

Chapter 78

FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Borough Council of the Borough of Montoursville 5-2-2022 by Ord. No. 491.¹ Amendments noted where applicable.]

ARTICLE I Statutory Authorization

§ 78-1. Authority.

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978,² delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry.

ARTICLE II General Provisions

§ 78-2. Intent.

The intent of this chapter is to:

- A. Promote the general health, welfare, and safety of the municipality.
- 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 municipality, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with federal and state floodplain management requirements.
- F. Establish minimum requirements for floodplain management.

§ 78-3. Applicability.

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 municipality unless a floodplain development compliance certificate has been obtained from the Floodplain Administrator.

1. Editor's Note: This ordinance also repealed former Ch. 78, Flood Damage Prevention, adopted 1-6-2014 by Ord. No. 457, as amended.

2. Editor's Note: See 32 P.S. § 679.101 et seq.

§ 78-4. 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.

§ 78-5. Severability.

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

§ 78-6. Warning and disclaimer of liability.

- A. 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.
- B. This chapter shall not create liability on the part of the municipality or any officer or employee thereof for any Flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**ARTICLE III
Administration**

§ 78-7. Designation of the Floodplain Administrator.

- A. A Floodplain Administrator, appointed by resolution of the municipality, shall be charged with the responsibility to administer and enforce the provisions of this chapter within the municipality. The Floodplain Administrator may:
 - (1) Fulfill the duties and responsibilities set forth in these regulations;
 - (2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees;
 - (3) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations.
- B. Administration of any part of these regulations by another entity shall not relieve the municipality of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program (NFIP) as set forth in the Code of Federal Regulations at 44 CFR 59.22.
- C. In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Chief Executive Officer of the municipality.

§ 78-8. Permits required.

A floodplain development compliance certificate shall be required before any construction or development is undertaken within any area of municipality that is subject to flooding.

§ 78-9. Duties and responsibilities of the Floodplain Administrator.

- A. The Floodplain Administrator shall issue a floodplain development compliance certificate only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this chapter, and all other applicable codes and ordinances.
- B. Should any construction or development involve "land development," as that term is defined in this chapter, a land development plan shall be submitted to the Municipal Engineer for review under both this chapter and the municipality's Subdivision and Land Development Ordinance.³
- C. All applicants shall provide the floodplain development compliance certificate to the individual or individuals having certification under the Pennsylvania Uniform Construction Code (UCC) who shall be responsible for inspection of the proposed construction or development to assure its compliance with the Pennsylvania UCC.
- D. Prior to the issuance of any floodplain development compliance certificate, the Floodplain Administrator shall review the floodplain development permit application 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);⁴ the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended);⁵ the Pennsylvania Clean Streams Act (Act 1937-394, as amended);⁶ and the U.S. Clean Water Act, Section 404, 33 U.S.C. § 1344. No floodplain development compliance certificate shall be issued until this determination has been made.
- E. In the case of existing structures, prior to the issuance of a floodplain development compliance certificate, the Floodplain Administrator shall review the history of repairs to the existing structure, so that any cumulative substantial damage concerns can be addressed before the floodplain development compliance certificate is issued.
- F. In the discharge of his/her 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.
- G. The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of this chapter, including, but not limited to, finished construction elevation data, permitting, inspection, and enforcement.

3. Editor's Note: See Ch. 133, Subdivision and Land Development.

4. Editor's Note: See 35 P.S. § 750.1 et seq.

5. Editor's Note: See 32 P.S. § 693.1 et seq.

6. Editor's Note: See 35 P.S. § 691.1 et seq.

- H. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning the municipality's participation in the National Flood Insurance Program (NFIP).
- I. The responsibility, authority, and means to implement the commitments of the Floodplain Administrator can be delegated from the individual identified. However, the ultimate responsibility lies with the individual appointed by the municipality as the Floodplain Administrator.
- J. The Floodplain Administrator shall consider the requirements of the 34 Pa. Code and the 2018 International Building Code (IBC) and the 2018 International Residential Code (IRC) or the latest edition thereof adopted by the Commonwealth of Pennsylvania.
- K. The Floodplain Administrator shall not issue any floodplain development compliance certificate to any applicant until the applicant:
 - (1) Secures all requisite federal, state, and local permits, and provides copies of same to the Floodplain Administrator; and
 - (2) Has fully complied with the 2018 IBC and/or the 2018 IRC; and
 - (3) Has fully complied with all applicable sections of this chapter.
- L. In the case of existing structures, prior to the issuance of any floodplain development compliance certificate, the Floodplain Administrator shall review the proposed cost of improvements or repairs and the preimprovement market value of the structure, so that a substantial improvement/substantial damage determination can be made.
- M. In the event that the Floodplain Administrator discovers that the permitted work does not comply with the floodplain development compliance certificate, or any applicable law(s) and/or ordinance(s), or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the floodplain development compliance certificate and report such fact to the municipality for enforcement action.

§ 78-10. Application procedures and requirements.

