, stored or otherwise maintained on site;
    - ii) 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 Section 4.04 during a One Hundred (100) Year Flood.
  - d. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development;" and
  - e. 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.

### Section 2.03 Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified Floodplain Area to be considered for approval may be submitted by the Ordinance Enforcement

Officer to any other appropriate agencies and/or individuals (e.g. planning commissions, municipal engineer, etc.) for review and comment.

#### Section 2.04 Changes

After the issuance of a Building Permit by the Ordinance Enforcement Officer, 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 Ordinance Enforcement Officer. Requests for any such change shall be in writing, and shall be submitted by the applicant to Ordinance Enforcement Officer for consideration.

#### Section 2.05 Placards

In addition to the Building Permit, the Ordinance Enforcement Officer 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 Building Permit, the date of its issuance and be signed by the Ordinance Enforcement Officer.

#### Section 2.06 Start of Construction

Work on the proposed construction and/or development shall begin within six (6) months and shall be completed within twelve (12) months after the date of issuance of the Building Permit or the permit shall expire unless a time extension is granted, in writing, by the Ordinance Enforcement Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.



Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Ordinance Enforcement Officer to approve such a request.

Section 2.07 Inspection and Revocation

- A. During the construction period, the Ordinance Enforcement Officer 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. He shall make as many inspections during and upon completion of the work as are necessary.
- B. In the discharge of his duties, the Ordinance Enforcement Officer shall have the authority to enter any Building, Structure, premises or development in the identified floodplain are, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Ordinance.
- C. In the event the Ordinance Enforcement Officer 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 Ordinance Enforcement Officer shall revoke the Building Permit and report such fact to the Township Board of Supervisors for whatever action it considers necessary.
- D. A record of all such inspections and violations of this Ordinance shall be maintained by the Township.

Section 2.08 Enforcement

- A. Notices

Whenever the Ordinance Enforcement Officer or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulations adopted pursuant thereto, the Ordinance Enforcement Officer shall give notice of such alleged violation as hereinafter provided. Such notice shall (a) be in writing; (b) include a statement of the reasons for its issuance; (c) allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires; (d) be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this Commonwealth; (e) contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Ordinance.

#### B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order of direction of the Ordinance Enforcement Officer or any other authorized employee of the Township shall be brought before a district justice for enforcement in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Township Board of Supervisors may prescribe criminal fines not to exceed one thousand dollars (\$1,000.00) per violation. Each day during which any violation of this Ordinance continues 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 Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with,

this Ordinance 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 noncompliances within a reasonable time. Any development initiated or any Structure or Building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Township Board of Supervisors to be a public nuisance and abatable as such.

#### Section 2.09 Appeals

- A. Any person aggrieved by any action or decision of the Ordinance Enforcement Officer concerning the administration of the provisions of this Ordinance, may appeal to the Township Board of Supervisors. Such appeal must be filed, in writing, within thirty (30) days after the decision or action of the Ordinance Enforcement Officer.
- B. Upon receipt of such appeal the Township Board of Supervisors shall set a time and place, within not less than ten (10) nor more than thirty (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.
- C. Any person aggrieved by any decision of the Township Board of Supervisors may seek relief therefrom by appeal to court, as provided by the laws of this Commonwealth including the Pennsylvania Flood Plain Management Act.

### **ARTICLE III IDENTIFICATION OF FLOODPLAIN AREAS**

#### Section 3.00 Identification

The identified Floodplain Area shall be those areas of the Township, which are subject to the One Hundred (100) Year Flood, as identified in the Flood Insurance Study (FIS) dated December 5, 1997

and the accompanying maps prepared for the Township, by the Federal Emergency Management Agency (FEMA), or the most recent revision thereof.

Section 3.01 Description of Floodplain Areas

The identified Floodplain Area shall consist of the following specific areas:

A. FW (Floodway Area) - the areas identified as "Floodway" in the AE Zone in the Flood Insurance Study prepared by the FEMA. The term shall also include Floodway Areas which have been identified in other available studies or sources of information for those Floodplain Areas where no floodway has been identified in the Flood Insurance Study.

