

Chapter 8

Floodplains

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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.
- E. Comply with Federal and State floodplain management requirements. [Ord. 857]

(Ord. 782, 9/17/1986, §101; as amended by Ord. 857, 9/20/1995, §1)

§8-102. Applicability.

It shall be unlawful for any person, partnership, business, or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Borough unless a building permit has been obtained from the Borough Code Enforcement Officer, or such other official as designated from time to time by Council, in compliance with all Borough codes, ordinances and requirements.

(Ord. 782, 9/17/1986, §102; as amended by Ord. 976, 1/16/2008)

§8-103. Abrogation and Greater Restrictions.

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

2. If there is any conflict between any of the provisions of this Part, the more restrictive shall apply. [Ord. 857]

3. Wherever this Part refers to a governmental, local, state or federal, entity which no longer exists but whose duties, responsibilities, functions or purposes have been re-assigned to another entity or to a newly created entity said reference shall be interpreted to refer to the re-assigned or newly created entity. [Ord. 857]

(Ord. 782, 9/17/1986, §103; as amended by Ord. 857, 9/20/1995, §2)

§8-104. Severability.

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

(Ord. 782, 9/17/1986, §104)

§8-105. 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. 782, 9/17/1986, §105)

§8-106. Definitions.

For the purpose of this Chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural, and plural the singular, and the word “shall” is mandatory and not directory.

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. [Ord. 857]

Basement - any area of the building having its floor below ground level on all sides. [Ord. 857]

Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation. [Ord. 857]

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 manufactured homes. [Ord. 857]

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. [Ord. 857]

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 Part, the floodway shall be capable of accommodating a flood of the 100-year magnitude. [Ord. 857]

Historic structure - any structure that is:

(1) 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.

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

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

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior.

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

[Ord. 857]

Identified floodplain area - the floodplain area specifically identified in this Chapter as being inundated by the 100-year flood. Included are all areas identified as General Floodplain (FA).

Land development - any of the following activities:

(1) The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:

(a) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure.

(b) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

(2) A subdivision of land.

[Ord. 857]

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 nonelevation design requirements of this Chapter. [Ord. 857]

Manufactured home - 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 completed 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 includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days. [Ord. 857]

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. 857]

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 additions to, alterations 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.

New construction - structures for which the start of construction commenced on or after September 17, 1986, and includes any subsequent improvements thereto. [Ord. 857]

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 flood-prone area, (1) 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 (2) 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 a 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. [Ord. 857]

Recreational vehicle - a vehicle which is (i) built on a single chassis; (ii) not more than 400 square feet, measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light-duty truck; (iv) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. [Ord. 857]

Regulatory flood elevation - the 100-year flood elevation plus a freeboard safety factor of 1½ feet. [Ord. 857]

Special permit - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain. [Ord. 857]

Structure - anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, manufactured homes, and other similar items. [Ord. 857]

Subdivision - the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted. [Ord. 857]

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. 857]

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:

(1) 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.

(2) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

[Ord. 857]

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 Uniform Construction Code adopted the International Residential Code (IRC) and the International Building Code (IBC) of 2006 by reference as the construction standard applicable with the Commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC. [Ord. 976]

(Ord. 782, 9/17/1986, §106; as amended by Ord. 857, 9/20/1995, §§3, 4; and by Ord. 976,

1/16/2008)

Part 2**Administration****§8-201. Building Permits Required.**

In compliance with Borough codes and ordinances, building permits shall be required before any construction or development is undertaken within any area of the Forest Hills Borough.

(*Ord. 782, 9/17/1986, §201*)

§8-202. Issuance of Building Permits.

The Borough Code Enforcement Officer, or such other official as designated from time to time by Council, shall issue a building 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. [*Ord. 830*]

A. Prior to the issuance of any building permit, the Borough Code Enforcement Officer, or such other official as designated from time to time by Council, 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 Dam Safety and Encroachments Act, as amended, 32 P.S. §693.1 *et seq.*; the U.S. Clean Water Act, §404, 33 USC §1334; and the Pennsylvania Clean Streams Act 35 P.S. §691.1 *et seq.* No permit shall be issued until this determination has been made. It shall be the responsibility of the applicant, and not the Borough Code Enforcement Officer, or such other official as designated from time to time by Council, to obtain all such necessary other governmental permits. [*Ord. 830*]

B. 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 Department of Environmental Protection. [*Ord. 976*]

C. The Federal Insurance Administrator and Pennsylvania Department of Community and Economic Development, shall be notified by the Borough prior to any alteration or relocation of any watercourse. [*Ord. 976*]

(*Ord. 782, 9/17/1986, §202; as amended by Ord. 830, 3/18/1992; and by Ord. 976, 1/16/2008*)

§8-203. Application Procedures and Requirements.

