

**ARTICLE XIV  
FLOODPLAIN MANAGEMENT**

**1400 Applicable Regulations**

- A. Eaton Township - In Eaton Township, the requirements of this Article XIV shall apply in the Floodplain Overlay District established by §401.3 of this Zoning Ordinance.
- B. Monroe Township - In Monroe Township, the requirements of the Monroe Township Floodplain Management Ordinance shall apply in the Floodplain Overlay District established by §401.3 of this Zoning Ordinance.

**1401 General Provisions**

1401.1 Intent

The intent of this Article 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.

1401.2 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 Eaton Township, unless a Zoning permit has been obtained from the Zoning Officer.
- B. A zoning permit shall not be required for minor repairs to existing buildings or structures.

1401.3 Abrogation and Greater Restrictions

This Article 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 Article, the more restrictive shall apply.

1401.4 Warning and Disclaimer of Liability

- A. Warning - The degree of flood protection sought by the provisions of this Article 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 Article 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.
- B. Disclaimer - This Article shall not create liability on the part of the affected Township or any officer of any of

the Townships identified herein or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

## **1402 Administration**

### **1402.1 Zoning Permits Required**

Zoning permits shall be required before any construction or development is undertaken within any area of Eaton Township.

### **1402.2 Issuance of Zoning Permit**

- A. **Conformance** - The Zoning Officer shall issue a zoning 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. **State and Federal Laws** - Prior to the issuance of any zoning permit, the Zoning 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, §404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. **Watercourses** - 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 Regional Office. In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development, shall be notified by the Applicant, prior to any alteration or relocation of any watercourse.

### **1402.3 Application Procedures and Requirements**

Applications shall be made in accord with §1202 of this Ordinance, and in addition to the information required by §1202.3, applications shall include the following:

- A. Listing of other permits required.
- B. Brief description of proposed work and estimated cost, including a breakout of the flood-related cost and the market value of the building before the flood damage occurred.
- C. A plan of the site showing the exact size and location of the proposed construction, as well as, any existing buildings or structures. The Zoning Officer may require that the Applicant submit, at his or her expense, a Federal Emergency Management Agency Elevation Certificate, signed and sealed by a prepared by a land surveyor, engineer, or architect authorized by law to certify elevation information.
- D. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for zoning permits shall provide all the necessary information in sufficient detail and clarity to enable the Zoning Officer to determine that:
  - 1. 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;
  - 2. All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to

- minimize or eliminate flood damage; and
3. Adequate drainage is provided so as to reduce exposure to flood hazards.
- E. 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.
- F. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
1. The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929;
  2. The elevation of the one hundred (100) year flood;
  3. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood;
  4. Detailed information concerning any proposed floodproofing measures; and,
  5. Supplemental information as may be necessary under 34 PA Code, Chapter 401-405 as amended, and Sec.1612.5.1, §104.7 and 109.3 of the 2003 IBC and §R106.1.3 and R104.7 of the 2003 IRC.
- G. 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 one hundred (100) year flood. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.
- H. Detailed information needed to determine compliance with §1404.3,E, Storage, and §1404.4, Development Which May Endanger Human Life, including:
1. The amount, location and purpose of any materials or substances referred to in §1404.3,E, and §1404.4, which are intended to be used, produced, stored or otherwise maintained on site.
  2. 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 §1404.4 during a one hundred (100) year flood.

#### 1402.4 Review by County Conservation District

The Zoning Officer may require that a copy of applications and plans for proposed construction or development in any identified floodplain area to be considered for approval also be submitted to the County Conservation District for review and comment prior to the issuance of a zoning permit. The recommendations of the Conservation District shall be considered by the Zoning Officer for possible incorporation into the proposed plan.

#### 1402.5 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 Zoning Officer to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

#### 1402.6 Compliance

Compliance shall be confirmed in accord with §1201 and §1202, and the requirements of the 34 PA Code Chapter 401-405 and the IBC (Sections 109.3.3, 1612.5.1, 104.7 and 103.8) and the 2003 IRC (R106.1.3, 109.1.3 and R104.7) or latest revisions thereof pertaining to elevation certificates and record retention shall be considered.

**1403 Identification of Floodplain Areas**

The identified floodplain area shall be those areas of Eaton Township which are subject to the one hundred (100) year flood, as identified in the Eaton Township, Wyoming County Flood Insurance Study (FIS) dated May 1, 1980, and the accompanying maps prepared for the Township by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof.

**1403.1 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. **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. Other sources of data, where available, shall be used such as:
  - 1. U.S. Army Corps of Engineers Flood Plain Information Reports
  - 2. USDA-NRCS-County Soil Surveys
  - 3. Known high water marks
  - 4. U.S. Geological Survey Data
  - 5. Other sources

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.

**1403.2 Changes in Identification of Area**

The identified floodplain area may be revised or modified by the Township 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 Federal Emergency Management Agency (FEMA).

**1403.3 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 or determination may appeal to the Township. The burden of proof shall be on the appellant.

