

ARTICLE V
Environmentally Sensitive Areas

§ 124-501. Erosion control and stormwater management. [Amended 4-7-2015 by Ord. No. 273]

The landowner, person and/or entity performing any earth disturbance shall utilize sufficient measures to prevent soil erosion and sedimentation of creeks and manage the water runoff in compliance with the East Petersburg Stormwater Ordinance.⁶¹

§ 124-502. Nuisances and hazards to public safety.

A. No land owner, tenant nor lessee shall use or allow to be used any land or structures in a way that results or threatens to result in any of the following conditions:

- (1) Transmission of communicable disease, including conditions that may encourage the breeding of insects or rodents.
- (2) A physical hazard to the public, or a physical hazard that could be an attractive nuisance that would be accessible by children.
- (3) Pollution to groundwaters or surface waters, other than as authorized by a state or federal permit.
- (4) Risks to public health and safety, such as but not limited to explosion, fire or biological hazards.
- (5) Interference with the reasonable use and enjoyment of property by a neighboring landowner of ordinary sensitivities.

B. Additional information. If the Zoning Officer has reason to believe that the proposed use may have difficulty complying with the standards of this chapter, then the Zoning Officer may require an applicant to provide written descriptions of proposed machinery, hazardous substances, operations and safeguards.

§ 124-503. Wetlands and steep slopes.

See § 124-308.

61. Editor's Note: See Ch. 106, Stormwater Management.

§ 124-504. Floodplain management. [Amended 4-5-2016 by Ord. No. 279]

A. This section serves the following major purposes:

- (1) Promote the general health, welfare, and safety of the Borough.
- (2) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- (3) Minimize danger to public health by protecting water supply and natural drainage.
- (4) Reduce financial burdens imposed on the Borough and its residents by preventing excessive development in areas subject to flooding.
- (5) Comply with federal and state floodplain management requirements.

B. The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978,⁶² delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. The Borough Council has enacted this section in accordance with the Flood Plain Management Act, the Borough Code, and the MPC.⁶³

C. Floodplain District applicability and administration.

- (1) The regulations of the FP Floodplain District shall apply throughout the entire Borough as overlay zoning regulations that supplement the zoning district regulations. Where the regulations of this section differ from the regulations of any other section of this chapter, the provision that is more restrictive on development shall apply.
 - (a) The inclusion of construction and floodproofing standards in this section shall not be interpreted to allow any structure or construction that is not expressly authorized by this article. If the Zoning Hearing Board grants a variance to allow a structure or construction not authorized by this article, such structure or construction shall comply with all construction and floodproofing standards in this section unless the Zoning Hearing Board also grants a variance from a specific construction or floodproofing standard.
- (2) The degree of flood protection sought by the provisions of this article 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. 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.

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

63. Editor's Note: The Municipalities Planning Code, 53 P.S. § 10101 et seq.

- (3) This article supersedes any other conflicting provision which may be in effect in identified floodplain areas. However, any other ordinance provision 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 and provisions of other ordinances, the more restrictive shall apply.
- (4) The Zoning Officer is hereby appointed to administer and enforce this article and for all purposes shall be considered and may sometimes be referred to as the "Floodplain Administrator." The Floodplain Administrator may fulfill the duties and responsibilities set forth in these regulations; delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees; or 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 Borough 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 addition to the powers and duties generally set forth in this chapter, when serving as Floodplain Administrator, the Zoning Officer shall have the following powers and duties:
- (a) 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.
- (b) 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);⁶⁴ the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended);⁶⁵ the Pennsylvania Clean Streams Act (Act 1937-394, as amended);⁶⁶ and the U.S. Clean Water Act, Section 404, 33 USC § 1344. No permit shall be issued until this determination has been made. In the case of existing structures, prior to the issuance of any permit, the Floodplain Administrator shall also review the history of repairs to the subject building so that any repetitive loss concerns can be addressed before the permit is issued.
- (c) 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 Borough ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
- (d) In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the

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

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

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

identified floodplain area, upon presentation of property credentials, at any reasonable hour to enforce the provisions of this article.

- (e) 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.
- (f) The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of this article, including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
- (g) The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning Borough participation in the National Flood Insurance Program.
- (h) The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated, but the ultimate responsibility lies with the Zoning Officer.
- (i) The Floodplain Administrator shall consider the requirements of the UCC.

D. Identification of FP Floodplain District.

- (1) The FP Floodplain District is all those areas of East Petersburg Borough, Lancaster County, Pennsylvania, classified as special flood hazard areas in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Map (FIRM) dated April 5, 2016, and issued by FEMA, or the most recent version thereof, including all digital data developed as part of the FIS and FIRM.
- (2) The above-referenced FIS and FIRM, and any subsequent revisions and amendments, are hereby adopted by East Petersburg Borough and declared to be a part of this section and the FP Floodplain District.
 - (a) An area measuring 50 feet horizontally perpendicular from the top bank of the watercourse; or
 - (b) The area inundated by the base flood as determined through qualified hydrologic and hydraulic study. Such study shall be signed, sealed and certified by a registered professional of the Commonwealth of Pennsylvania. Such certification shall acknowledge the accuracy of the study or survey and the qualification of the individual to perform such study or survey. Copies of such studies and surveys shall be submitted by the Zoning Officer to the Borough Engineer and the Federal Emergency Management Agency, which shall have 30 days to comment. Any landowner whose property is so studied shall pay all costs of these studies and surveys, except for work done under retainer to, or on behalf of, the Borough.
 - (c) All land which has been flooded by floods of record.

