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## PART 1

## GENERAL PROVISIONS

**§ 101. Statutory Authorization and Purpose. [Ord. 974, 3/17/2016]**

1. The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978,<sup>1</sup> delegated the responsibility to local government units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Borough Council of the Borough of Elizabethtown, Lancaster County, Pennsylvania, does order the following.
2. The regulations contained in this chapter governing the development and use of land subject to stormwater runoff are established for the following purposes:
  - A. To avoid or lessen the hazards to persons or damage to property resulting from the accumulation of or runoff of stormwater and floodwaters.
  - B. To promote public health, safety, and the general welfare of the community.
  - C. To protect stream channels from encroachment.
  - D. To maintain the existing capacity of the floodplain to pass floodwaters.
  - E. To permit only uses and alterations to floodplain lands that are not hazardous during flood periods.
  - F. To provide for public awareness of flooding potential in order to discourage and protect unwary individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.
  - G. To control development, which acting alone, or in combination with other development, will create an additional demand for unjustified public investment in flood control or infringe upon the freedom of individual property owners to enjoy their property by causing unacceptable increases in flood heights or velocities.
  - H. To regulate streets, sewers, public squares, common grounds, sidewalks, curbs, gutters, culverts and drains, and the heights, grades, widths, slopes and construction thereof, and to regulate the erection or construction use of same, located in the floodplain as delineated on the Elizabethtown Borough Floodplain Map.

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<sup>1</sup>Editor's Note: See 32 P.S. § 679.101 et seq.

- I. To regulate building and housing constructions, alteration, extension, repair and maintenance.
- J. To maintain peace, good government, safety and welfare of the Borough and its trade, commerce, business development, manufacturers and approved land use.
- K. To provide for erosion and sedimentation control.
- L. To comply with federal and state floodplain management requirements, rules and regulations.

**§ 102. Applicability. [Ord. 974, 3/17/2016]**

These regulations shall apply to all lands within the Borough of Elizabethtown affected by flooding, including but not limited to land shown on the official Borough Floodplain Map as being located within the boundaries of the five-hundred-year floodplain.

**§ 103. Interpretation of District Boundaries. [Ord. 974, 3/17/2016]**

Where interpretation is needed concerning the exact location of any boundary of the Floodway or Flood-Fringe District, Borough Council shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to Borough Council and to submit his own technical evidence if he so desires. The Planning Commission shall review the application and shall make a written recommendation prior to Borough Council making such necessary determination.

**§ 104. Compliance. [Ord. 974, 3/17/2016]**

No structure or land shall hereafter be used and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this chapter and any other applicable ordinances and regulations.

PART 2  
DEFINITIONS

**§ 201. Definitions. [Ord. 974, 3/17/2016]**

1. Words used in the present tense shall include the future, and words used in the singular number shall include the plural number, and the plural the singular, where the context requires.
2. The word "shall" is mandatory and not discretionary.
3. The word "may" is permissive.
4. The words not defined as follows shall be construed in their generally accepted meanings as defined in the most recent publication of Webster's Dictionary.
5. The words and terms set forth herein, wherever they occur in this chapter, shall be interpreted as herein defined:

**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.

**AGRICULTURAL** — Land, the principal use or uses of which are growing farm or truck garden crops, pasturage, horticulture, floriculture and forestry.

**APPLICANT** — Any legal or equitable landowner, holder of an option to purchase land, lessee or authorized agent who submits plans and data and/or an application to the Borough for the purpose of obtaining approval thereof.

**BASE FLOOD** — A flood which has a one-percent chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood" or "one-percent-annual-chance flood").

**BASE FLOOD ELEVATION (BFE)** — The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a one-percent 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.

