Chapter 8

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Part 1

General Provisions

§8-101. Intent.

The intent of this Chapter is to:

A. Promote the general health, welfare, and safety of the community.

B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.

C. Minimize danger to public health by protecting water supply and natural drainage.

D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

(*Ord. 4-82*, 12/28/1982, §1.00)

§8-102. Applicability.

1. It shall be unlawful for any person, partnership, business, or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Borough unless a zoning/use permit has been obtained from the Zoning Officer.

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

(*Ord. 4-82*, 12/28/1982, §1.01; as amended by *Ord. 2007-2*, 12/17/2007)

§8-103. Abrogation and Greater Restrictions.

This Chapter supersedes any other conflicting provisions which may be in effect in identified floodplain. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive.

(*Ord. 4-82*, 12/28/1982, §1.02)

§8-104. Warning and Disclaimer of Liability.

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

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

(*Ord. 4-82*, 12/28/1982, §1.04)

Part 2

Administration

§8-201. Zoning/Use Permits Required.

Zoning/Use permits shall be required before any construction or development is undertaken within any area of the Borough.

(*Ord. 4-82*, 12/28/1982, §2.00; as amended by *Ord. 2007-2*, 12/17/2007)

§8-202. Issuance of Zoning/Use Permit.

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

2. Prior to the issuance of any zoning/use permit, the Zoning Officer shall review the application for permit to determine if all other necessary governmental permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act, 35 P.S. §750.1 *et seq*.; the Pennsylvania Dam Safety and Encroachments Act, 32 P.S. §693.1 *et seq*.; the Pennsylvania Clean Streams Act, 35 P.S. §691.1; and the United States Clean Water Act, §404, 33 U.S.C. §1344. No permit shall be issued until this determination has been made.

3. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality and until all required permits or approvals have been first obtained from the Department of Environmental Protection.

4. In addition, the Federal Insurance Administrator and Pennsylvania Department of Community and Economic Development shall be notified by the municipality prior to any alteration or relocation of any watercourse.

(*Ord. 4-82*, 12/28/1982, §2.01; as amended by *Ord. 2007-2*, 12/17/2007)

§8-203. Application Procedures and Requirements.

1. All applications for zoning/use permits shall be made in the manner previously set forth in this Chapter. [*Ord. 2007-2*]

2. All zoning/use permit applications shall be reviewed by the Zoning Officer for the location of any of the proposed development, construction or remodeling partially within or adjacent to any identified floodplain area. [*Ord. 2007-2*]

3. If said Zoning Officer determines that any of the proposed development or construction activity is located within or partially within any identified floodplain area, applicants for zoning/use permits shall, in addition to the information required upon application under earlier Sections of this Chapter, provide the following specific information: [*Ord. 2007-2*]

A. A plan of the entire site, drawn at a scale of 1 inch being equal to 100 feet or less, showing the following:

(1) North arrow, scale, and date.

(2) A location map showing the vicinity in which the proposed activity or

development is to be located within the municipality.

(3) Topography based upon the North American Vertical Datum of 1988 showing the existing and proposed contours at intervals of 2 feet. [*Ord. 2009-4*]

(4) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet.

(5) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development. [*Ord. 2009-4*]

(6) The location of all existing streets, drives, and other accessways with information concerning widths, pavement types, and construction and elevations.

(7) The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, and any other natural or man-made features affecting, or affected by, the proposed activity or development.

(8) The location of the identified floodplain area boundary line, floodway line, if available, information and spot elevations concerning the 100-year flood elevations, and information concerning the flow of water including direction and velocities.

(9) A general plan of the entire site accurately showing the location of all proposed buildings, structures, and any other improvements, including the location of any existing or proposed subdivision and land development in order to assure that:

(a) All such proposals are consistent with the need to minimize flood damage.

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

(c) Adequate drainage is provided so as to reduce exposure to flood hazards.

B. 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 100-year flood.

(3) Detailed information concerning any proposed floodproofing measures.