- A. All applications for a floodplain development compliance certificate shall be submitted, in writing, to the Floodplain Administrator on forms supplied by the municipality, and 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) Name and address of engineer (if applicable).
 - (5) Name and address of property appraiser (if applicable).
 - (6) Site location, including address.
 - (7) Listing of other permits required.

- (8) Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
 - (9) 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 shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
- (1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this chapter, and all other applicable codes and ordinances; and
 - (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; and
 - (4) Structures will be securely anchored to prevent flotation, collapse, or lateral movement; and
 - (5) Building materials are flood-resistant; and
 - (6) Appropriate practices that minimize flood damage have been used; and
 - (7) Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information, plus any other pertinent information as may be required by the Floodplain Administrator, to make the above determination:
- (1) A completed floodplain development permit application form.
 - (2) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 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/or land development.
 - (e) The location of all existing streets, drives, and other access ways.
 - (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 buildings, structures and other improvements, drawn at suitable scale showing the following:
 - (a) The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988 (NAVD88).
 - (b) The elevation of the base flood.
 - (c) Supplemental information as may be necessary under 34 Pa. Code, the 2018 IBC or the 2018 IRC or latest edition thereof adopted by the Commonwealth of Pennsylvania.
- (4) The following data and documentation:
 - (a) An elevation certificate signed and sealed by a registered professional land surveyor or registered professional engineer.
 - (b) Detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - (c) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
 - (d) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within the floodway area (see Article IV, § 78-20A of this chapter) when combined with all other existing and anticipated development, will not increase the base flood elevation at any point.
 - (e) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway (see Article IV, § 78-20B of this chapter) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one foot at any point within the municipality.
 - (f) 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 statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
 - (g) Detailed information needed to determine compliance with Article V, §§ 78-26F and 78-27 of this chapter, including:
 - [1] The amount, location and purpose of any materials or substances referred to in Article V, §§ 78-26F and 78-27 of this chapter 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 Article V, § 78-27 of this chapter during a base flood.

- (h) The appropriate component of the PA DEP's Planning Module for Land Development.
- (i) Where any excavation or grading is proposed, a plan meeting the requirements of the PA DEP to implement and maintain erosion and sediment pollution control.
- (j) A floodplain development permit application fee, and escrow deposit(s) for review and processing of the floodplain development permit application.
- (k) The estimated cost of project on the floodplain development permit application form shall be provided by the applicant, and shall be determined by the applicant's building contractor (currently registered with the Pennsylvania Attorney General's office), the applicant's professional cost estimator, the applicant's registered architect (currently registered to practice architecture in the Commonwealth of Pennsylvania), and/or the applicant's professional engineer (currently registered to practice engineering in the Commonwealth of Pennsylvania, and who must specialize in structural engineering of buildings). A detailed breakdown of the estimated cost of project shall be provided to the Floodplain Administrator for review. Items that must be included and detailed in the applicant's estimated cost of project are listed in Chapter 4, Section 4.4.1, of FEMA's Substantial Improvement/Substantial Damage Desk Reference (as amended). Items that may be excluded from the applicant's estimated cost of project are listed in Chapter 4, Section 4.4.2, of FEMA's Substantial Improvement/Substantial Damage Desk Reference (as amended). During disaster declarations by federal, state, and/or local government officials, the Floodplain Administrator may use professional judgment and knowledge of current local construction costs to determine the estimated cost of project. The Floodplain Administrator reserves the right to review the applicant's estimated cost of project to determine if the applicant's estimated cost is consistent with current local construction costs.
- (l) The market value of existing structure and the market value of predamaged structure on the floodplain development permit application form shall be provided by the applicant, and shall be determined by the applicant's certified real estate appraiser (currently registered as a certified real estate appraiser in the Commonwealth of Pennsylvania) or by adjusting the county's assessed value of the existing structure to an approximate market value using current Pennsylvania Common Level Ratio Real Estate Valuation Factors (as amended). The Floodplain Administrator reserves the right to:
 - [1] Review the market value of existing structure from the applicant's certified real estate appraiser using real estate comparables; and
 - [2] To use the recent sale price of the existing structure as the market value of

existing structure; and

- [3] To consult with a certified real estate appraiser (currently registered as a certified real estate appraiser in the Commonwealth of Pennsylvania) regarding the market value of existing structure from the applicant's certified real estate appraiser.

D. Applications for a floodplain development compliance certificate shall be deemed by the Floodplain Administrator, at the time of submission, to be either a minor application or a major application. Minor applications will not require an escrow deposit. All major applications will require an escrow deposit in an amount established from time to time by resolution of the municipality for a major application.

§ 78-11. 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 Floodplain Administrator to any other appropriate agencies and/or individuals (e.g., Municipal Planning Commission, Municipal Engineer, PA DEP, certified real estate appraiser, etc.) for review and comment.

§ 78-12. Changes.