**BOROUGH** — The Borough of Elizabethtown, Lancaster County, Pennsylvania.

**BOROUGH COUNCIL** — The governing body of the Borough of Elizabethtown, Lancaster County, Pennsylvania.

**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.

**FIVE-HUNDRED-YEAR FLOOD** — A flood that statistically has one chance of occurring in 500 years (0.20% chance of occurring in one year). For the purpose of this chapter, the five-hundred-year flood shall be delineated and defined in the profiles where available in the flood insurance study prepared by the Federal Emergency Management Agency on April 5, 2016, or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study. **[Ord. 974, 3/17/2016; as amended by Ord. 976, 6/16/2016]**

**FLOOD** — A temporary inundation of normally dry land areas.

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

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

**FLOOD-FRIDGE** — This area between the floodway and the boundary of the five-hundred-year flood.

**FLOODPLAIN — [Ord. 974, 3/17/2016; as amended by Ord. 976, 6/16/2016]**

- A. A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse.
- B. An area subject to the unusual and rapid accumulation of runoff of surface waters from any source. For the purpose of this chapter, the floodplain includes areas within the five-hundred-year flood as indicated and defined in the Flood Insurance Study on April 5, 2016, or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

**FLOODPLAIN ELEVATION —** The elevation of the five-hundred-year flood.

**FLOODPROOFING —** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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

**HISTORIC STRUCTURE —** Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the United States Department of the 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 the 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 chapter as being inundated by the five-hundred-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 enclosed area (including basement). An unfinished, flood-resistant partially enclosed area, used solely for the 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 nonelevation design requirements of this chapter.

MANUFACTURED HOME — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, 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 — Structures for which the start of construction commenced on or after April 17, 1978, and includes subsequent improvements thereto.



**ONE-HUNDRED-YEAR FLOOD** — A flood that, on the average, is likely to occur once every 100 years (i.e., that has one-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:

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

**REPETITIVE LOSS** — Flood-related damages sustained by a structure on two separate occasions during a ten-year period 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.

**SPECIAL FLOOD HAZARD AREA (SFHA)** — An area in the floodplain subject to a one-percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or AH.

**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 the identified floodplain area.

**START OF CONSTRUCTION** — Includes substantial improvement and other proposed new development and means the date the permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within 12 months after the date of issuance of the permit 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; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. 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.

**STREAM CHANNEL** — That area which is inundated by water during normal, nonflooding conditions.

**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 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**SUBSTANTIAL IMPROVEMENT** — Any reconstruction, rehabilitation, addition, or other improvement of a structure, 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 that have incurred substantial damage or repetitive loss, 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 an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

**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.

**UNIFORM CONSTRUCTION CODE (UCC)** — The current statewide building code adopted by the Pennsylvania General Assembly 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 commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC. **[Ord. 974, 3/17/2016; as amended by Ord. 976, 6/16/2016]**

**VIOLATION** — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.



## PART 3

## ESTABLISHING FLOODPLAIN DISTRICTS

**§ 301. Description of Districts. [Ord. 974, 3/17/2016; as amended by Ord. 976, 6/16/2016]**

1. The Floodway District shall be those areas identified in the April 5, 2016, or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study and the Flood Insurance Rate Map, 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 District which has 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.
  - A. Within the Floodway District, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  - B. Within the Floodway District, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
2. 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.
  - A. 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.
  - B. The 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.
    - (1) No permit 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.

- (2) 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 Department of Environmental Protection Regional Office.
3. A Area/District.
  - A. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no 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 base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.
  - B. 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 municipality.
4. The Flood-Fringe District shall be the A District and those areas identified on the FIRM as the area between the boundary of the floodway and the 0.2% annual chance (or five-hundred-year) floodplain boundary.

**§ 302. District Boundary Changes. [Ord. 974, 3/17/2016]**

The identified floodplain area may be revised or modified by the Borough Council where studies or information provided by a qualified agency or person 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, a community shall notify FEMA of the changes to the special flood hazard area by submitting technical or scientific data.