(4) Supplemental information as may be necessary under 34 Pa.Code, Chapters 401–405 as amended, and §§1612.5.1, 104.7 and 109.3 of the 2003 IBC and §§R106.1.3 and R104.7 of the 2003 IRC.

[*Ord. 2009-4*]

(*Ord. 4-82*, 12/28/1982, §2.02; as amended by *Ord. 2007-2*, 12/17/2007; and by *Ord. 2009-4*, 9/8/2009, §§1–3)

§8-204. Review by County Conservation District.

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

(*Ord. 4-82*, 12/28/1982, §2.03; as amended by *Ord. 2007-2*, 12/17/2007)

§8-205. 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 substituted by the Zoning Officer to any other appropriate agencies and/or individuals (e.g., Planning Commission, Borough Engineer, etc.) for review and comment.

(*Ord. 4-82*, 12/28/1982, §2.04; as amended by *Ord. 2007-2*, 12/17/2007)

§8-206. Changes.

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

(*Ord. 4-82*, 12/28/1982, §2.05; as amended by *Ord. 2007-2*, 12/17/2007)

§8-207. Placards.

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

(*Ord. 4-82*, 12/28/1982, §2.06; as amended by *Ord. 2007-2*, 12/17/2007)

§8-208. Start of Construction.

1. Work on the proposed construction and/or development shall begin within 6 months and shall be completed within 12 months after the date of issuance of the zoning/use permit or the permit shall expire unless a time extension is granted in writing by the Zoning Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation.

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

(*Ord. 4-82*, 12/28/1982, §2.07; as amended by *Ord. 2007-2*, 12/17/2007)

§8-209. Inspection and Revocation.

1. During the construction period, the Zoning Officer or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable (Township,

Borough, etc.) laws and ordinances. He or she shall make as many inspections during and upon completion of the work as are necessary. [*Ord. 2007-2*]

2. In the discharge of his or her duties, the Zoning Officer 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. [*Ord. 2007-2*]

3. In the event the Zoning Officer discovers that the work does not comply with the permit application, or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Zoning Officer shall revoke the zoning/use permit and report such fact to the (Board, Council, etc.) for whatever action it considers necessary. [*Ord. 2007-2*]

4. A record of all such inspections and violations of this Chapter shall be maintained.

(*Ord. 4-82*, 12/28/1982, §2.08; as amended by *Ord. 2007-2*, 12/17/2007)

§8-210. Fees.

Applications for a zoning/use permit shall be accompanied by a fee, payable to the Borough based upon the estimated cost of the proposed construction as determined by the Zoning Officer in an amount as established from time to time, by resolution of the Borough Council.

(*Ord. 4-82*, 12/28/1982, §2.09; as amended by *Ord. 2007-2*, 12/17/2007)

§8-211. Enforcement.

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

2. *Penalties*. Any person who fails to comply with any or all of the requirements or provisions of this Chapter or who fails or refuses to comply with any notice, order or direction of the Zoning Officer or any other authorized employee of the Borough shall be guilty of an offense and, upon conviction thereof, shall be sentenced to a fine of not less than $25 nor more than $1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this Chapter. The imposition of a fine or penalty for any violation of, or noncompliance with this Chapter shall not excuse the violation or noncompliance or permit it to

continue; and all such persons shall be required to correct or remedy such violations and noncompliances within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Chapter may be declared by the Council to be a public nuisance and abatable as such.

(*Ord. 4-82*, 12/28/1982, §2.10; as amended by *Ord. 2007-2*, 12/17/2007)

§8-212. Appeals.

1. Any person aggrieved by any action or decision of the Zoning Officer involving the administration of the provisions of this Chapter may appeal to the Council. Such appeal must be filed, in writing, within 30 days after the decision or action of the Zoning Officer. [*Ord. 2007-2*]

2. Upon receipt of such appeal, Council shall set a time and place, within not less than 10 nor more than 30 days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.