- B. Changes in identified floodplain area. 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, approval must be obtained from the FEMA. As soon as practicable, but not later than six months after the date such information becomes available, the Borough shall notify FEMA of the changes by submitting technical and scientific data.
- F. Boundary disputes.
- (1) Should a dispute concerning any boundary of the Floodplain Zone arise, the initial determination of the Zoning Officer may be appealed to the Zoning Hearing Board in accordance with § 124-111D(1)(a). The burden of proof in such an appeal shall be on the applicant and all hearings and procedures shall follow the requirements of §§ 124-111 and 124-112.
 - (2) All changes to the boundaries of the Floodplain Zone which affect areas identified in § 124-504D(1) are subject to the review and approval of the Federal Emergency Management Agency for compliance with the rules and regulations of the National Flood Insurance Program.
- G. Relationship to other sections. The provisions of this section create an overlay zoning district which is applicable within floodplains in all other zoning districts established by this chapter. To the extent the provisions of this section are applicable and more restrictive, they shall supersede conflicting provisions within all other sections of this chapter and all other ordinances of the Borough. However, all other provisions of all other articles of this chapter and all other ordinances of the Borough shall remain in full force.
- H. Floodplain compliance.
- (1) No structure shall be used or located, relocated, constructed, reconstructed, enlarged or structurally altered or land used except in full compliance with these floodplain regulations and other provisions of applicable Borough ordinances. A Borough zoning permit is required for any development within the one-hundred-year floodplain.
 - (2) Any alteration to a waterway, a drainage channel or the one-hundred-year floodplain, including development, redirecting drainageways, changes in grade or filling in, shall only occur after a determination by the Zoning Officer that all Borough ordinances have been complied with and after any needed state or federal permits are received.
 - (3) Any municipality that will be affected by a change in an alteration or relocation of a waterway shall be given prior notice of such proposal, with copies of such notice provided to the Pennsylvania Department of Community and Economic Development (DCED) and FEMA.
- I. Permits.

- (1) Permits for uses, structures and grading within the identified floodplain area.
 - (a) Applications for such a permit shall be made, in writing, to the Zoning Officer.
 - (b) All permit applications shall include the following:
 - [1] The name and address of the applicant.
 - [2] The name and address of the owner of land on which proposed construction is to occur.
 - [3] The name and address of the contractor.
 - [4] The site location.
 - [5] A brief description of the proposed work and estimated costs.
 - [6] A site plan showing the exact size and location of the proposed construction, as well as any existing buildings or structures, and also showing the one-hundred-year flood line.
 - [7] A brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
- (2) If any proposed construction or development is located entirely or partially within any identified floodplain area, permit applicants shall provide all the necessary information in sufficient detail and clarity to enable the Zoning Officer to determine that:
 - (a) The proposal is consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances.
 - (b) All utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage.
 - (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
 - (d) Structures will be anchored to prevent flotation, collapse, or lateral movement.
 - (e) Building materials are flood-resistant.
 - (f) Appropriate practices that minimize flood damage have been used.
 - (g) Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.

- (3) Applicants shall file the following minimum information plus any other pertinent information as may be required by the Zoning Officer to make the above determination:
- (a) A completed 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 applicable.
 - [3] The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development.
 - [4] The location of all existing streets, driveways and other accessways.
 - [5] The location of any existing bodies of water or watercourses, identified floodplain area, 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 base flood elevation (BFE).
 - [3] Supplemental information as may be necessary under the UCC.
 - (d) The following data and documentation:
 - [1] If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with the BFE.
 - [2] Detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - [3] Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within any identified floodplain area, when combined with all other existing and anticipated development, will not cause any increase to the BFE.
 - [4] A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the BFE. Such statement shall include a description of the type and extent of floodproofing measures which

have been incorporated into the design of the structure and/or the development.

- (e) Detailed information needed to determine compliance within § 124-504S(6), Storage, and § 124-504T, Development that may endanger human life, including:
 - [1] The amount, location and purpose of any materials or substances referred to in § 124-504S(6) and T which are intended to be used, produced, stored or otherwise maintained on site.
 - [2] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in § 124-504T during a base flood.
 - (f) The appropriate component of the Department of Environmental Protection (DEP) "Planning Module for Land Development."
 - (g) Where any excavation or grading is proposed, a plan meeting DEP requirements to implement and maintain erosion and sedimentation control.
- J. Review of permit applications by Conservation District. A copy of all applications and plans 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 Conservation District for review and comment prior to the issuance of a permit. The recommendations of the Conservation District shall be considered by the Zoning Officer for possible incorporation into the proposed plan.
- K. Review of permit applications by others. A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Zoning Officer to any other appropriate agencies and/or individuals (e.g., Planning Commission, Borough Engineer, etc.) for review and comment.
- L. Changes to permits. After the issuance of a permit by the Zoning Officer, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Zoning Officer. Requests for any such change shall be in writing and shall be submitted by the applicant to the Zoning Officer for consideration.
- M. Placards. In addition to the 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 permit and the date of its issuance and be signed by the Zoning Officer.
- N. Start of construction.
- (1) Work on the proposed construction and/or development shall begin within 180 days after the date of issuance and shall be completed within 12 months after the date of issuance of the 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 of basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under the proposed subsurface footings, or the installation of sewer, gas, and water pipes or electrical or other service lines from the street.