**§ 303. Floodway District. [Ord. 974, 3/17/2016]**

1. Permitted Uses. All structures are prohibited except for the following, provided that they are not prohibited by any other ordinance and provided that they do not require buildings, fill or storage of materials and equipment and provided that the applicant proves that the use or activity will not create any increase in the floodway elevation or provides facilities acceptable to Borough Council which will offset any increase. The following uses must be so constructed that they will not be damaged by flood or present a hazard at the time of flooding:

- A. Flood retention dams.
  - B. Culverts.
  - C. Bridges.
  - D. Open space.
2. Special Use Permits. The following uses and activities may be permitted by special use permits to be granted by Borough Council, provided that the uses and activities are in compliance with the provisions of the underlying zoning district, are not prohibited by any other ordinance and provided that the applicant proves that the use or activity will not create any increase in the floodway elevation or provides facilities acceptable to Borough Council which will offset any increase:
- A. Retaining Walls.
  - B. The Deepening of the Channel. When plans are presented for the alteration or relocation of a watercourse, a permit must first be secured from the Pennsylvania Department of Environmental Protection, Dams and Encroachment Division. Also, the applicant must notify adjacent communities, the Federal Emergency Management Agency (FEMA), and the Pennsylvania Department of Community and Economic Development prior to any alteration or relocation of any watercourse.
  - C. Private Utility Transmission and Pipelines. (This does not apply to the Pennsylvania Public Utility Commission.)

**§ 304. Flood-Fringe District. [Ord. 974, 3/17/2016; as amended by Ord. 976, 6/16/2016]**

1. Permitted Uses. In the Flood-Fringe District, the following uses and activities are permitted, provided that they are in compliance with the provisions of the underlying zoning district and are not prohibited by any other ordinance and provided that they do not require buildings, fills or storage of materials and equipment; also provided that the applicant proves that the use or activity will not create any increase in the floodway elevation or provides facilities acceptable to Borough Council which will offset any increase:
- A. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticultural, truck farming, forestry, farming and wild crop harvesting.
  - B. Arboretum.

- C. Public and private recreational uses and activities, such as parks, picnic grounds, golf courses, swimming areas, hiking and horseback riding trails, wildlife and nature preserves and fishing areas.
  - D. Public open land, excluding cemeteries.
  - E. Public utility facilities, excluding structures.
2. Special Use Permits. The following uses and activities may be permitted by special use permits to be granted by Borough Council after being reviewed by the Planning Commission, provided that the uses and activities are in compliance with the provisions of the underlying zoning district and are not prohibited by any other ordinance and provided that the applicant proves that the use or activity will not create an increase in the floodplain elevation or provides facilities acceptable to Borough Council which will offset any increase:
- A. Streets.
  - B. Parking lots.
  - C. Front, side, and/or rear yards, and uses customarily incidental thereto, with the exception that no structures shall be permitted.
  - D. Fences, wire or wood, one or two strands or rails only.
  - E. Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipelines, water and sewage treatment plants, and other similar or related uses. Landfills are prohibited.
  - F. Extraction of soils and other materials.
  - G. The placement of fills.
  - H. Temporary uses such as circuses, carnivals and similar activities.
  - I. Other similar uses and activities, provided that they cause no increase in flood heights and/or velocities. All uses, activities and structures shall be floodproofed.
3. Uses not listed as a permitted use or a special use are expressly not permitted.

**§ 305. Prohibited Activities. [Ord. 974, 3/17/2016]**

1. The following obstructions and activities are prohibited if located partially or entirely within any 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.
- C. 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.
- D. 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.
2. No variance shall be granted for any of the other requirements of this § 305.

**§ 306. Alteration or Relocation of Watercourse. [Ord. 974, 3/17/2016]**

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 Department of Environmental Protection 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.

**§ 307. Additional FIS and FIRMs. [Added by Ord. 976, 6/16/2016]**

The referenced FIS and FIRMs, and any subsequent revisions and amendments, are hereby adopted by Elizabethtown Borough and declared to be a part of this chapter.