After the issuance of a floodplain development compliance certificate by the Floodplain Administrator, no changes of any kind shall be made to the floodplain development permit application; floodplain development compliance certificate; or any of the plans, specifications, or other documents submitted with the floodplain development permit 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 Floodplain Administrator for consideration.

§ 78-13. Placards.

In addition to the floodplain development compliance certificate, the Floodplain Administrator shall issue a placard, or similar document, which shall be displayed at the construction and/or development project site during the time construction is in progress. This placard shall include a brief description of the project, the location of the project, the date of its issuance, the floodplain development compliance certificate number, and the signature of the Floodplain Administrator.

§ 78-14. Start of construction.

A. Work on the proposed construction and/or development shall begin within 180 days after the date of issuance of the floodplain development compliance certificate. Work shall also be completed within 12 months after the date of issuance of the floodplain development compliance certificate, or the floodplain development compliance certificate shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. A floodplain development compliance certificate holder shall notify the Floodplain Administrator of the date for commencement of construction and/or development at least seven days prior thereto. The issuance of the floodplain development compliance certificate

does not refer to any zoning approval.

- B. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- C. Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original floodplain development compliance certificate is compliant with the ordinance and FIRM/FIS in effect at the time the extension is granted.

§ 78-15. Inspection and revocation.

- A. During the construction period, the Floodplain Administrator shall inspect the premises to determine that the work is progressing in compliance with the information provided on the floodplain development permit application. The Floodplain Administrator shall make as many inspections during and upon completion of the work as are necessary.
- B. In the event that the Floodplain Administrator discovers that the work does not comply with the floodplain development 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 floodplain development compliance certificate and report such fact to municipality for whatever action it considers necessary.
- C. A record of all such inspections and violations of this chapter shall be maintained.
- D. The requirements of 34 Pa. Code, Chapters 401-405 (as amended); the IBC (Sections 109.3.3, 1612.5.1, 104.7, and 103.8, or latest revisions thereof); and the 2003 IRC (R106.1.3, R109.1.3 and R104.7, or latest revisions thereof) pertaining to elevation certificates and record retention shall be considered.

§ 78-16. Fees; escrow.

- A. Fees payable to the municipality by an applicant and/or developer shall be established, from time to time, by resolution of the municipality for the following:
 - (1) A floodplain development permit application fee.
 - (2) Escrow deposit(s) for the following:
 - (a) Review and processing of the floodplain development permit application, and any related documents.
 - (b) Review by the Municipal Engineer of the floodplain development permit

application.

- (c) Review by the Municipal Engineer of any and all information concerning the construction and/or development.
 - (d) Any and all consultation with the Municipal Engineer during construction and/or development.
 - (e) Any and all consultation with registered architects and/or professional engineers regarding costs of improvements to existing structures and costs to repair existing structures.
 - (f) Any and all consultation with certified real estate appraisers regarding market value of existing structures.
- (3) Any and all fees associated with an applicant's or developer's request for a letter of map revision (LOMR) or conditional letter of map revision (CLOMR).
- B. Escrow accounts, when required, shall be fully replenished whenever the remaining escrow account balance falls below 25% of the beginning escrow account balance, unless otherwise directed by the Floodplain Administrator. Only after the issuance of a certificate of occupancy by the Municipal Building Code Official to the applicant following the applicant's receipt of a final inspection report by the Municipal Building Code Official indicating full compliance with the UCC will any remaining balance in an escrow account be fully refunded to the applicant.

§ 78-17. Enforcement; violations and penalties.

- A. Notices. Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:
- (1) Be in writing; and
 - (2) Include a statement of the reasons for its issuance; and
 - (3) Allow a reasonable time not to exceed a period of 30 days for the performance of any act it requires; and
 - (4) 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 method authorized or required by the laws of this commonwealth; and
 - (5) Contain an outline of remedial actions which, if taken, will affect compliance with the provisions of this chapter; and
 - (6) Indicate the penalties/court proceedings which may be imposed should the violation not be remedied.

- B. 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 of direction of the Floodplain Administrator, or any other authorized employee of the municipality shall be guilty of a summary offense and upon conviction shall pay a fine to municipality, of not less than \$100 nor more than \$1,000, plus costs of prosecution, including, but not limited to, attorney's fees, expert witness fees, filing fees, costs of service, and the like. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed 10 days. Each day during which any violation of this chapter 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 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. 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 municipality to be a public nuisance and abatable as such.

§ 78-18. Appeals.

- A. 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 Municipal Zoning Hearing Board. Such appeal must be filed, in writing, within 30 days after the date of any decision, determination, denial, or enforcement notice by the Floodplain Administrator.
- B. Upon receipt of such appeal, the Municipal Zoning Hearing Board shall set a time and place for a hearing to consider the appeal in accordance with Section 908.(1.2) of the Pennsylvania Municipalities Planning Code⁷ (as amended). Notice of the time and place at which the appeal will be considered shall be given to all parties.
- C. The Municipal Zoning Hearing Board shall conduct the hearing and make a decision in accordance with Section 908 of the Pennsylvania Municipalities Planning Code (as amended), except that the Floodplain Administrator shall be added to the list of parties in Section 908.(1) of Pennsylvania Municipalities Planning Code (as amended) that shall receive notice of the hearing.
- D. Any person aggrieved by any decision of the Municipal Zoning Hearing Board may seek relief therefrom by appeals to courts of the commonwealth, as provided by applicable law(s), including the Pennsylvania Flood Plain Management Act.⁸

ARTICLE IV
Identification of Floodplain Areas

§ 78-19. Identification.