B. FF (Flood-Fringe Area) - the remaining portions of the One Hundred (100) Year Floodplain in those areas identified as an AE Zone in the Flood Insurance study, where a Floodway has been delineated.

The basis for the outermost boundary of this area shall be the One Hundred (100) Year Flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

C. FE (Special Floodplain Area) - the areas identified as Zone AE in the Flood Insurance Study, where One Hundred (100) Year Flood elevations have been provided, but no Floodway has been delineated.

D. FA (General Floodplain Area) - the areas identified as Zone A in the FIS for which no One Hundred (100) Year Flood elevations have been provided. When available information from other federal, state, and other acceptable sources shall be used to determine the One Hundred (100) Year elevation, as well as a Floodway Area, if possible. When no other information is available, the One Hundred (100) Year elevation shall be determined by using a point on the boundary of the identified Floodplain Area which is nearest the construction site in question.

In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers 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 Township.

#### Section 3.02 Changes in Identification of Area

The identified Floodplain Area may be revised or modified by the Township Board of Supervisors 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 first be obtained from the Federal Insurance Administration (FIA).

#### Section 3.03 Boundary Disputes

Should a dispute concerning any identified Floodplain boundary arise, an initial determination shall be made by the Township Planning Commission and any party aggrieved by this decision may appeal to the Township Board of Supervisors. The burden of proof shall be on the appellant.

### **ARTICLE IV TECHNICAL PROVISIONS**

#### Section 4.00 General

- A. 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 Township, and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Bureau of Dams, Waterways and Wetlands.

In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified prior to any alteration or relocation of any watercourse.

- B. 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 Ordinance and any other applicable codes, ordinances and regulations.

Section 4.01 Special Requirements for FW, FE, and FA Areas

- A. With any FW (Floodway Area), the following provisions apply:
  - 1. any new construction, development, use, activity, or encroachment that would cause any increase in the One Hundred (100) Year Flood heights shall be prohibited; and
  - 2. no new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection, Bureau of Dams, Waterways and Wetlands.
- B. Within any FE (Special Floodplain Area), no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the One Hundred (100) Year Flood more than one (1) foot at any point.
- C. Within any FE (Special Floodplain Area) or FA (General Floodplain Area), the following provisions apply:
  - 1. no new construction or development shall be located within the are measured fifty (50) feet landward from the top-of-bank of any watercourse; and

2. any new construction or development, which would cause any increase in 100 year flood heights shall be prohibited within any Floodway area.

Section 4.02 Elevation and Flood proofing Requirements

A. Residential Structures

Within any identified Floodplain Area, any new construction or substantial improvement of a residential Structure shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation.

B. Non-residential Structures

1. Within any identified Floodplain Area, any new construction or substantial improvement of a non-residential Structure shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation, or be designed and constructed so that the space enclosed by such Structure shall remain either completely or essentially dry during any flood up to that height.
2. Any non-residential Structure, or part thereof, having a lowest floor which is not elevated to at least one and one half (1 ½) feet above the One Hundred (100) Year Flood elevation, shall be Flood proofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards 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 Flood proofing 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. Space below the lowest floor

1. Fully enclosed space below the lowest floor (including basement) is prohibited.
2. Partially enclosed space below the lowest floor (including basement) 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 "partially enclosed space" also includes crawl spaces.