- (2) Time extensions shall be granted only if a written request which sets forth sufficient and reasonable cause for the Zoning Officer to approve such a request, is submitted by the applicant.
- O. Description of special requirements of identified floodplain areas of FP Floodplain District.
- (1) Floodway area.
 - (a) Description: the area identified as floodway in the FIS and FIRM which represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those special floodplain areas where no floodway has been identified in the FIS and FIRM.
 - (b) Special requirements:
 - [1] Any encroachment that would cause any increase in flood heights shall be prohibited.
 - [2] No new construction or development shall be allowed, unless a permit is obtained from the DEP Regional Office.
 - (2) Special floodplain area.
 - (a) Description: the areas identified as Zones AE and A1-30 in the FIS and FIRM which are subject to inundation by the one-percent-annual-chance flood event determined by detailed methods and have BFEs shown.
 - (b) Special requirements:
 - [1] No new construction or development shall be located within the area measured 50 feet landward from the top of bank of any watercourse, unless a permit is obtained from the DEP Regional Office.
 - [2] In special floodplain areas without a designated floodway, no new development shall be permitted unless it can be demonstrated that the cumulative effect of all past and projected development will not increase the base flood elevation by more than one foot.
 - (c) The following uses and no others are permitted in the FP Floodplain District, and they are permitted only if done under and in accordance with the provisions of the Clean Streams Act of Pennsylvania, Act 394 of 1937, as

amended; the Rules and Regulations of the DEP; this article; and all other applicable provisions of this chapter:

- [1] Agriculture, horticulture, and forestry, all excluding any structures, and excluding any grading or filling which would cause any increase in flood heights or frequency.
- [2] Erosion and sedimentation control measures, facilities and structures, provided that no increase in flood heights or frequency, unhealthful ponding, or other unsanitary conditions shall occur.
- [3] Public and private recreational uses, such as parks, swimming areas (excluding swimming pools), play areas, day camps, campgrounds (excluding campsites), picnic groves, lawns, gardens, golf courses, driving ranges, archery ranges; game farms, areas or clubs for hunting, fishing, and/or boating (including marker or anchor buoys), paved bicycle paths, and hiking and horseback riding trails, all excluding any structures, and excluding any grading or filling which would cause any increase in flood heights or frequency.
- [4] The harvesting of any wild crop, such as marsh hay, ferns, moss, berries, tree fruits and seeds, or wild rice, excluding any plants appearing on the latest edition of the United States List of Endangered and Threatened Plant Species maintained by the United States Fish and Wildlife Service.
- [5] Activities related to the preservation of natural amenities, including wildlife sanctuaries, nature preserves, woodland preserves, botanical gardens, or arboretums, excluding any structures, and excluding any grading or filling which would cause any increase in flood heights or frequency.
- [6] Open space and front, side, or rear yards required by other articles of this chapter. Floodplain land may be used to meet minimum open space, yard, and lot area requirements, provided that the purpose and intent of this article, as set forth in § 124-504A of this article, together with the requirements of any other pertinent municipal regulations, is complied with; if such compliance cannot be shown, the land areas within the FP Floodplain District shall not be used or calculated for purposes of meeting lot open space, area, or yard requirements.
- [7] Stream improvements whose sole purpose is to improve aquatic life habitat and which are approved by the Pennsylvania Fish Commission and reviewed by the Conservation District.
- [8] One- or two-strand fences.
- [9] Picnic tables, park benches, fireplaces and grills, and playground equipment, all if anchored to prevent flotation.