## PART 4

**EXISTING STRUCTURES IN FLOODPLAIN DISTRICTS****§ 401. Structures or Uses in Floodway District. [Ord. 974, 3/17/2016]**

Existing structures and/or uses located in the Floodway District shall not be expanded or enlarged unless the effect of the proposed expansion or enlargement on the floodway elevation or velocities is fully offset by accompanying stream improvements. A hydrology and hydraulic study is also required to prove no rise in elevation. Said plans must be reviewed by the Borough Engineer, and technical proof of such offsets must be supplied by the applicant.

**§ 402. Structures and Uses in Flood-Fringe District. [Ord. 974, 3/17/2016]**

1. Existing structures and/or uses located in the Flood-Fringe District may be expanded or enlarged as follows:
  - A. Single-family residential structures may be increased in size, but in no event shall such expansion exceed 50% of the ground-level square footage of the structure at the effective date of this chapter.
  - B. Other structures or uses may be expanded, provided that the applicant provides sufficient data showing that the expansion will not increase the floodplain elevation or flood velocities or that accompanying improvements or facilities will offset any hypothetical increase in elevation or velocity.

**§ 403. Modification. [Ord. 974, 3/17/2016; as amended by Ord. 976, 6/16/2016]**

Any modification, alteration, repair, reconstruction, or improvement which would aggravate flooding or flood hazards or increase the floodplain elevation or velocity to an existing structure located in the Flood-Fringe District and is less than 50% of the market value shall be floodproofed to the greatest extent possible. Any modification, alteration, repair, reconstruction, or improvement which is more than 50% of the market value must come into full compliance with the provisions of Chapter 8. An existing structure, if damaged (including meeting the definition of "substantial damage"), deteriorated, or destroyed by any means, including floods, may be rebuilt in accordance to and in full compliance with the provisions of Chapter 8. Residential structures must have all new, expanded, or enlarged portions of the structure meet the provisions of this chapter. Elevation requirements in Part 6 must be met. Nonresidential structures must have all new, expanded, or enlarged portions meet the provisions of this chapter. Elevation and dry floodproofing requirements in Part 6 must be met.



## PART 5

## ADMINISTRATION AND APPEALS

**§ 501. Application. [Ord. 974, 3/17/2016]**

1. The applicant shall apply to the Borough for a permit under this chapter on forms supplied by the Borough for a use or structure which will be located in or above the Floodplain District.
2. Applicants shall file the following minimum information plus any other pertinent information (e.g., any or all of the technical information contained in § 501) as may be required by the Building Permit Officer to make the above determination:
  - A. A completed building permit application form.
  - B. 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:
    - (1) North arrow, scale, and date;
    - (2) Topographic contour lines, if available;
    - (3) All property and lot lines, including dimensions, and the size of the site expressed in acres or square feet;
    - (4) The location of all existing and proposing buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;
    - (5) The location of all existing streets, drives, and other accessways; and
    - (6) 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.
  - C. 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 North American Vertical Datum of 1988;
    - (2) The elevation of the five-hundred-year flood;
    - (3) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a five-hundred-year flood;

- (4) 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;
  - (5) Appropriate practices that minimize flood damage have been used;
  - (6) Detailed information concerning any proposed floodproofing measures; and
  - (7) Supplemental information as may be necessary under 34 Pa. Code Chapters 401 through 405, as amended, and all applicable provisions of the International Building Code and International Residential Code.
3. If such application is filed less than 14 calendars days in advance of the regular Planning Commission meeting, the application will not be reviewed by the Commission until its next regular meeting. There will be a ninety-day time period for Borough review and discussion beginning 14 calendar days in advance of the Borough Planning Commission meeting when the application is to be initially reviewed.
4. The Borough Council will make its decision at a public meeting.