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

- a. a minimum of two openings having a net total area of not less than one (1) space inch for every square foot of enclosed space;
- b. the bottom of all openings shall be no higher than one (1) foot above grade;  
and
- c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

D. Accessory structures

Structures accessory to a principal Building need not be elevated or Flood proofed to remain dry, but shall comply, at a minimum, with the following requirements:



1. the Structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity;
2. floor area shall not exceed 600 square feet;
3. the Structure will have a low damage potential;
4. the Structure will be located on the site so as to cause the least obstruction to the flow of flood waters;
5. power lines, wiring, and outlets will be at least one and one-half (1 ½) feet above the One Hundred (100) Year Flood elevation;
6. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited;
7. sanitary facilities are prohibited; and
8. the Structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of flood waters for the purpose of equalizing hydrostatic forces on the walls and designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space;
  - b. the bottom of all openings shall be no higher than one (1) foot above grade;and

- c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

Section 4.03 Design and Construction Standards

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

A. Fill

If fill is used, it shall:

1. extend laterally at least fifteen (15) feet beyond the building line from all points;
2. consist of soil or small rock materials only - sanitary landfills shall not be permitted;
3. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
4. be no steeper than one (1) vertical to two (2) horizontal, feet unless substantiated data, justifying steeper slopes are submitted to, and approved by the Ordinance Enforcement Officer; and,
5. be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water 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 excess runoff onto adjacent properties.

C. Water and Sanitary Sewer Facilities and Systems

1. All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
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 system shall be located within any identified Floodplain Area except in strict compliance with all state and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a Flood.

D. 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.

E. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

F. 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 Section 4.04, "Development Which May Endanger Human Life", shall be stored at or above the Regulatory Flood Elevation and/or Flood proofed to the maximum extent possible.

G. 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.

H. 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.

I. 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" or "water-resistant" 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.

J. Paints and Adhesives

1. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.
2. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
3. All wooden components (doors, trim, cabinets, etc.) shall be finished with a "marine" or "water-resistant" paint or other finishing material.

K. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the One Hundred (100) Year Flood elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment

1. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

M. 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.

Section 4.04 Development Which May Endanger Human Life

A In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development, Strategic Planning and Operations Office, as required by the Act, any new or substantially improved Structure which:

- will be used for the production or storage of any of the following dangerous materials or substances; or,
- will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
- will involve the production, storage, or use of any amount of radioactive substances shall be subject to the provisions of this Section, in addition to all other applicable provisions. 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. nitric acid and oxides of nitrogen;
12. petroleum products (gasoline, fuel oil, etc.);
13. phosphorus;
14. potassium;
15. sodium;
16. sulphur and sulphur products;
17. pesticides (including insecticides, fungicides, and rodenticide); and
18. radioactive substances, insofar as such substances are not otherwise regulated.

B. Within any FW (Floodway Area), any Structure of the kind described in Subsection A., above, shall be prohibited.

C. Where permitted within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be:

1. elevated or designed and constructed to remain completely dry up to at least one and one-half (1-1/2) feet above the one hundred (100) year flood and,
2. designed to prevent pollution from the structure or activity during the course of a One Hundred (100) Year Flood.

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry Flood proofing contained in the publication "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

Section 4.05 Special Requirements for Manufactured Homes

- A. Within any FW (Floodway Area), Manufactured Homes shall be prohibited.
- B. Where permitted within any floodplain area, all manufactured homes, and any improvements thereto, shall be:
  - 1. placed on a permanent foundation.
  - 2. elevated so that the lowest floor of the manufactured home is one and one-half (1-1/2) feet or more above the elevation of the one hundred (100) year flood.
  - 3. anchored to resist flotation, collapse, or lateral movement.

**ARTICLE V PROHIBITED ACTIVITIES WITHIN FLOODPLAIN AREAS**

Section 5.00 General

The following activities are strictly prohibited within any identified Floodplain Area:

- 1. hospitals,
- 2. nursing/retirement homes;
- 3. jails or prisons; and/or
- 4. 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.

**ARTICLE VI EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS**

Section 6.00 Existing Structures

The provisions of this Ordinance 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 Section 6.01 shall apply.