The identified floodplain area shall be any areas of municipality, classified as special flood

7. Editor's Note: See 53 P.S. § 10101 et seq.

8. Editor's Note: See 32 P.S. § 679.101 et seq.

hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated June 2, 2016, 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 (FIS). The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by municipality and declared to be a part of this chapter.

§ 78-20. Description and special requirements of identified floodplain areas.

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

- A. The floodway area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those special flood hazard areas where no floodway has been identified in the FIS and FIRM.
 - (1) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the municipality during the occurrence of the base flood discharge.
 - (2) Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the PA DEP Regional Office.
- B. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
 - (1) The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
 - (2) AE Area without floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
 - (a) No floodplain development compliance certificate shall be granted for any construction, development, use, or activity within any AE Area/District without floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the base flood elevation more than one foot at any point.
 - (b) No new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the PADEP Regional Office.
- C. A Area District.

- (1) 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 base flood elevations have been provided. For these areas, elevation and floodway information from other federal, state, or other acceptable sources shall be used when available. Where other acceptable information is not available, the following procedures shall be used to determine the base flood elevation:
 - (a) For all nonaccessory structures (including residential, commercial, industrial, and institutional structures), the applicant shall be required to submit a letter of map amendment (LOMA) to FEMA to either remove the nonaccessory structure from the A Zone, or obtain a base flood elevation for a nonaccessory structure that cannot be removed from the A Zone.
 - (b) For all accessory structures:
 - [1] The base flood elevation may be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site; or
 - [2] The municipality may require the applicant to determine the elevation using 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 standards. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow for a thorough technical review by the municipality.
- (2) For all accessory structures and all nonaccessory structures, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the PA DEP Regional Office.

D. The AO and AH Area/District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1% annual chance shallow flooding where average depths are between one foot and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

§ 78-21. Changes in identification of area.

The identified floodplain area may be revised or modified by the municipality where studies or information provided by a qualified agency or individual documents the need for such revision. However, prior to any such change to the special flood hazard area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six months after the date such information becomes available, the municipality shall notify FEMA of the changes to the special flood hazard area by submitting technical or scientific data. See Article V, § 78-24B for situations where FEMA notification is required.

§ 78-22. Boundary disputes.

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Floodplain Administrator in consultation with the Municipal Engineer, and any party aggrieved by this decision or determination may appeal to the Municipal Zoning Hearing Board. The burden of proof shall be on the appellant. The procedure for appealing a boundary dispute shall be in accordance with § 78-18 of this chapter.

§ 78-23. Jurisdictional boundary changes.

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

**ARTICLE V
Technical Provisions**

§ 78-24. General.

A. Alteration or relocation of watercourse.

- (1) 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 first been obtained from the PA DEP Regional Office.
- (2) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood-carrying capacity of the watercourse in any way.
- (3) In addition, FEMA and the Pennsylvania Department of Community and Economic development, shall be notified prior to any alteration or relocation of any watercourse.

B. When the municipality proposes to permit the following encroachments: any development that causes a rise in the base flood elevations within the floodway; or any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or alteration or relocation of a stream (including, but not limited to, installing culverts and bridges), the municipality shall (as per 44 CFR Part 65.12):

- (1) Apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur; and
- (2) Upon receipt of the Floodplain Administrator's conditional approval of map change and prior to approving the proposed encroachments, provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and/or revised floodway reflecting the post-project condition; and
- (3) Upon completion of the proposed encroachments, provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.

- C. 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.

§ 78-25. Elevation and floodproofing requirements.

A. Residential structures.

- (1) In AE, A1-30, and AH Zones, any addition, new construction, or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.
- (2) In A Zones, where there are no base flood elevations specified on the FIRM, any addition, 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 § 78-20C of this chapter.
- (3) In AO Zones, any addition, new construction, or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
- (4) The design and construction standards and specifications contained in the 2018 IBC and in the 2018 IRC or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 Pa. Code (Chapters 401-405, as amended) shall be utilized, where they are more restrictive.

B. Nonresidential structures.

- (1) In AE, A1-30, and AH Zones, any addition, new construction, or substantial improvement of a nonresidential 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 below the regulatory flood elevation:
 - (a) Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water; and
 - (b) Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (2) In A Zones, where no base flood elevations are specified on the FIRM, any addition, 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 Article IV, § 78-20C of this chapter.
- (3) In AO Zones, any addition, new construction, or substantial improvement shall have the lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
- (4) 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 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.