**§ 502. Issuance of Permit. [Ord. 974, 3/17/2016]**

1. The Building Permit Officer of the Borough shall issue a permit only if the application meets all applicable requirements of this chapter and all other ordinances of the Borough.
2. Prior to the issuance of any building permit, the Building Permit Officer shall review the application for the permit to determine if all other necessary government permits required by the state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended);<sup>2</sup> the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended);<sup>3</sup> the Pennsylvania Clean Streams Act (Act 1937-394, as amended);<sup>4</sup> and the United States Clean Water Act, Section 404, 33 U.S.C. § 1344. No permit shall be issued until this determination has been made.
3. Any applicant aggrieved by the decision or action of the Building Permit Officer may appeal such decision or action to the Elizabethtown Borough Council. Borough Council may schedule a public hearing and may affirm the decision of the Building Permit Officer or may reverse or alter the decision and order the Building Permit Officer to take other appropriate action.

<sup>2</sup>Editor's Note: See 35 P.S. § 750.1 et seq.

<sup>3</sup>Editor's Note: See 32 P.S. § 693.1 et seq.

<sup>4</sup>Editor's Note: See 35 P.S. § 691.1 et seq.

4. The procedures for the granting of a conditional use permit by the Elizabethtown Borough Council as follows: **[Ord. 974, 3/17/2016; as amended by Ord. 976, 6/16/2016]**
  - A. In granting any conditional use, the Borough of Elizabethtown 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.
  - B. In reviewing any request for a variance, the Borough of Elizabethtown shall consider, at a minimum, the following:
    - (1) That there is good and sufficient cause.
    - (2) That failure to grant the conditional use would result in exceptional hardship to the applicant.
    - (3) That the granting of the conditional use will neither:
      - (a) Result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense; nor
      - (b) Create nuisances, cause fraud on, or victimize the public or conflict with any other applicable state statutes or local ordinances, and/or regulations.
  - C. A complete record of all conditional use requests and related actions shall be maintained by the Borough of Elizabethtown. In addition, a report of all conditional uses granted during the year shall be included in the annual report to the Federal Emergency Management Agency.

**§ 503. Special Use Permits. [Ord. 974, 3/17/2016]**

1. Uses or structures specifically listed in this chapter as being allowed by special use permits shall only be permitted by action of Borough Council taken at public meeting. Borough Council may also hold a public hearing if desired, but such decision shall be within the discretion of Borough Council.
2. The application for a special use permit shall be presented to the Building Permit Officer, who shall immediately submit a copy thereof to the Borough Planning Commission for review and recommendation.
3. Borough Council shall make a decision within 90 days of the receipt of a completed application.

**§ 504. Penalties; Appeals. [Ord. 974, 3/17/2016]**

1. Any person who shall violate any provision of this chapter shall, upon conviction thereof, be sentenced to pay a fine not exceeding \$1,000 plus costs and, in default of payment thereof, shall be subject to imprisonment for a term not to exceed 30 days. Each day that a violation of this chapter continues shall constitute a separate offense.
2. The granting of a municipal appeal will not relieve a landowner or a municipality from the obligation to comply with the minimum requirements of the National Flood Insurance Program. Landowners and municipalities that fail to meet the program's minimum requirements, notwithstanding any appellate decision to the contrary, are in violation of the National Flood Insurance Program and remain subject to the accompanying penalties. **[Added by Ord. 976, 6/16/2016]**
  - 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 Elizabethtown Zoning Hearing Board. Such appeal must be filed, in writing, within 30 days after the decision, determination or action of the Floodplain Administrator.
  - B. Upon receipt of such appeal, the Elizabethtown Zoning Hearing Board shall consider the appeal in accordance with the Municipality Planning Code and any other local ordinance.
  - C. Any person aggrieved by any decision of the Elizabethtown Zoning Hearing Board may seek relief therefrom by appeal to the appropriate court, as provided by the laws of the Commonwealth of Pennsylvania, including the Pennsylvania Flood Plain Management Act.<sup>5</sup>