Section 6.01 Improvements

The following provisions shall apply whenever any improvement is made to an existing Structure located within any identified Floodplain Area:

- A. no expansion or enlargement of an existing Structure shall be allowed within any Floodway Area that would cause any increase in the elevation of the One Hundred (100) Year Flood;
- B. no expansion or enlargement of an existing Structure shall be allowed within any FE Area that would, together with all other existing and anticipated development, increase the One Hundred (100) Year Flood elevation more than one (1) foot at any point; and
- C. any modification, alteration, reconstruction, or improvement, of any kind to an existing Structure, to an extent or amount of fifty (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 Ordinance.

**ARTICLE VII VARIANCES**

Section 7.00 General

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

Section 7.01 Variance Procedures and Conditions

Requests for variances shall be considered by the Township Board of Supervisors in accordance with the procedures contained in Section 2.09 of this Ordinance 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 One Hundred (100) Year Flood elevation;
- B. no variance shall be granted for any construction, development, use, or activity within any FE Area that would, together with all other existing and anticipated development, increase the One Hundred (100) Year Flood elevation more than one (1) foot at any point;
- C. if granted, a variance shall involve only the least modification necessary to provide relief;
- D. in granting any variance, the Township Board of Supervisors may 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 Ordinance;
- E. whenever a variance is granted, the Township Board of Supervisors shall notify the applicant in writing that:
  - 1. the granting of the variance may result in increased premium rates for flood insurance; and that
  - 2. such variances may increase the risks to life and property.
- F. In reviewing any request for a variance, the Township Board of Supervisors shall consider, at a minimum, the following:
  - 1. that there is good and sufficient use;
  - 2. that failure to grant the variance would result in exceptional hardship to the applicant; and
  - 3. that the granting of the variance will (i) neither result in an unacceptable or prohibited increase in Flood heights, additional threats to public safety, or

extraordinary public expense, (ii) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

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

Notwithstanding any of the above, however, all Structures shall be designed and constructed so as to have the capability of resisting the One Hundred (100) Year Flood.

## **ARTICLE VIII DEFINITIONS**

### Section 8.00 General

Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its more reasonable application.

### Section 8.01 Specific Definitions

1. Accessory Use or Accessory Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. Basement - means any area of the building having its floor below ground level on all sides.
3. 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.
4. Building Permit - an official document or certificate issued by the authority having jurisdiction performance of a specific entity relating to a Building or Structure.

5. Ordinance Enforcement Officer - The officer or other designated authority charged with the administration and enforcement of this Ordinance including the issuance of a Building Permit.
6. Completely Dry Space - space which will remain totally dry during flooding; the Structure is designed and constructed to prevent the passage of water and water vapor.
7. Development - any person-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.
8. Essentially Dry Space - a space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the Structure is substantially impermeable to the passage of water.
9. Flood - a temporary inundation of normally dry land areas.
10. 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/or any area subject to the unusual and rapid accumulation of surface waters from any source.
11. Flood proofing - means 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.

12. Floodway - the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of accommodating a flood of the One Hundred (100) Year magnitude.

13. Historic Structure - any structure that is:

- (i) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (ii) Certified or preliminarily determined 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;
- (iii) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior;  
or
- (iv) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior; or

- (2) Directly by the Secretary of the Interior in states without approved programs.
- 14. Identified Floodplain Area - the Floodplain Area specifically identified in this Ordinance as being inundated by the One Hundred (100) Year Flood.
- 15. Land development - Any of the following activities:
  - (1) the improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
    - (i) a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
    - (ii) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
  - (2) A subdivision of land.
- 16. Manufactured Home - a transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site completed and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term includes park

trailers, travel trailers, recreational and other similar vehicles which are placed on site for more than 180 consecutive days.

17. Manufactured Home Park - a parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for non-transient use.
18. 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 bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; 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.
19. New construction - structures for which the start of construction commenced on or after December 16, 1980, and includes any subsequent improvements thereto.
20. One Hundred Year Flood - a flood that, on the average, is likely to occur once every one hundred (100) years (i.e. that has one (1) percent chance of occurring each year, although the flood may occur in any year).
21. 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.