- (5) The design and construction standards and specifications contained in the 2018 IBC and in the 2018 IRC or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 Pa. Code (Chapters 401-405, as amended) shall be utilized, where they are more restrictive.

C. Space below the lowest floor.

- (1) Basements are prohibited within the identified floodplain area.
- (2) Fully enclosed space below the lowest floor (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 floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
- (3) 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 square inch for every square foot of enclosed space; and
 - (b) The bottom of all openings shall be no higher than one foot above grade; and
 - (c) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

D. Historic structures. 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 historic structure's continued designation as an historic structure. Documentation that a specific ordinance requirement will cause removal of the historic structure from the National Register of Historic Places or the 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 historic structure.

E. In the identified floodplain area, accessory structures need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

- (1) Accessory structures 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 of the property. A signed declaration of land restriction (nonconversion agreement) for the accessory structure shall be recorded on the property deed prior to issuance of the certificate of occupancy.
- (2) The floor area of the accessory structure shall not exceed 600 square feet.

- (3) Accessory structures shall have a low damage potential.
- (4) Accessory structures shall be located and oriented on the property so as to cause the least obstruction to the flow of floodwaters.
- (5) Separate electrical circuits shall serve accessory structures and shall be dropped from above.
- (6) Power lines, wiring, and outlets shall be elevated to the regulatory flood elevation.
- (7) Permanently affixed utility equipment and appliances, such as furnaces, heaters, washers, dryers, etc., are prohibited.
- (8) Sanitary facilities are prohibited.
- (9) Accessory structures shall be securely anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement.
- (10) Accessory structures shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior 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 square inch for every square foot of enclosed space; and
 - (b) The bottom of all openings shall be no higher than one foot above grade; and
 - (c) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (11) No hazardous materials and substances (as listed in Article V, Section 5.04 of this chapter) shall be stored in any accessory structure.

F. In the identified floodplain area, a signed declaration of land restriction (nonconversion agreement) shall be recorded on the property deed prior to issuance of the certificate of occupancy for any fully enclosed space that is below the BFE and that is not designed, constructed, or approved for human habitation.

§ 78-26. Design and construction standards.

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

A. Fill.

- (1) If fill is used, it shall:
 - (a) Extend laterally at least 15 feet beyond the building line from all points; and
 - (b) Consist of soil or small rock materials only; sanitary landfills shall not be permitted; and

- (c) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling; and
 - (d) Be no steeper than one vertical foot to two horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
 - (e) 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 stormwater runoff in a safe and efficient manner. The system shall ensure 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 supply and sanitary sewer systems.
 - (1) All new or replacement water supply and sanitary sewer systems shall be located, designed, and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
 - (2) Sanitary sewer systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
 - (3) No part of any on-site waste disposal 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 FEMA #348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.
- 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 foot below the base 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 Article V, § 78-27 of this chapter, shall be stored at or above the base flood elevation or floodproofed to the maximum extent possible.
- G. Placement of buildings, structures, fences and structural barriers.
 - (1) 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 floodwater.
 - (2) No fences, except two-wire fences, or other structural barriers which may impede, retard or change the direction of the flow of floodwaters, or which will catch or

collect debris carried by such waters shall be placed within a designated floodway, nor shall any fence or structural barrier be placed where the natural flow of floodwater could carry such fence or structural barrier downstream to the damage or detriment of any downstream property.

H. Anchoring.

- (1) All buildings and structures shall be securely 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 base flood elevation shall be securely anchored or affixed to prevent flotation.

I. Floors, walls, and ceilings.

- (1) Wood flooring used at or below the base 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 base flood elevation shall be of a marine or water-resistant variety.
- (3) Walls and ceilings at or below the base 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 base 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 base flood elevation shall be of marine or water-resistant quality.
- (2) Adhesives used at or below the base flood elevation shall be of a marine or water-resistant variety.
- (3) All wooden components (doors, trim, cabinets, etc.) used at or below the base flood elevation 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 feet above the base flood elevation.
- (2) Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment. 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 floodwaters into the system and discharges from the system into floodwaters.

Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.

- N. 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 articles, sections, and subsections of this chapter, to the extent that they are more restrictive and/or supplement the requirements of this chapter:
- (1) 2018 IBC or the latest edition thereof adopted by the Commonwealth of Pennsylvania:
 - (a) Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
 - (2) 2018 IRC or the latest edition thereof adopted by the Commonwealth of Pennsylvania:
 - (a) Secs. R104, R105, R109, R322, Appendix E, and Appendix J.

§ 78-27. Development which may endanger human life.

- A. In accordance with the Pennsylvania Flood Plain Management Act,⁹ 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 materials or substances that are considered dangerous to human life; 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 materials on the premises that are considered dangerous to human life; or 3) will involve the production, storage, or use of any amount of radioactive substances shall be subject to the provisions of Article V, § 78-27 of this chapter, in addition to all other applicable provisions.
- B. The following 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.