- [10] Blinds for the shooting of wildlife, provided that such blinds may only be placed, erected, and maintained during the open season established by the Pennsylvania Game Commission for the taking of migratory waterfowl and the three weeks immediately preceding and three weeks immediately following that open season. Blinds must be removed during all other times of the year.
- [11] Circuses, carnivals, and similar transient enterprises, provided that natural vegetative ground cover is not destroyed, removed, or covered in such a way as to create erosion or sedimentation.
- [12] Farm ponds which are constructed in accordance with a conservation plan reviewed by the Conservation District and which do not create any increase in flood heights or frequency.
- [13] Floodproofing and flood hazard reduction structures to protect only lawfully existing and registered nonconforming structures and lawfully existing and registered nonconforming uses within structures.
- [14] Public utility facilities (except buildings) under the exclusive jurisdiction of the Pennsylvania Public Utility Commission and specifically exempted from control by municipal zoning ordinances, subject to the provisions of § 124-504O(2)(c)[16] of this article to the extent allowed by law.
- [15] Marker buoys.
- [16] Public utility facilities not under the exclusive jurisdiction of the Pennsylvania Public Utility Commission, subject to the following conditions:
- [a] Facilities such as pipelines, gas lines, storm sewers, sanitary sewers, waterlines, outlet installations for sewage treatment plants, sealed public and private water supply wells, pumping stations, and underground communications facilities, shall, together with associated structures, but excepting necessary vents, be designed and installed underground so as to be at or below the existing natural surface grade within the floodplain, and in such a manner as will prevent flotation, minimize or eliminate flood damage, and not alter the cross-sectional area of the floodplain. All new or replacement water supply facilities and/or sanitary sewage facilities shall be designed to minimize or eliminate infiltration of floodwaters into the facilities and discharges from the facilities into floodwaters. All gas lines shall have a system of shutoff valves for service to the FP Floodplain District to allow positive control during flood emergencies.
- [b] Electrical distribution lines and supporting structures shall be installed so as to minimize or eliminate flood damage, and all lines of less than 15 kilovolts shall be installed underground, below the

existing natural surface grade within the floodplain. Aboveground electrical distribution and transmission lines of 15 kilovolts or more may be allowed above the ground as a special exception, provided that they are certified by a licensed professional engineer registered by the Commonwealth of Pennsylvania as meeting all of the following standards:

- [i] Aboveground lines and supporting structures shall enter the FP Floodplain District only to cross a watercourse, shall cross the watercourse and the FP Floodplain District using the most direct and shortest route possible consistent with the goals, objectives, purposes, and intents of this chapter, shall make the minimum number of crossings necessary, and shall be designed and installed so as to minimize or eliminate flood damage.
 - [ii] Aboveground lines shall be elevated so that their lowest portions are a minimum of 10 feet above the maximum flood elevation.
 - [iii] Supporting structures for aboveground lines within the FP Floodplain District shall be the minimum number necessary to carry the lines across the FP Floodplain District. Supporting structures shall be designed and installed so as to be able to withstand the maximum volume, velocity, and force of floodwaters which can be expected at the point where they are located.
 - [iv] Facilities and services in the FP Floodplain District shall be designed so that flood damage within the district does not disrupt service outside the district.
- [17] Culverts, bridges, and approaches to public and private culverts and bridges which meet all of the following conditions:
- [a] Review and/or approval by the Lancaster County Planning Commission, if required.
 - [b] Approval by the Susquehanna River Basin Commission, if required.
 - [c] Approval by the DEP, if required.
 - [d] Approval by the United States Army Corps of Engineers, if required.
 - [e] Approval by PennDOT, if required.
 - [f] If approval by PennDOT is not required, the proposed use must still meet all of the appropriate minimum design standards of PennDOT.

- [g] The proposed structure must be designed in such a way as to have the capacity to allow the unrestricted passage of waters of maximum flood elevation below and through it without any upstream or downstream increase in water surface elevation.
- (d) The following uses are permitted in the FP Floodplain District only when special exceptions are granted by the Zoning Hearing Board as provided for herein and in Article I, § 124-111, when permitted by the underlying zoning district as permitted uses or special exception uses, and when done under and in accordance with the provisions of the Clean Streams Act of Pennsylvania, Act 394 of 1937, as amended, the Rules and Regulations of the DEP, and all other provisions of this chapter:
- [1] Parking lots, loading areas, driveways, and aircraft landing strips and taxiways, if they are water-permeably surfaced, except that parking lots designed or used for storage and parking lots for hotels, motels and other transient lodgings are prohibited.
 - [2] Water-oriented uses such as docks, piers, wharves, marinas, boat liveries, and boat launching ramps.
 - [3] Fish hatcheries, including uncovered ponds and raceways, which are approved by the Pennsylvania Fish Commission, but excluding other structures.
 - [4] Water monitoring devices.
 - [5] Extraction of sand, gravel, and other mineral resources, excluding topsoil.
- (e) Standards and criteria for special exceptions. In addition to the provisions of Article I, Section 111, in hearing and deciding upon special exceptions to be granted or denied under the provisions of this article, the Zoning Hearing Board shall also determine that the following standards and criteria have been complied with:
- [1] That danger to life and property due to increased flood heights, velocities, or frequencies caused by encroachments is minimized.
 - [2] That the danger that floodwaters or materials may be swept onto lands or downstream to cause injury to others is minimized.
 - [3] That the possibility of disease, contamination, and unsanitary conditions is minimized and especially that any proposed water supply or sanitation systems are able to prevent these problems.
 - [4] That the susceptibility of the proposed facility and its contents to flood damage, the effect of such damage on the individual owners, and the need for and effect of floodproofing are minimized.
 - [5] That the proposed facility and its services are important to the Borough.