1. Application for such a building permit shall be made, in writing, to the Borough Code Enforcement Officer, or such other official as designated from time to time by Council, on forms supplied by the Borough. Such application shall contain all information required by Borough regulations. [*Ord. 830*]

2. Such application shall also contain the following:

A. Name and address of applicant.

- B. Name and address of owner of land on which proposed construction is to occur.
- C. Name and address of contractor.
- D. Site location.
- E. Listing of other permits required.
- F. Brief description of proposed work and estimated cost.
- G. A plan of the site showing the exact size and location of the proposed construction as well as any existing building or structures.

[Ord. 857]

3. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for building permits shall provide all the necessary information in sufficient detail and clarity to enable the Borough Code Enforcement Officer, or such other official as designated from time to time by Council, to determine that: [Ord. 830]

- A. All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances.
- 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.

4. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Borough Code Enforcement Officer, or such other official as designated from time to time by Council, to make the above determination: [Ord. 830]

- A. A completed building permit application form.
- B. A plan of the entire site at a scale no smaller than 1 inch equals 100 feet, showing:
 - (1) North arrow, scale, and date.
 - (2) Topographic contour lines of the site at vertical intervals of 2 feet.
 - (3) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet.
 - (4) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development.
 - (5) The location of all existing streets, drives, and other accessways.
 - (6) The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
- C. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - (1) The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929.

(2) The elevation of the 100-year flood.

(3) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a 100-year flood.

(4) Detailed information concerning any proposed floodproofing measures.

(5) 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 2006 IBC and §§R106.1.3 and R104.7 of the 2006 IRC. [*Ord. 976*]

D. The following data and documentation:

(1) A document, certified by a registered professional surveyor, engineer or architect, which states that the proposed construction of development has been adequately designed to withstand the 100-year flood elevations, pressures, velocities, impact and uplift forces associated with the 100-year flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.

(2) The appropriate component of the Department of Environmental Protection “Planning Module for Land Development.” [*Ord. 976*]

(3) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources, to implement and maintain erosion and sedimentation control.

(4) Detailed information needed to determine compliance with §8-405.8, “Storage,” including:

(a) The amount, location and purpose of any dangerous materials or substances which are intended to be used, produced, stored or otherwise maintained onsite.

(b) 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 §8-402 during a 100-year flood.

[*Ord. 857*]

(5) The appropriate component of the Department of Environmental Protection “Planning Module for Land Development.” [*Ord. 976*]

(6) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control. [*Ord. 976*]

E. 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 Building Permit Officer to the County Conservation District for review and comment prior to the issuance of a building permit. The recommendations of the Conservation District shall be considered by the Building Permit Officer for possible incorporation into the proposed plan. [*Ord. 857*]

(*Ord. 782, 9/17/1986, §203; as amended by Ord. 830, 3/18/1992; by Ord. 857, 9/20/1995, §§5-7; and by Ord. 976, 1/16/2008*)

§8-204. 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 shall be submitted by the Borough Code Enforcement Officer, or such other official as designated from time to time by Council, to the Borough Planning Commission and the Borough Engineer for review and comment.

(*Ord. 782, 9/17/1986, §204; as amended by Ord. 830, 3/18/1992*)

§8-205. Changes.

After the issuance of a building permit by the Borough Code Enforcement Officer, or such other official as designated from time to time by Council, 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 Code Enforcement Official. Requests for any such change shall be in writing, and shall be submitted by the applicant to the Code Enforcement Official for consideration.

(*Ord. 782, 9/17/1986, §205; as amended by Ord. 830, 3/18/1992*)

§8-206. Placards.

The Borough Code Enforcement Officer, or such other official as designated from time to time by Council, 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 building permit, the date of its issuance and be signed by the Borough Code Enforcement Officer, or such other official as designated from time to time by Council.

(*Ord. 782, 9/17/1986, §206; as amended by Ord. 830, 3/18/1992*)

§8-207. Start of Construction.

1. Work on the proposed construction and/or development shall begin within six months and shall be completed within 12 months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted in writing by the Code Enforcement Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation for basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street. [*Ord. 830*]

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 Borough Code Enforcement Officer, or such other official as designated from time to time by Council, to approve such a request.

(*Ord. 782, 9/17/1986, §207; as amended by Ord. 830, 3/18/1992*)

§8-208. Inspection and Revocation.

1. During the construction period, the Borough Code Enforcement Officer, or such other official as designated from time to time by Council, 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 laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.