3. Any person aggrieved by any decision of the Council may seek relief therefrom by appeal to court, as provided by the laws of this Commonwealth including the Pennsylvania Flood Plain Management Act, 32 P.S. §679.101 *et seq*.

(*Ord. 4-82*, 12/28/1982, §2.11; as amended by *Ord. 2007-2*, 12/17/2007)

Part 3

Identification of Floodplain Areas

§8-301. Designation of Floodplain Areas.

1. The identified floodplain area shall be any areas of Lewisberry Borough, subject to the 100-year flood, which is identified as Zone A (Area of Special Flood Hazard) in the Flood Insurance Study (FIS) dated September 25, 2009, and the accompanying maps or the most recent revision thereof as issued by the Federal Emergency Management Agency, including all digital data developed as part of the Flood Insurance Study. [*Ord. 2009-4*]

2. A map showing all areas considered to be subject to the 100-year flood is available for inspection at the Borough office. For the purposes of this Chapter, the following nomenclature is used in referring to the various kinds of floodplain areas:

A. *FW (Floodway Area)* - the areas identified as "Floodway" in the Flood Insurance Study prepared by the Federal Emergency Management Agency (FEMA). [*Ord. 2009-4*]

B. *FF (Flood Fringe Area)* - the areas identified as "Floodway Fringe" in the Flood Insurance Study prepared by the Federal Emergency Management Agency (FEMA). [*Ord. 2009-4*]

C. *FA (General Floodplain Area)* - the areas identified as Zone A in the FIS for which no 100-year flood elevations have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the 100-year elevation, as well as a floodway area, if possible. When no other information is available, the 100-year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.

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

[*Ord. 2009-4*]

3. The FW (Floodway Area) is delineated for purposes of this Chapter using the criteria that a certain area within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than 1 foot at any point. The areas included in this area are specifically defined in the Floodway Data Table contained in the above-referenced Flood Insurance Study and shown on the accompanying Flood Boundary and Floodway Map.

4. The FF (Flood Fringe Area) shall be that area of the 100-year floodplain not included in the floodway. The basis for the outermost boundary of this District shall be the 100-year flood elevations contained in the flood profiles of the above-referenced Flood Insurance Study and as shown on the accompanying Flood Boundary and

Floodway Map.

(*Ord. 4-82*, 12/28/1982, §3.00; as amended by *Ord. 2009-4*, 9/8/2009, §§4, 5)

§8-302. Changes in Floodplain Area Delineations.

1. The areas considered to be floodplain may be revised or modified by the Council where studies or information provided by a qualified agency or person documents the need or possibility for such revision.

2. No modification or revision of any floodplain area identified in the Flood Insurance Study prepared by the Federal Insurance Administration shall be made without prior approval from the Federal Insurance Administration.

(*Ord. 4-82*, 12/28/1982, §3.01)

§8-303. Disputes.

Should a dispute arise concerning the identification of any floodplain area, an initial determination shall be made by the Planning Commission and any party aggrieved by such decision may appeal to the Council. The burden of proof shall be on the appellant.

(*Ord. 4-82*, 12/28/1982, §3.02)

Part 4

Technical Provisions

§8-401. Special Floodway and Stream Setback Requirements.

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

A. Any new construction, development, use, activity or encroachment that would cause any increase in flood heights shall be prohibited.

B. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection. [*Ord. 2007-2*]

2. Within any FE (Special Floodplain Area), no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the 100-year flood more than 1 foot at any point. [*Ord. 2009-4*]

3. *Residential Structures.* Within any identified floodplain area, any new construction or substantial improvement of a residential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation. [*Ord. 2009-4*]

4. *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 regulatory flood elevation, or be designed and constructed so that the space enclosed by such structure shall remain either completely or essentially dry during any flood up to that height.

B. Any nonresidential structure, or part thereof, having a lowest floor which is not elevated to at least 1½ feet above the 100-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.