- [6] That the proposed facility needs a waterfront or floodplain location.
 - [7] That there are no available alternate locations not subject to flooding for the proposed use.
 - [8] That the proposed use is compatible with existing and anticipated development.
 - [9] That the proposed use is consistent with the East Petersburg Borough Comprehensive Plan and floodplain management program for the area.
 - [10] That the safety of access to the property in times of flooding for ordinary and emergency vehicles is assured.
 - [11] That the expected area, height, depth, velocity, pressure, frequency, duration, rate of rise, seasonality, and sediment, debris, and pollutant load of floodwaters expected at the site are not inconsistent with the proposed use.
 - [12] That the proposed activity will not unduly alter natural water flow or water temperature.
 - [13] That archaeological or historic sites and structures, endangered or threatened species of animals or plants, high quality wildlife habitats, scarce vegetation types, and other irreplaceable land uses will not be degraded or destroyed.
 - [14] That the natural, scenic, and aesthetic values at the proposed site will be conserved.
 - [15] That the danger, damage, and injury to all adjoining properties on both sides of any watercourse, regardless of municipality, is minimized. In this regard, any proposal affecting an adjacent municipality shall be submitted to that municipality's Planning Commission and governing body for review and comment.
 - [16] That the granting of the special exception will not result in any of the following:
 - [a] Increases in flood heights.
 - [b] Additional threats to public safety.
 - [c] Extraordinary public expense.
 - [d] Creation of nuisances.
 - [e] Fraud or victimization of the public.
 - [f] Conflict with local laws or ordinances.
- (f) The following uses are prohibited in the FP Floodplain District:

- [1] All uses prohibited either expressly or implicitly in the underlying zoning district for the land in question.
- [2] All structures, with the exception of those specifically allowed in § 124-504O(2)(c) and (d).
- [3] Sanitary landfills, dumps, junk and salvage yards, and outdoor storage of vehicles and/or materials.
- [4] Placing, depositing, or dumping any spoil, fill, or solid waste, except such grading or filling necessary to accomplish and carry out those uses permitted in § 124-504O(2)(c) and (d); provided, however, that no grading or filling is permitted which would cause any increase in flood heights or frequency.
- [5] Removal of topsoil, excluding sod production and nursery activities as allowed in § 124-504O(2)(c) and (d), and excluding such grading or filling necessary to accomplish and carry out those uses which are permitted in § 124-504O(2)(c) and (d); provided, however, that no grading or filling is permitted which would cause any increase in flood heights or frequency.
- [6] Damming or relocation of any watercourse, except as provided for in § 124-504O(2)(c) and (d).
- [7] Any parts of any on-site sewage disposal systems.
- [8] Swimming pools.
- [9] Fences, except one- or two-strand fences.
- [10] Stockpiling, storage or disposal of buoyant materials, logging slash, herbicides, pesticides, domestic or industrial waste, radioactive materials, petroleum or other flammable materials, explosives, poisonous materials, hazardous materials, or other materials which, if flooded, would pollute the watercourse or be injurious to human, animal, or plant life.
- [11] Cemeteries for humans or animals.
- [12] Zoo, menagerie, wild animal farm or domestic or farm animal enclosures which will not allow all animals to escape floodwaters of maximum flood elevation without human intervention while remaining safely confined.
- [13] The floodproofing of new residential structures.
- [14] Any development, structure, or use which may, whether alone or in combination with others, and except where specifically authorized elsewhere in this article:

- [a] Endanger human life.
 - [b] Obstruct, impede, retard, change, or increase the velocity, direction, or flow of floodwaters.
 - [c] Increase the surface elevation of floods or the frequency of floods.
 - [d] Catch or collect debris carried by floodwaters.
 - [e] Be placed where the natural flow of the stream or floodwaters would carry it downstream to the damage or detriment of property within or adjacent to the FP Floodplain District.
 - [f] Degrade the water-carrying capacity of any watercourse channel or floodplain.
 - [g] Increase the rate of local runoff, erosion or sedimentation.
 - [h] Degrade the quality of surface water or the quality or quantity of groundwater.
 - [i] Be susceptible to flotation and subsequent movement which would cause damage to other property.
 - [j] Create unhealthful ponding or other unsanitary conditions.
 - [k] Not be in harmony with the intent and purpose of this article, as set forth in Section 504.1.
 - [l] Feedlots.
 - [m] Fully and partially enclosed space below the lowest floor (including basements).
- (3) Approximate floodplain area.
- (a) Description. The areas identified as Zone A in the FIS which are subject to inundation by the one-percent-annual-chance flood event determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no base flood elevations (BFEs) or flood depths are shown.
 - (b) Special requirements:
 - [1] No new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the DEP Regional Office.
 - [2] When available, information from other federal, state, and other acceptable sources shall be used to determine the BFE, as well as a floodway area, if possible. When no other information is available, the BFE shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.

[3] In lieu of the above, the Borough 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.

(c) The provisions of § 124-504O(2)(c), (d), (e) and (f) are applicable to the approximate floodplain area.

P. Technical provisions.

- (1) Alteration or relocation of watercourse.
 - (a) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Borough and until all required permits or approvals have been first obtained from the DEP Regional Office. It is the responsibility of the applicant to provide all required studies and pay all fees.
 - (b) 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.
 - (c) FEMA and DCED shall be notified prior to any alteration or relocation of any watercourse.
- (2) Submit technical or scientific data to FEMA for a Letter of Map Revision (LOMR) within six months of the completion of any new construction, development, or other activity resulting in changes in the BFE.
- (3) Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this section and any other applicable codes, ordinances and regulations.