9. Editor's Note: See 32 P.S. § 679.101 et seq.

- (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.
- C. Within any identified floodplain area, any new or substantially improved structure of the kind described in Article V, § 78-27A of this chapter, shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
- D. Within any floodway area, any structure of the kind described in Article V, Section 504.A of this chapter, shall be prohibited. Where permitted within any identified floodplain area, any new or substantially improved residential structure of the kind described in Article V, Section 5.04.A of this chapter, shall be elevated to remain completely dry up to at least 1 1/2 feet above base flood elevation and built in accordance with Article V, §§ 78-24, 78-25 and 78-26 of this chapter.
- E. Where permitted within any identified floodplain area, any new or substantially improved nonresidential structure of the kind described in § 78-27A of this chapter, shall be built in accordance with §§ 78-24, 78-25 and 78-26 of this chapter, including:
- (1) Elevated, or designed and constructed to remain completely dry up to at least 1 1/2 feet above base flood elevation; and
 - (2) Designed to prevent pollution from the structure or activity during the course of a base flood.
- F. Any such structure, or part thereof, that will be built below the base 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.

§ 78-28. Special requirements for subdivisions and development.

All subdivision proposals and development proposals containing at least 50 lots or at least five acres, whichever is the lesser, in identified floodplain areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a registered professional engineer in a format required by FEMA for a conditional letter of map revision (CLOMR) and letter of map revision (LOMR). Submittal requirements and processing fees associated with any CLOMR/LOMR shall be the responsibility of the applicant and/or

developer.

§ 78-29. Special requirements for manufactured homes.

- A. Within any floodway area/district, manufactured homes shall be prohibited.
- B. Within any identified floodplain area, manufactured homes shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
- C. Where permitted within any identified floodplain area, all manufactured homes, and any improvements thereto, shall:
 - (1) Be placed on a permanent foundation; and
 - (2) Be elevated so that the lowest floor of the manufactured home is at least 1 1/2 feet above base flood elevation; and
 - (3) Be securely anchored to resist flotation, collapse, or lateral movement; and
 - (4) Not have any ductwork or utilities, including HVAC/heat pump, located below the base flood elevation.
- D. Within any identified floodplain area, an evacuation plan indicating alternate vehicle access and escape routes shall be filed with the Floodplain Administrator for manufactured home parks and manufactured home subdivisions.
- E. 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 2018 IRC or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 Pa. Code, Chapter 401-405, shall apply.
- F. Consideration shall be given to the installation requirements of the 2018 IBC, and the 2018 IRC or the latest edition thereto adopted by the Commonwealth of Pennsylvania, and 34 Pa. Code, as amended, where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

§ 78-30. Special requirements for recreational vehicles.

Recreational vehicles in Zones A, A1-30, AH and AE must either:

- A. Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use; or
- B. Meet the permit requirements for manufactured homes in Article V, § 78-29 of this chapter.

ARTICLE VI
Prohibited Activities

§ 78-31. General.

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act,¹⁰ 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.
 - (4) School buildings.
- 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.

ARTICLE VII
Existing Structures in Identified Floodplain Areas

§ 78-32. 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 Article VII, § 78-33 of this chapter shall apply.

§ 78-33. Improvements.

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

- A. No expansion, enlargement, or change to the exterior layout of an existing structure shall be allowed within any floodway area/district that would cause any increase in the base flood elevation.
- B. No expansion, enlargement, or change to the exterior layout of an existing structure shall be allowed within AE Area/District without floodway that would, together with all other existing and anticipated development, increase the base flood elevation more than one foot at any point.
- C. Any addition, alteration, modification, reconstruction, rehabilitation, or improvement of any kind to an existing structure to an extent or amount of 50% 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.
- D. Any alteration, modification, reconstruction, rehabilitation, or improvement of any kind to an existing structure, excluding any addition to an existing structure, to an extent or amount of less than 50% of its market value, and that is not a cumulative substantial damage, shall

10. Editor's Note: See 32 P.S. § 679.101 et seq.

be undertaken to comply with the provisions of this chapter to the greatest extent possible and/or practical.

- E. Any alteration, modification, reconstruction, rehabilitation, or improvement of any kind that meets the definition of "cumulative substantial damage" shall be undertaken only in full compliance with the provisions of this chapter.
- F. The above activity shall also address the requirements of the 34 Pa. Code, as amended, and the 2018 IBC and the 2018 IRC or most recent revision thereof adopted by the Commonwealth of Pennsylvania.
- G. Any addition to either a pre-FIRM or post-FIRM structure shall be undertaken only in full compliance with the provisions of this chapter, including elevating the lowest floor of the addition up to, or above, the regulatory flood elevation.

ARTICLE VIII Variances

§ 78-34. General.

If compliance with any of the requirements of this chapter would result in an exceptional hardship to a builder, developer, or landowner, the municipality may, upon request, grant relief from the strict application of the requirements of this chapter.

§ 78-35. Variance procedures and conditions.