[*Ord. 2009-4*]

5. Any structure, or part thereof, which will not be completely or adequately elevated, shall be designed and constructed to be completely or essentially dry in accordance with the standards contained in the publication entitled "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972), or some other equivalent standard, for that type of construction.

6. *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 (including basement) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "partially enclosed space" also includes crawl spaces.

[*Ord. 2009-4*]

(*Ord. 4-82*, 12/28/1982, §4.02; as amended by *Ord. 2007-2*, 12/17/2007; and by *Ord. 2009-4*, 9/8/2009, §§6–8)

§8-402. Design and Construction Standards.

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

A. *Fill*. If fill is used, it shall:

(1) Extend laterally at least 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, unless substantiated data justifying steeper slopes are submitted to and approved by the Zoning Officer. [*Ord. 2007-2*]

(5) Be used to the extent to which it does not adversely affect adjacent properties.

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

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

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

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

(3) No part of any onsite sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

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

E. *Streets*. The finished elevation of all new streets shall be no more than 1 foot below the regulatory flood elevation.

F. *Storage*. All materials that are buoyant, flammable, explosive, or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in §8-405, "Development Which May Endanger Human Life, "shall be stored at or above the regulatory flood 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 flood water.

H. *Anchoring*.

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

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

I. *Floors, Walls and Ceilings*.

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

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

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

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

J. *Paints and Adhesives*.

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

(2) Adhesives used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" quality.

(3) All wooden components (doors, trim cabinets, etc.) shall be finished with a "marine" or "water-resistant" paint or other finishing material.

K. *Electrical Components*.

(1) Electrical distribution panels shall be at least 3 feet above the 100-year 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 flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood waters infiltration occurs.

(*Ord. 4-82*, 12/28/1982, §4.03; as amended by *Ord. 2007-2*, 12/17/2007)

§8-403. Development Which May Endanger Human Life.

1. In accordance with the Pennsylvania Floodplain Management Act, and the regulations adopted by the Department of Community and Economic Development, 32 P.S. §679.101 *et seq*., as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume or any amount of radioactive substances) of any of the following dangerous materials or substances on the premises, shall be subject to the provisions of this Section, in addition to all other applicable provisions: [*Ord. 2007-2*]

A. Acetone.

B. Ammonia.

C. Benzene.

D. Calcium carbide.

E. Carbon disulfide.

F. Celluloid.

G. Chlorine.

H. Hydrocyanic acid.

I. Hydrochloric acid.

J. Magnesium.

K. Nitric acid and oxides of nitrogen.

L. Petroleum products(gasoline, fuel oil, etc.).

M. Phosphorus.

N. Potassium.

O. Sodium.

P. Sulphur and sulphur products.

Q. Pesticides (including insecticides, fungicides and rodenticides).

R. Radioactive substances, insofar as such substances are not otherwise regulated.

2. Within any FW (Floodway Area) or FW (Flood-Fringe Area), any structure of the kind described in subsection .1 above shall be prohibited.

(*Ord. 4-82*, 12/28/1982, §4.04; as amended by *Ord. 2007-2*, 12/17/2007)

§8-404. Mobile Homes.

Within any FW (Floodway Area) or FF (Flood-Fringe Area) mobile homes shall be prohibited.

(*Ord. 4-82*, 12/28/1982, §4.05)

Part 5

Prohibited Activities

§8-501. General.

The following obstructions and activities are prohibited if located entirely or partially within an identified floodplain area.

A. Hospitals (public or private).

B. Nursing homes (public or private).

C. Jails or prisons.

D. New mobile home parks and mobile home subdivisions, and substantial improvements to existing mobile home parks.

(*Ord. 4-82*, 12/28/1982, §5.00)

Part 6

Existing Structures in Identified Floodplain Areas

§8-601. General.

Structures existing in any identified floodplain area prior to the enactment of this Chapter may continue subject to the following provisions:

A. No expansion or enlargement of an existing structure shall be allowed within any identified floodway that would cause any increase in flood heights.