**§ 505. Other Remedies. [Ord. 974, 3/17/2016]**

In case any buildings, structures or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this chapter, the Borough, in addition to other remedies, may institute, in the name of the Borough, any appropriate action or proceedings to prevent, restrain, correct or abate such building, structure or land or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

**§ 506. Severability. [Ord. 974, 3/17/2016]**

The provisions of this chapter are severable, and if any section, clause, sentence, part or provisions thereof shall be held illegal, invalid or unconstitutional, the decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this chapter. It is hereby declared to be the legislative intent of the Borough Council of the Borough of Elizabethtown, Lancaster County, Pennsylvania, that this chapter would have been adopted if such

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<sup>5</sup>Editor's Note: See 32 P.S. § 679.101 et seq.



illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

**§ 507. Abrogation and Greater Restrictions. [Ord. 974, 3/17/2016]**

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.

**§ 508. Warning and Disclaimer of Liability. [Ord. 974, 3/17/2016]**

1. The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside any identified floodplain areas or that land uses permitted within such areas will be free from flooding or flood damages.
2. This chapter shall not create liability on the part of the Borough of Elizabethtown, Lancaster County, Pennsylvania, or any officer or employee thereof, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**§ 509. Designation, Duties and Responsibilities of Floodplain Administrator. [Ord. 974, 3/17/2016]**

1. The Zoning Officer is hereby appointed to administer and enforce this chapter and is referred to herein as the "Floodplain Administrator". The Floodplain Administrator may A) fulfill the duties and responsibilities set forth in these regulations, B) delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or C) enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 CFR 59.22. In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Assistant Zoning Officer.
2. The Floodplain Administrator shall issue a permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

3. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33 U.S.C. § 1344. No permit shall be issued until this determination has been made.
4. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
5. 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.
6. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the permit and report such fact to the Borough Council for whatever action it considers necessary.
7. 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.
8. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program.
9. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the Floodplain Ordinance as the Floodplain Administrator/Manager.
10. The Floodplain Administrator shall consider the requirements of the 34 Pa. Code and the 2009 IBC and the 2009 IRC or the latest edition thereof adopted by the Commonwealth of Pennsylvania.

## PART 6

**GENERAL REQUIREMENTS****§ 601. Equipment Requirements. [Ord. 974, 3/17/2016]**

All electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities in a permitted structure shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**§ 602. New Construction. [Ord. 974, 3/17/2016]**

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

**§ 603. Administration. [Ord. 974, 3/17/2016]**

In administering this Part, the Borough Manager and Borough Council shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for administrative determinations in the administration and enforcement of this Part.

**§ 604. Elevation and Floodproofing Requirements. [Ord. 974, 3/17/2016]**

1. Residential Structures. Within any identified floodplain area, any new construction or substantial improvement of a residential structure shall have the lowest-floor (including basement) elevated up to or above the five-hundred-year-flood elevation. The design and construction standards and specifications contained in the most current edition of the International Building Code, International Residential Code, ASCE 24 (§§ 2.4 and 2.5, Chapter 5) and 34 Pa. Code Chapters 401 through 405, as amended, shall be utilized.
2. Nonresidential Structures.
  - A. Within any identified floodplain area, any new construction or substantial improvement of a nonresidential structure shall have the lowest floor (including basement) elevated up to or above the five-hundred-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.

- B. Any nonresidential structure, or part thereof, having a lowest floor which is not elevated up to or above the five-hundred-year-flood elevation shall be floodproofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above-referenced standards.
  - C. The design and construction standards and specifications contained in the current edition of the International Building Code, ASCE 24 (§ 2.4 and Chapter 7) and 34 Pa. Code Chapters 401 through 405, as amended, shall be utilized.
3. Space Below the Lowest Floor.
- A. Fully enclosed space below the lowest floor (including basement) is prohibited.
  - B. Partially enclosed space below the lowest floor (excluding 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 floodwaters 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:
    - (1) A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
    - (2) The bottom of all openings shall be no higher than one foot above grade.
    - (3) Openings may be equipped with screens, louvers, etc., or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
  - C. Consideration may be given to the requirements of 34 Pa. Code Chapters 401 through 405, as amended, and the current edition of the International Residential Code and the International Building Code.