[*Ord. 830*]

2. During construction the Borough Code Enforcement Officer, or such other official as designated from time to time by Council, may require that the developer provide a certification by a qualified engineer or surveyor that all buildings and structures are being built in conformance with the required elevations as approved in the building permit. [*Ord. 830*]

3. In the discharge of his duties, the Borough Code Enforcement Officer, or such other official as designated from time to time by Council, 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. 830*]

4. In the event the Borough Code Enforcement Officer, or such other official as designated from time to time by Council, 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 Borough Code Enforcement Officer, or such other official as designated from time to time by Council, shall revoke the building permit and report such fact to the Council for whatever action it considers necessary. [*Ord. 830*]

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

6. The requirements of 34 Pa.Code, Chapters 401–405, and the 2006 IBC, §§109.3.3, 1612.5.1, 104.7 and 103.8, and the 2006 IRC, §§R106.1.3, R109.1.3, and R104.7, or latest revisions thereof pertaining to elevation certificates and record retention, shall be considered. [*Ord. 976*]

(*Ord. 782, 9/17/1986, §208; as amended by Ord. 830, 3/18/1992; and by Ord. 976, 1/16/2008*)

§8-209. Fees.

Applications for a building permit shall be accompanied by a fee as shall be established by resolution of Council.

(*Ord. 782, 9/17/1986, §209*)

§8-210. Enforcement.

Whenever the Code Enforcement Officer or other authorized Borough 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 Code Enforcement Officer shall give notice of such alleged violation as hereinafter provided. Such notice shall: [*Ord. 830*]

- 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.

(*Ord. 782, 9/17/1986, §210; as amended by Ord. 830, 3/18/1992*)

§8-211. Penalties.

1. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000 for each violation, plus court costs and costs of prosecution incurred by the Borough, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses. Procedures for collection of fines and penalties for default of payment shall be in accordance with Chapter 1 of this Code.

2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.

3. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

4. 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 of 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 Council to be a public nuisance and abatable as such.

(*Ord. 782, 9/17/1986, §211; as amended by Ord. 830, 3/18/1992; and by Ord. 976, 1/16/2008*)

§8-212. Appeals.

1. Any person aggrieved by any action of the Code Enforcement Officer involving the administration of the provisions of this Chapter may appeal to Council. Such appeal must be filed, in writing, within 30 days after the decision or action of the Code Enforcement Officer. [*Ord. 830*]

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 Council may seek relief therefrom by appeal to court, as provided by the laws of this Commonwealth including the Pennsylvania Floodplain Management Act, 32 P.S. §679.101 *et seq.*

(*Ord. 782, 9/17/1986, §212; as amended by Ord. 830, 3/18/1992*)

Part 3**Identification of Floodplain Areas****§8-301. Identification.**

1. The identified floodplain area shall be any areas of the Forest Hills Borough, subject to the 100-year flood, which is identified as Zone A (Area of Special Flood Hazard) on the Flood Insurance Rate Map (FIRM) dated October 4, 1995, or the most recent revision thereof as issued by the Federal Emergency Management Agency (FEMA) which accompanies the Flood Insurance Study for Allegheny County, Pennsylvania. For the purposes of this Part, the 100-year flood elevation shall be used as the basis for regulation. 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.

2. 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. (*Ord. 782, 9/17/1986, §301; as amended by Ord. 857, 9/20/1995, §8*)

§8-302. Changes in Floodplain Area Delineations.

The areas considered to be floodplain may be revised or modified by Council where studies or information provided by a qualified agency or person documents the need or possibility for such revision. 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. 782, 9/17/1986, §302*)

§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 applicant.

(*Ord. 782, 9/17/1986, §303*)

Part 4**Technical Provisions****§8-401. General.**

1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action, the Federal Insurance Administrator and Pennsylvania Department of Community and Economic Development have been notified by the Borough, and until all required permits or approvals have been first obtained from the Department of Environmental Protection. [Ord. 976]

2. In the identified floodplain area, the development and/or use of any land shall be permitted provided that the development and/or use complies with the restrictions and requirements of this and all other applicable codes and ordinances in force in the municipality.

3. Within any floodway area, no new construction or development shall be permitted that would cause any increase in the 100-year flood elevation.

4. Within any identified floodplain area, 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 Department of Environmental Protection. [Ord. 976]

(Ord. 782, 9/17/1986, §401; as amended by Ord. 857, 9/20/1995, §§9-11; by Ord. 859, 10/18/1995, §1; by Ord. 866, 5/15/1995, §1; and by Ord. 976, 1/16/2008)

§8-402. Prohibited Uses in Floodplains.