Q. Elevation and floodproofing requirements. All new and substantially improved structures are prohibited in identified floodplains unless a variance is granted. The following provisions apply when a variance is granted:

- (1) Residential structures.
 - (a) In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to or above the regulatory flood elevation.
 - (b) In A Zones, where there are no base flood elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor

(including basement) elevated up to or above the regulatory flood elevation determined in accordance with § 124-504O(3)(b)[2] and [3].

- (c) The design and construction standards and specifications contained in the UCC and ASCE 24 shall be utilized, where they are more restrictive.
- (2) Nonresidential structures.
- (a) In AE, A1-30 and AH Zones, 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 below the regulatory flood elevation:
 - [1] Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water; and
 - [2] Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (b) In A Zones, where there are no BFEs specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to or above the regulatory flood elevation determined in accordance with § 124-504C.
 - (c) Any nonresidential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the WI or W2 space classification standards contained in the publication entitled "Flood Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above-referenced standards.
 - (d) The design and construction standards and specifications contained in the UCC and ASCE 24 shall be utilized, where they are more restrictive.
- (3) Space below the lowest floor.
- (a) Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
 - (b) 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.
- R. Accessory structures. Structures accessory to a principal building need not be elevated or floodproofed to remain dry but shall comply, at a minimum, with the following requirements:
- (1) The accessory structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles or to the storage of tools, materials, and equipment related to the principal use or activity.
 - (2) Floor area shall not exceed 200 square feet.
 - (3) The accessory structure will have a low damage potential.
 - (4) The accessory structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.
 - (5) Power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
 - (6) Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc., are prohibited.
 - (7) Sanitary facilities are prohibited.
 - (8) The accessory structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
 - (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, etc., or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- S. Design and construction standards. The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

- (1) Fill. If fill is used, it shall:
 - (a) Extend laterally at least 15 feet beyond the building line from all points.
 - (b) Consist of soil or small rock materials only. Sanitary landfills shall not be permitted.
 - (c) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling.
 - (d) Be no steeper than one vertical to two horizontal feet, unless substantiated data, justifying steeper slopes, are submitted to and approved by the Zoning Officer.
 - (e) Be used to the extent to which it does not adversely affect adjacent properties.
- (2) Drainage facilities. 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.
- (3) Water and sanitary sewer facilities and systems.
 - (a) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
 - (b) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
 - (c) No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all state and municipal 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) The design and construction provisions of the UCC and FEMA No. 348, Protecting Building Utilities from Flood Damage, and the International Private Sewage Disposal Code shall be utilized.
- (4) 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.
- (5) Streets. The finished elevation of all new streets shall be no more than one foot below the regulatory flood elevation.
- (6) 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 § 124-504T, Development that may endanger human life, shall be stored at or

above the regulatory flood elevation and/or flood proofed to the maximum extent possible.

- (7) 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.
- (8) Anchoring.
 - (a) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
 - (b) All air ducts, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.
- (9) Floors, walls and ceilings.
 - (a) 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.
 - (b) Plywood used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
 - (c) 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.
 - (d) Windows, doors, and other components at or below the regulatory flood elevations shall be made of metal or other water-resistant material.
- (10) Paints and adhesives.
 - (a) Paints and other finishes used at or below the regulatory flood elevation shall be of marine or water-resistant quality.
 - (b) Adhesives used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
 - (c) All wooden components (doors, trims, cabinets, etc.) shall be finished with a marine or water-resistant paint or other finishing material.
- (11) Electrical components.
 - (a) Electrical distribution panels shall be at least three feet above the base flood elevation.
 - (b) Separate electrical circuits shall serve lower levels and shall be dropped from above.

- (12) 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.
- (13) 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.
- (14) Uniform Construction Code coordination. The standards and specifications of the UCC shall apply to the above and other sections and subsections of this section, to the extent that they are more restrictive and/or supplement the requirements of this section.

T. Development that may endanger human life.

- (I) In accordance with the Pennsylvania Flood Plain Management Act,⁶⁷ and the regulations adopted by the DCED as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances; or will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or will involve the production, storage, or use of any amount of radioactive substances shall be subject to the provisions of this section, in addition to all other applicable provisions. The following is a list of materials and substances that are considered dangerous to human life:

Acetone
Ammonia
Benzene
Calcium carbide
Carbon disulfide
Celluloid
Chlorine
Hydrochloric acid
Hydrocyanic acid
Magnesium
Nitric acid and oxides of nitrogen
Pesticides (including insecticides, fungicides, and rodenticides)
Petroleum products (gasoline, fuel, oil, etc.)
Phosphorus
Potassium
Radioactive substances, insofar as such substances are not otherwise regulated

⁶⁷. Editor's Note: See 32 P.S. § 679.101 et seq.