**1404 Technical Provisions**

- 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 municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office. In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development, 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 Article and any other applicable codes, ordinances and regulations.

#### 1404.1 Special Requirements for FW and FA Areas

- A. Within any FW (Floodway Area), the following provisions apply:

1. Any new construction, development, use, activity, or encroachment that would cause any increase in flood heights shall be prohibited.
2. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection Regional Office.

- B. Within a FA (General Floodplain Area), the following provisions apply:

1. No new construction or development shall be located within the area measured one hundred (100) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.
2. Any new construction or development, which would cause any increase in flood heights shall be prohibited within any floodway area.

#### 1404.2 Elevation and Floodproofing 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 at least 1½ feet above the 100 year flood elevation. The design and construction standards and specifications contained in the 2003 IBC (Sec. 1612.4, 1603.1.6 and 3403.1) and in the 2003 IRC (Sec. R323.1.4, R323.2.1, and R323.2.2) and ASCE 24 (Sec. 2.4 and 2.5, Chap. 5) and 34 PA Code (Chapters 401-405 as amended) shall be utilized. The use of fill shall not be utilized as a means or technique to elevate or support the lowest floor (including basement) of any structure to comply with this requirement in whole or in part.

- 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 at least 1½ feet above the 100 year 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. The use of fill shall not be utilized as a means or technique to elevate or support the lowest floor (including basement) of any structure to comply with this requirement in whole or in part.
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 floodproofed in a completely or essentially dry manner in accordance with the WI 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

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.

3. The design and construction standards and specifications contained in the IBC (Sec. 1603.1.2, 1603.1.6, 1605.2.2, 1606.5, 1612.5.1 and 3403.1. and ASCE 24 (Secs. 2.4 and Chap. 7) and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

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. 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.
  - c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
3. Consideration may be given to the requirements of 34 PA Code (Chapters 401-405 as amended) and the 2003 IRC (Secs.R323.2.2 and R323.1.4) and the 2003 IBC (Secs. 1612.4, 1612.5, 1202.3.2 and 1203.3.3).

D. Accessory Structures - Structures accessory to a principal building need not be elevated or floodproofed 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 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.
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 floodwater for the purpose of equalizing hydrostatic forces on the walls. 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.
- 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.

#### 1404.3 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 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. The provisions contained in the 2003 IBC (Appendix G401.5) shall be utilized.
- B. 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.
  4. The design and construction provisions of the UCC and 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Appendix G. Secs. 401.3 and 401.4), the 2003 IRC (Sec. 323.1.6), the ASCE 24-98 (Sec. 8.3), FEMA #348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code (Chapter 3) 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 no more than one (1) foot below 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 §1404.4, 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.
- 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.
3. The design and construction requirements of the UCC pertaining to this subsection as referred to in 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Secs. 1605.2.2, 1605.3.1.2, 1612.4 and Appendix G501.3), the IRC (Secs. R301.1 & R323.1.1) and ASCE 24-98 (Sec. 5.6) shall be utilized.

### 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* 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.
5. The provisions of the UCC pertaining to this subsection and referenced in the 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Secs. 801.1.3, 1403.2, 1403.4, 1403.6 and 1404.2), the 2003 IRC (Secs. R323.1.7 & R501.3) and ASCE 24-98 (Chapter 6).

### I. 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.
4. The standards and specifications contained in 34 PA Code (Chapters 401-405, as amended) the 2003 IBC (Secs. 801.1.3, 1403.7 and Appendix G) and the 2003 IRC (Secs. R323.1.7).

### J. 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.
3. The provisions pertaining to the above provisions and referenced in the UCC and 34 PA Code (Chapters 401-405) as amended and contained in the 2003 IBC (Sec. 1612.4), the IRC (Sec. R323.1.5), the 2000 IFGC (Secs. R301.5 and R1601.3.8) and ASCE 24 (Chapter 8) shall be utilized.

## K. 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.
2. The provisions pertaining to the above provision and referenced in the UCC and 34 PA Code (Chapters 401-405), as amended and contained in the 2003 IBC (Sec. 1612.4), the 2003 IRC (Secs. R323.1.5) the 2000 IFGC (Secs. R301.5 and R1601.3.8) and ASCE 24 (Chapter 8) shall be utilized

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 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this Article, to the extent that they are more restrictive and/or supplement the requirements of this Article.

1. International Building Code (IBC) 2003 or the latest edition thereof: Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
2. International Residential Building Code (IRC) 2003 or the latest edition thereof: Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

### 1404.4 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 as required by the Act, any new or substantially improved structure which:

1. will be used for the production or storage of any of the following dangerous materials or substances; or,
2. 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,
3. 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 rodenticides)
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. Within any FA (General Floodplain Area), any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited within the area measured one hundred (100) feet landward from the top-of-bank of any watercourse.
- D. 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 ½) 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 floodproofing 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.