**§ 605. Design and Construction Standards. [Ord. 974, 3/17/2016]**

1. The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:
  - A. Fill. Permitted only in the Flood-Fringe District by special use permit approved by Borough Council. Fill shall:
    - (1) Extend laterally at least 15 feet beyond the building line from all points;
    - (2) Consist of soil or small rock materials only; sanitary landfills shall not be permitted;
    - (3) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
    - (4) Be no steeper than one vertical to two horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by, the Building/Development Permit Officer; and
    - (5) Be used to extend 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 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 floodwaters.
    - (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
    - (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 Uniform Commercial Code, 34 Pa. Code Chapters 401 through 405, as amended and contained in the current editions of the International Building Code and International Residential

Code, and FEMA No. 348, Protecting Bldg. Utilities From Flood Damages, 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 five-hundred-year-floodplain elevation.
- F. Storage. All materials that are buoyant, flammable or explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in § 305, Subsection 1D, shall be stored at or above the five-hundred-year-floodplain elevation and/or floodproofed to the maximum extent possible.
- G. Placement of Buildings and Structures. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwater.
- H. Anchoring.
  - (1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
  - (2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the five-hundred-year-floodplain elevation shall be securely anchored or affixed to prevent flotation.
  - (3) The design and construction requirements of the Uniform Commercial Code pertaining to this subsection as referred in 34 Pa. Code Chapters 401 through 405, as amended and contained in the International Building Code, International Residential Code and ASCE 24-98 (§ 5.6) shall be utilized.
- I. Floors, Walls and Ceilings.
  - (1) Wood flooring used at or below the five-hundred-year floodplain 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 five-hundred-year floodplain elevation shall be of a marine or water-resistant variety.

- (3) Walls and ceilings at or below the five-hundred-year-floodplain 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 five-hundred-year-floodplain elevation shall be made of metal or other water-resistant material.
- (5) The provisions of the Uniform Commercial Code pertaining to this subsection and referenced in 34 Pa. Code Chapters 401 through 405, as amended and contained in the International Building Code, International Residential Code and ASCE 24-98 (Chapter 6).

J. Paints and Adhesives.

- (1) Paints and other finishes used at or below the five-hundred-year-floodplain elevation shall be of marine or water-resistant quality.
- (2) Adhesives used at or below the five-hundred-year-floodplain 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 through 405, as amended, current editions of the International Building Code and the International Residential Code.

K. Electrical Components.

- (1) Electrical distribution panels shall be at least four feet above the five-hundred-year-floodplain 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 Uniform Commercial Code and 34 Pa. Code Chapters 401 through 405, as amended and contained in the most current edition of the International Building Code, International Residential Code and ASCE 24 (Chapter 8) shall be utilized.

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 five-hundred-year-floodplain elevation.

- (1) The provisions pertaining to the above provisions and referenced in the Uniform Commercial Code and 34 Pa. Code Chapters 401 through 405, as amended and contained in the most current edition of the International Building Code, International Residential Code and ASCE 24 (Chapter 8) shall be utilized.

- 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.

**§ 606. Uniform Construction Code Coordination. [Ord. 974, 3/17/2016]**

1. The standards and specifications contained in 34 Pa. Code Chapters 401 through 405, as amended and not limited to the following provisions, shall apply to the above and other sections and subsections of this chapter, to the extent that they are more restrictive and/or supplement the requirements of this chapter.
  - A. Current and latest edition of the International Building Code.
  - B. Current and latest edition of the International Residential Code.