Sodium
Sulphur and sulphur products

- (2) Within any floodway area, any structure of the kind described in Subsection T(1) shall be prohibited.
 - (3) Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection T(1) shall be:
 - (a) Elevated or designed and constructed to remain completely dry up to at least 1 1/2 feet above base flood elevation.
 - (b) Designed to prevent pollution from the structure or activity during the course of a base flood. Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972, as amended March 1992), or with some other equivalent watertight standard.
 - (c) Within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection T(1) shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
- U. Special requirements for subdivisions. All subdivision proposals and development proposals containing at least 50 lots or at least five acres, whichever is the lesser, in flood hazard areas where base flood elevation data are not available shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.
- V. Special Requirements for manufactured homes and recreational vehicles.
- (1) Within any floodway, manufactured homes and recreational vehicles shall be prohibited.
 - (2) Within approximate floodplain or special floodplain area, manufactured homes shall be prohibited within the area measured 50 feet landward from the top-of-bank of any new watercourse.
 - (3) Where permitted within any floodplain area, all manufactured homes, and any improvements thereto, shall be:
 - (a) Placed on a permanent foundation.
 - (b) Elevated so that the lowest floor of the manufactured home is at least 1 1/2 feet above BFE.
 - (c) Anchored to resist flotation, collapse, or lateral movement.

- (4) Installation of manufactured homes shall be done in accordance with the manufacturer's installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the International Residential Building Code adopted as part of the UCC or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto, shall apply.
 - (5) Consideration shall be given to the installation requirements of the UCC where appropriate and/or applicable to units where the manufacturer's standards for anchoring cannot be provided or were not established for the unit's proposed installation.
 - (6) Within approximate floodplain or special floodplain areas, recreational vehicles must either:
 - (a) Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use; or
 - (b) Meet all of the requirements for manufactured homes in Subsection V(3), (4) and (5).
 - (7) Nothing contained in this section shall be construed to permit manufactured homes in the FP Floodplain District.
- W. Prohibitions. In accordance with the administrative regulations promulgated by the DCED to implement the Pennsylvania Flood Plain Management Act,⁶⁸ the following activities shall be prohibited within any identified floodplain area:
- (1) 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:
 - (a) Hospitals.
 - (b) Nursing homes.
 - (c) Jails or prisons.
 - (2) 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.
- X. Existing structures. The provisions of this section do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of § 124-504Y shall apply. Historic structures, as defined in this article, undergoing repair or rehabilitation that would constitute a substantial improvement, as also defined in this article, must comply with all requirements of this article that do not preclude the structure's continued designation as an historic structure. Documentation that a specific requirement of the

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

article will cause removal of the structure from the National Register of Historic Places must be obtained from the Secretary of the Interior. An exemption from requirements of this article will be the minimum necessary to preserve historic character and design of the structure.

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

- (1) No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in base flood elevation.
- (2) No expansion or enlargement of an existing structure shall be allowed within any special floodplain area that would, together with all other existing and anticipated development, increase the BFE more than one foot at any point.
- (3) Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of 50% or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this section.
- (4) The above activity shall also address the requirements of the UCC.
- (5) Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than 50% of its market value, shall be elevated and/or floodproofed to the greatest extent possible.
- (6) Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of "repetitive loss" shall be undertaken only in full compliance with the provisions of this section.

Z. Variances.

- (1) If compliance with any of the requirements of this article would result in an exceptional hardship to a prospective builder, developer or landowner, the Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.
- (2) Requests for variances shall be considered by the Zoning Hearing Board in accordance with the procedures contained in Article I, Section 111, of this chapter and the following:
 - (a) No variance shall be granted for any construction, development, use or activity within any floodway that would cause any increase in the base flood elevation.
 - (b) No variance shall be granted for any construction, development, use or activity within any special floodplain area that would, together with all other existing and anticipated development, increase the BFE more than one foot at any point.
 - (c) Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other

requirements pertaining specifically to development that may endanger human life.

- (d) If granted, a variance shall involve only the least modification necessary to provide relief.
 - (e) Whenever a variance is granted, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare and to achieve the objectives of this article.
 - (f) Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:
 - [1] The granting of the variance may result in increased premium rates for flood insurance.
 - [2] Such variance may increase the risks to life and property.
 - (g) In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:
 - [1] That there is good and sufficient cause.
 - [2] That failure to grant the variance would result in exceptional hardship to the applicant.
 - [3] That the granting of the variance will neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense nor create nuisances, cause fraud on, or victimize the public or conflict with any other applicable state or local ordinances and regulations.
 - (3) 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 FEMA.
 - (4) Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent-annual-chance flood.
- AA. Municipal liability. The lawful granting of a permit or the making of any administrative decision under this section shall not constitute a representation, guarantee, or warranty of any kind by East Petersburg Borough, or by any official, agent, or employee thereof, of the practicability or safety of any structure, use, or other plan proposed with respect to damage from flood or otherwise and shall create no liability upon, or a cause of action against, such public body, official, agent, or employee for any flood damage that may result pursuant thereto or as a result of reliance on this section. There is also no assurance that lands not included in the Floodplain Zone are now or ever will be free from flooding or flood damage.

BB. Definitions. Unless specifically defined below, words and phrases used in this section shall be interpreted so as to give this section the most reasonable application.