Requests for variances shall be considered by the Municipal Zoning Hearing Board, in accordance with § 78-18 of this chapter, and the following:

- A. No variance shall be granted for any construction, development, use, or activity within any floodway area/district that would cause any increase in the base flood elevation.
- B. No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the base flood elevation more than one foot at any point.
- C. Except for a possible modification of the requirement to elevate to the regulatory flood elevation, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by § 78-27 of this chapter.
- D. No variance shall be granted for Prohibited Activities listed in Article VI of this chapter.
- E. No variance shall be granted for any accessory structure with a floor area that exceeds 600 square feet.
- F. No variance shall be granted for any construction, development, use, or activity anywhere within the special flood hazard area that would cause said construction, development, use, or activity to be noncompliant with the design and construction standards and specifications contained in the 2018 IBC, as amended, and as adopted by the Commonwealth of Pennsylvania; the 2018 IRC, as amended, and as adopted by the Commonwealth of Pennsylvania; ASCE 24, as amended; and 34 Pa. Code (Chapters 401-405, as amended).

- G. If granted, a variance shall involve only the least modification necessary to provide relief.
- H. In granting any variance, the Municipal Zoning Hearing Board 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.
- I. Whenever a variance is granted, the Municipal Zoning Hearing Board 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.
- J. In reviewing any request for a variance, the Municipal Zoning Hearing Board 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, provided that such hardship has not been created by the applicant.
 - (3) That the granting of the variance will not:
 - (a) Result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense; and
 - (b) Create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- K. A complete record of all variance requests and related actions shall be maintained by the municipality. In addition, a report of all variances granted during the year shall be included in the annual report to FEMA.
- L. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the base flood.

ARTICLE IX
Definitions

§ 78-36. General.

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

§ 78-37. Terms defined.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY STRUCTURE OR USE — A structure or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure or use.

ADDITION — Any alteration, modification, reconstruction, rehabilitation, or improvement of any kind to an existing structure that in any way changes the exterior layout of the existing

structure, including lateral additions added to the front, rear, and/or side of a structure; vertical additions added on top of a structure; and enclosures added underneath a structure.

APPLICANT — A landowner or developer who undertakes construction or development within areas of municipality that are subject to flooding.

BASE FLOOD — A flood which has a 1% chance of being equaled or exceeded in any given year (also called the "100-year flood" or "1% 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, and A1-30 that indicates the water surface elevation resulting from a flood that has a 1% or greater 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.

COMPLETELY DRY — Refers to a space within a structure that will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

CUMULATIVE SUBSTANTIAL DAMAGE — Flood-related damages sustained by a structure on two separate occasions during a period of 10 years for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure before the damages occurred.

DEVELOPER — An individual, public or private association or corporation, partnership, association, municipality or political subdivision of the Commonwealth of Pennsylvania, public utility, institution, authority, firm, trust, estate, receiver, guardian, personal representative, successor, joint venture, joint-stock company, fiduciary; department, agency or instrumentality of state, federal or local government, or an agent or employee thereof; or any other legal entity who undertakes construction or development within areas of the municipality that are subject to flooding.

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; installation of above- and below-ground private and public swimming pools; 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 the municipality.

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).

FEMA — Federal Emergency Management Agency.

FLOOD INSURANCE RATE MAP (FIRM) — The official map on which the Federal Emergency Management Agency has delineated both the special flood hazard areas (SFHAs) and the risk premium zones applicable to the municipality.

FLOOD INSURANCE STUDY (FIS) — The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map (FIRM), the Flood Boundary and floodway Map, and the water surface elevation of the base flood.

FLOOD/FLOODING — A temporary inundation of normally dry land areas.

FLOODPLAIN ADMINISTRATOR — The administrative officer lawfully charged with the duty of administering and enforcing the provisions of this chapter.

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.

FLOODPLAIN DEVELOPMENT COMPLIANCE CERTIFICATE — A standard municipal form issued to the applicant by the municipality prior to the commencement of development and/or construction work in the identified floodplain area.

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION — A standard municipal form completed by an applicant prior to undertaking development and/or construction work in the identified floodplain area.

FLOODPROOF — Any work or activity that involves structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODPROOFING — Any combination of structural and nonstructural additions, changes, or adjustments to structures that 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 one foot.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls 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 Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or
- 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; or

- C. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
- 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; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

IDENTIFIED FLOODPLAIN AREA — This term is an umbrella term that includes all of the areas within which the municipality has selected to enforce floodplain regulations. It will always include the area identified as the special flood hazard area (SFHA) on the Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS), but may include additional areas identified by the municipality (please refer to §§ 78-19 and 78-20 of this chapter for areas that the municipality has included in the identified floodplain area).

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.
- C. Development in accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code¹¹ (as amended).

LETTER OF MAP AMENDMENT (LOMA) — An amendment to the currently effective FEMA map which establishes that a property is not located in a special flood hazard area (SFHA). A LOMA is issued only by FEMA.

LETTER OF MAP REVISION (LOMR) — An official amendment to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

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

11. Editor's Note: See 53 P.S. § 10101 et seq.

structure is in violation of the applicable nonelevation design requirements of this chapter.