#### 1404.5 Special Requirements for Manufactured Homes

- A. Within any FW (Floodway Area), manufactured homes shall be prohibited.
- B. Within any FA (General Floodplain Area) or FE (Special Floodplain Area), manufactured homes shall be prohibited within the area measured one hundred (100) feet landward from the top-of-bank of any watercourse.
- C. 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 ½) feet or more above the elevation of the one hundred (100) year flood. (See §1404.2.)
  3. Anchored to resist flotation, collapse, or lateral movement.
  4. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2003 International Residential Building Code or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 PA Code Chapter 401-405.
  5. Consideration shall be given to the installation requirements of the 2003 IBC (Appendix G, Sec. 501.1-3) and the 2003 IRC (Sec. R323.2, R323.3, R102.7.1, R105.3.1.1 and Appendix AE101, 604 and 605) or the most recent revisions thereto and 34 PA Code Chapter 401-405, as amended where appropriate and/or applicable

to units where the manufacturers' standards for anchoring cannot be provided or were not established for the units(s) proposed installation.

#### **1405 Activities Prohibited in Identified Floodplain Areas**

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any identified floodplain area:

- A. The commencement of any of the following activities; or the construction enlargement, or 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.

#### **1406 Existing Structures in Identified Floodplain Areas**

The provisions of this Article do not require any changes or improvements to be made to lawfully existing structures. However, when any improvement is made to any existing structure located within any identified floodplain area, the following provisions shall apply.

- 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. 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 Article. The above activity shall also address the requirements of the 34 PA Code Chapters 401-405, as amended and the 2003 IBC (Sec. 3402.1 and 1612.4) and the 2003 IRC (Secs. R105.3.1.1 and 323.1.4).
- C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or flood proofed 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 Article.
- E. The requirements of 34 PA Code Chapter 401-405, as amended and the 2003 IRC (Secs. R102.7.1, R105.3.1, R105.3.1.1 and Appendices E and J) or the latest revision thereof and the 2003 IBC (Secs. 101.3, 3403.1 and Appendix G) or the latest revision thereof shall also be utilized in conjunction with the provisions of this section.

#### **1407 Variances**

If compliance with any of the requirements of this Article would result in an exceptional hardship to a prospective builder, developer or landowner, the Zoning Hearing Board may, upon written request in accord with §1207 of this Ordinance, grant relief from the strict application of the requirements. In addition to the requirements of §1207 the following shall apply:

- 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. Except for a possible modification of the one and one half (1 ½) foot freeboard requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to Development Which May Endanger Human Life (§1404.4).
- C. If granted, a variance shall involve only the least modification necessary to provide relief.
- D. In granting any variance, the Township 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 Article.
- E. Whenever a variance is granted, the Township 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.
- F. In reviewing any request for a variance, the Township shall consider, at a minimum, the following:
1. That there is good and sufficient cause.
  2. That failure to grant the variance would result in exceptional hardship to the applicant.
  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 appropriate Township. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.

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.

#### **1408 Definitions**

In addition to the definitions included in Article III of this Ordinance, the following definitions shall apply to this Article XIV. In cases where a definition appears in Article III and this §1408, the definition in this §1408 shall apply to this Article XIV. Unless specifically defined below, words and phrases used in this Article XIV shall be interpreted so as to give this Article its most reasonable application.

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

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.

Completely Dry Space: a space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

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.

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.

Flood: a temporary inundation of normally dry land areas.

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.

Floodproofing: 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.

Floodway: the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Article, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.

Historic Structure: any structure that is:

- A. 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;
- B. 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;
- C. 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
- D. 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.

Identified Floodplain Area: the floodplain area specifically identified in this Article as being inundated by the one hundred (100) year flood.

Land Development: Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
  1. 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
  2. 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.

B. A subdivision of land.

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 space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this Article.

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

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.

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.

New Construction – as used in this Article the term *new construction* shall mean structures for which the start of construction, including any improvements thereto, commenced on or after the effective date of this Article. For purposes of insurance ratings, FEMA reporting requirements and other purposes *new construction* shall mean structures for which the start of construction commenced on or after June 9, 1982, and includes any subsequent improvements thereto.

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).

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.

Recreational Vehicle: a vehicle which is (i) built on a single chassis; (ii) not more than 400 square feet, measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light-duty truck; (iv) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Flood Elevation: the one hundred (100) year flood elevation plus a freeboard safety factor of one and one-half (1 ½) 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 event, 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 a designated portion of a floodplain.

Structure: anything constructed or erected on the ground or attached to the ground including, but not limited to

buildings, sheds, manufactured homes, and other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land.

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 lease of land for 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 Additions to Manufactured Home Parks: Any repair, reconstruction, or improvement of an existing manufactured home park or manufactured home subdivision, where such repair, reconstruction, or improvement of the streets, utilities, and pads will equal or exceed 50% of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement is started.

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 fifty (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 fifty (50) percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however include either:

- A. 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, or;
- B. Any alteration of a *historic structure*, provided that the alteration will not preclude the structure's continued designation as a *historic 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 municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the Commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.