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

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").

BASE FLOOD DISCHARGE — The volume of water resulting from a base flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

BASE FLOOD ELEVATION (BFE) — The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, 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.

BUILDING — A combination of materials forming a permanent structure and which has walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

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.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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 Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

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

FLOODPROOFING — 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.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURES — Any building, structure, site, object or district that is included on the National Register of Historic Places, individually or as a contributing resource in a Nation Register Historic District.

LOWEST FLOOR — The lowest floor of the lowest fully enclosed area including any 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 type of single-family detached dwelling that meets all of the following requirements:

- (1) It is transportable in a single piece or two substantial pieces designed to be joined into one integral unit capable of again being separated for towing.
- (2) It is designed for permanent occupancy.
- (3) It arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations.
- (4) It may be constructed so that it may be used without a permanent foundation.
- (5) It is not a recreation vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile/manufactured home lots for the placement thereon of mobile/manufactured homes.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after April 5, 2016, and includes any subsequent improvements to such structures. Any construction started after September 5, 1979, and before April 5, 2016, is subject to the ordinance in effect at the time the permit was issued, provided that the start of construction was within 180 days of permit issuance.

NEW MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

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

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

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.

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. 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.

STRUCTURE — A walled and roofed building, including a gas or liquid storage tank that is principally above the ground, as well as a manufactured home.

SUBDIVISION — A subdivision as defined in the MPC.⁶⁹

SUBSTANTIAL DAMAGE — Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% or more of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage or repetitive loss regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

UNIFORM CONSTRUCTION CODE (UCC) — The statewide building code adopted by the Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities, whether administered by the municipality, a third party, or the Department of Labor and Industry. Applicable to residential and commercial buildings, the UCC adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the state floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

VIOLATION — The failure of a structure or other development to be fully compliant with the Borough'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.

§ 124-505. Noise.

See the Borough Noise Control Ordinance.

§ 124-506. Odors and dust.

No use shall generate odors or dust that are offensive to persons of average sensitivities beyond the boundaries of the subject lot. This provision shall not apply to normal farming activities that are exempted under the Pennsylvania Right to Farm Act.⁷⁰

69. Editor's Note: The Municipalities Planning Code, 53 P.S. § 10101 et seq.

70. Editor's Note: See 3 P.S. § 951 et seq.

§ 124-507. Control of light and glare.

This § 124-507 shall only regulate exterior lighting that spills across lot lines or onto public streets.

- A. Street lighting exempted. This section shall not apply to:
- (1) Street lighting that is owned, financed or maintained by the Borough or the state; or
 - (2) An individual porch light of less than six feet total height in a front yard (not including a spotlight).
- B. Height of lights. No luminaire, spotlight or other light source that is within 200 feet of a lot line of an existing dwelling or approved residential lot shall be placed at a height exceeding 35 feet above the average surrounding ground level. This limitation shall not apply to lights needed for air safety nor lights intended solely to illuminate an architectural feature of a building, nor lighting of outdoor public recreation facilities or a ski resort.
- C. Diffused. All light sources, including signs, shall be properly diffused as needed with a translucent or similar cover to prevent exposed bulbs from being directly visible from streets, public sidewalks, dwellings or adjacent lots.
- D. Shielding. All light sources, including signs, shall be shielded around the light source and carefully directed and placed to prevent the lighting from creating a nuisance to reasonable persons in adjacent dwellings and to prevent the lighting from shining into the eyes of passing motorists.
- E. Flickering. Flashing, flickering or strobe lighting are prohibited, except for nonadvertising seasonal lights between October 25 and January 10.
- F. Spillover. Exterior lighting on an institutional, commercial or industrial property shall not cause a spillover of light onto a residential lot that exceeds 1.0 horizontal footcandle at a distance 10 feet inside the residential lot line.
- G. Gasoline sales canopies. Any canopy over gasoline pumps shall have light fixtures recessed into the canopy or screened by an extension around the bottom of the canopy so that lighting elements are not visible from another lot or street.
- H. Lighting of horizontal surfaces. For the lighting of predominantly horizontal surfaces such as parking areas and vehicle sales areas, lighting fixtures shall be aimed downward and shall include full cutoff measures as needed to properly direct the light and to meet the maximum spillover requirements of Subsection F and to prevent glare onto streets. The Borough may require that light fixtures for nonresidential uses be placed along the street and be aimed away from the street in a manner that also minimizes light shining onto residential lots.
- I. Lighting of nonhorizontal surfaces. For lighting of predominantly nonhorizontal surfaces such building walls and wall signs, lighting fixtures shall be fully shielded and shall be aimed so as to not project light towards neighboring residences or past the object being illuminated or skyward. Any lighting of a flag shall use a beam no wider than necessary

to illuminate the flag. Lighting of a billboard should be attached to the top of the billboard and project downward. However, lighting shall be allowed of the United States flag from dusk to dawn, provided that the light source shall have a beam spread no greater than necessary to illuminate the flag.

- J. Upward lighting and lasers. Spotlights shall not be directed upwards into the sky. Laser lights shall not be directed into the sky to attract attention to a business or activity.