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

(*Ord. 4-82*, 12/28/1982, §6.00)

Part 7

Variances

§8-701. General.

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

(*Ord. 4-82*, 12/28/1982, §7.00)

§8-702. Variance Procedures and Requirements.

1. Requests for variances shall be considered by the Borough in accordance with the following:

A. No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the 100-year flood elevation.

B. No variance shall be granted for any construction, development, use, or activity within any FE area that would, together with all other existing and anticipated development, increase the 100-year flood elevation more than 1 foot at any point. [*Ord. 2009-4*]

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

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

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

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

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

F. In reviewing any request for a variance, the Borough shall consider, but not be limited to, the following:

(1) That there is good and sufficient cause.

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

(3) That the granting of the variance will (a) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense; (b) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable State statute or regulation, or local ordinance or regulation.

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

tration.

2. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the 100-year flood.

(*Ord. 4-82*, 12/28/1982, §7.01; as amended by *Ord. 2009-4*, 9/8/2009, §9)

Part 8

Definitions

§8-801. 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.

(*Ord. 4-82*, 12/28/1982, §8.00)

§8-802. Specific Definitions.

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

Basement - any area of the building having its floor below ground level on all sides. [*Ord. 2009-4*]

Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all mobile 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.

Construction - the construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of mobile homes.

Development - any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of mobile homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations and the subdivision of land.

Essentially dry space - a space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.

Flood - a temporary inundation of normally dry land areas.

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

Floodproofing - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodway - the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Chapter, the floodway shall be capable of accommodating a flood of the 100-year magnitude. [*Ord. 2009-4*]

Historic structure - any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the

Secretary of the Interior as meeting the requirements for individual listing on the National Register.

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

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

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.

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

[*Ord. 2009-4*]

Identified floodplain area - the floodplain area specifically identified in this Chapter as being inundated by the 100-year flood. Included would be areas identified as Floodway (FW), Flood-Fringe (FF), and General Floodplain (FA).

Land development - (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 buildings, of (B) the division or allocation of land or space between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups or other features; (2) a subdivision of land.

Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this Chapter. [*Ord. 2009-4*]

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. [*Ord. 2009-4*]

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 nontransient use. [*Ord. 2009-4*]

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, soil, waste, vent or similar

piping, electric wiring or mechanical or other work affecting public health or general safety.

Mobile home - means a transportable, single family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term does not include recreational vehicles or travel trailers.

Mobile home park - a parcel of land under single ownership which has been planned and improved for the placement of two or more mobile homes for nontransient use.

New construction - structures for which the start of construction commenced on or after November 17, 1982, and includes any subsequent improvements thereto. [*Ord. 2009-4*]

Obstruction - any wall, dam, wharf, embankment, levee, dike, pile abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or floodprone area, (A) which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water, or (B) which is placed where the flow of the water might carry the same downstream to the damage of life and property.

One hundred year flood - a flood that, on the average, is likely to occur once every 100 years, (i.e., that has 1 percent chance of occurring each year, although the flood may occur in any year).

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

Regulatory flood elevation - the 100-year flood elevation plus a freeboard safety factor of 1½ feet.

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. [*Ord. 2009-4*]

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

Structure - anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, sheds, mobile homes, and other similar items.

Subdivision - the division or redivision of a lot, or parcel of land by any means into two or more lots, tracts, parcels, or other division of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership, or building, or lot development; provided, however, that the division of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access, shall be exempted.

Substantial damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent or more of the market value of the structure before the damage occurred. [*Ord. 2009-4*]

Substantial improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement, This term includes structures which have incurred "substantial damage" 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.

B. Any alteration of a "historic structure,"' provided that the alteration will not preclude the structure's continued designation as a "historic structure."

[*Ord. 2009-4*]

(*Ord. 4-82*, 12/28/1982, §8.01; as amended by *Ord. 2009-4*, 9/8/2009, §10)