MAJOR APPLICATION — Any application for a floodplain development compliance certificate that may involve consultation with and/or review by the Municipal Engineer and/or other professional person (e.g., certified real estate appraiser). Any application for a floodplain development compliance certificate that involves construction and/or development in the floodway shall be automatically deemed by the Floodplain Administrator to be a major application.

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 OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MINOR APPLICATION — An application for a floodplain development compliance certificate that will not involve any consultation with and/or review by the Municipal Engineer or other professional person (e.g., certified real estate appraiser).

MUNICIPAL ENGINEER — A registered professional engineer appointed by the municipality to provide municipal engineering services.

MUNICIPALITY — The Borough of Montoursville, Lycoming County, Pennsylvania.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) — The program of flood insurance coverage and floodplain management administered under the National Flood Insurance Act of 1968¹² (and any amendments thereof) and applicable federal regulations promulgated in Title 44 of the Code of Federal Regulations, Subchapter B.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of this chapter, and includes any subsequent improvements to such structures. Any construction started on or after August 15, 1977, and before the effective date of this chapter is subject to the ordinance in effect at the time the floodplain development compliance certificate was issued, provided the start of construction was within 180 days of issuance of the floodplain development compliance certificate.

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 the municipality.

NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) — The North American Vertical Datum of 1988 is the vertical control datum of orthometric height established for vertical control surveying in the United States of America based upon the general adjustment of the North American Datum of 1988.

12. Editor's Note: See 42 U.S.C.A. § 4001 et seq.

PA DEP — The Pennsylvania Department of Environmental Protection.

PERSON — An individual, public or private association or corporation, partnership, association, municipality or political subdivision of the Commonwealth of Pennsylvania, public utility, institution, authority, firm, trust, estate, receiver, guardian, personal representative, successor, joint venture, joint-stock company, fiduciary; department, agency or instrumentality of state, federal or local government, or an agent or employee thereof; or any other legal entity who undertakes construction or development within areas of the municipality that are subject to flooding.

POST-FIRM STRUCTURE — A structure for which construction or substantial improvement occurred on or after the municipality's initial Flood Insurance Rate Map (FIRM) dated August 15, 1977, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program (NFIP).

PRE-FIRM STRUCTURE — An existing structure for which construction or substantial improvement occurred before the municipality's initial Flood Insurance Rate Map (FIRM) dated August 15, 1977, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program (NFIP).

RECREATIONAL VEHICLE — A vehicle which is:

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

REGISTERED PROFESSIONAL ENGINEER — An individual currently licensed and registered under the laws of the Commonwealth of Pennsylvania to engage in the practice of engineering.

REGISTERED PROFESSIONAL LAND SURVEYOR — An individual currently licensed and registered under the laws of the Commonwealth of Pennsylvania to engage in the practice of land surveying.

REGULATORY FLOOD ELEVATION — The base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of 1 1/2 feet.

SANITARY SEWER SYSTEM — All facilities, including approved on-site disposal facilities, used in the collection, transmission, storage, treatment, or discharge of any waterborne waste, whether domestic in origin or a combination of domestic, commercial, or industrial waste. The term includes sinks, showers, toilets, washing machine drains, and any and all piping from same.

SPECIAL FLOOD HAZARD AREA (SFHA) — An area in the floodplain subject to a 1% 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.

START OF CONSTRUCTION — Includes substantial improvement and other proposed new

development and means the date the floodplain development compliance certificate was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the floodplain development compliance certificate and shall be completed within 12 months after the date of issuance of the floodplain development compliance certificate unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE — A walled and roofed building, including gas or liquid storage tanks that are principally aboveground, as well as additions and manufactured homes.

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 10 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 50% or more of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure taking place during the life of the structure (and starting on or after the municipality's initial Flood Insurance Rate Map dated August 15, 1977), the cost of which equals or exceeds 50% 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 cumulative substantial damage 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. The costs to correct existing health, sanitary, and safety code violations that are excluded from this term are described in Chapter 4, Section 4.4.8, of FEMA's substantial improvement/substantial damage Desk Reference (as amended).

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 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.

VARIANCE — A grant of relief by the municipality from the terms of a floodplain management regulation.

VIOLATION — The failure of a structure or other development to be fully compliant with the municipality'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), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SUPPLY SYSTEM — A water distribution system, connection fittings, fixtures, piping, valves, and any and all other appurtenances thereto within or adjacent to a building, structure, or premises.

ARTICLE X Repealer

§ 78-38. Repeal and replace.

This chapter repeals and replaces Borough of Montoursville Ordinance No. 470 in its entirety. All other ordinances, or parts thereof, that are in conflict with this chapter are hereby repealed.

ARTICLE XI Enactment

§ 78-39. Effective date.

This chapter shall be effective on the seventh day of May 2022 and shall remain in force until modified, amended or rescinded by the Borough of Montoursville, Lycoming County, Pennsylvania.