The following uses shall be prohibited within the floodplain area: manufactured homes, hospitals, nursing homes, jails, prisons and detention centers, manufactured home parks and campgrounds having spaces for recreation vehicles, and any activity involving the production, storage, or maintenance of a supply of any hazardous material including, but not limited to, the following:

- A. Acetone.
- B. Ammonia.
- C. Benzene.
- D. Calcium carbide.
- E. Carbon disulfide.
- F. Celluloid.
- G. Chlorine.
- H. Hydrochloric acid.
- I. Hydrocyanic 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.

(*Ord. 782*, 9/17/1986, §402; as amended by *Ord. 859*, 10/18/1995, §2; and by *Ord. 866*, 5/15/1996, §2)

§8-403. Elevation and Floodproofing Requirements, Residential Structures.

Within any identified flood plain area, the lowest floor (including basement) of any new construction or substantial improvement of a residential structure shall be at least 1½ feet above the 100-year flood elevation. The design and construction standards and specifications contained in the 2006 IBC, §§1612.4, 1603.1.6, and 3403.1, and in the 2006 IRC, §§R323.1.4, R323.2.1, and R323.2.2, and ASCE 24, §§2.4, 2.5, Chapter 5, and 34 Pa.Code, Chapters 401–405, shall be utilized.

(*Ord. 782*, 9/17/1986, §402; as amended by *Ord. 859*, 10/18/1995, §6; by *Ord. 866*, 5/15/1995, §7; and by *Ord. 976*, 1/16/2008)

§8-404. Elevation and Floodproofing Requirements, Nonresidential Structures.

1. Within any identified floodplain area the lowest floor (including basement) of any new construction or substantial improvement of a nonresidential structure shall be:

A. Not less than 1½ feet above the 100-year flood elevation; or

B. So designed and constructed that the space enclosed by such structure shall remain either completely or essentially dry up to that height in accordance with the standards contained in “Flood-proofing Regulations” (U.S. Army Corps of Engineers, June 1972) for that type of construction.

C. Fully enclosed space below the lowest floor (including basement) is prohibited.

D. 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 floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term “partially enclosed space” also includes crawl spaces.

2. 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 1 square inch for every square foot of enclosed space.

B. The bottom of all openings shall be no higher than 1 foot above grade.

C. Openings may be equipped with screens, louvers, etc., or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

3. The design and construction standards and specifications contained in the 2006 IBC, §§1603.1.2, 1603.1.6, 1605.2.2, 1606.5, 1612.5.1, and 3403.1, and ASCE 24, §2.4 and Chapter 7, and 34 Pa.Code, Chapters 401–405, shall be utilized. [*Ord. 976*] (*Ord. 782, 9/17/1986, §404; as amended by Ord. 857, 9/20,1995, §12; by Ord. 859, 10/18/1995, §§3, 4; by Ord. 866, 5/15/1996, §§3, 4; and by Ord. 976, 1/16/2008*)

§8-405. 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:

A. The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use of activity.

B. Floor area shall not exceed 600 square feet.

C. The structure will have a low damage potential.

D. The structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.

E. Power lines, wiring, and outlets will be at least 1½ feet above the 100-year flood elevation.

F. Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc., are prohibited.

G. Sanitary facilities are prohibited.

H. The structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwaters 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:

(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 1 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.

(*Ord. 782, 9/17/1996; as added by Ord. 857, 9/20/1995, §13*)

§8-406. Design and Construction Standards.

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

A. Fill where used shall:

(1) Extend at least 15 feet laterally beyond all points of the building.

(2) Be comprised only of soil or small rock materials and shall not include organic waste.

(3) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling.

(4) Have a slope no greater than 50 percent.

(5) Not adversely affect adjacent properties.

B. Storm drainage facilities shall be provided to convey the flow of storm-water runoff in a safe and efficient manner which shall insure proper drainage along streets and provide positive drainage away from buildings. The system shall be designed to prevent the discharge of excess runoff onto adjacent properties.

C. 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.

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

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

F. With regard to water and sanitary sewer sewage facilities and on-site sewage systems the design and construction provisions of the UCC and 34 Pa.Code, Chapters 401–405, and contained in the 2006 IBC, Appendix G, §§401.3 and 401.4, the 2006 IRC §R323.1.6, the ASCE 24-98, §8.3, FEMA #348, “Protecting Building Utilities from Flood Damages,” and the International Private Sewage Disposal Code, Chapter 3, shall be utilized. [*Ord. 976*]

G. All other utilities such as gas lines, electrical and telephone systems shall be located, elevated where possible and constructed to minimize the chance of hazard or impairment during a flood.

H. Streets shall have a finished elevation of not more than 1 foot below the regulatory flood elevation.

I. Storage, where permitted, of any materials that are buoyant, flammable, explosive or otherwise hazardous to human, animal, or plant life in times of flooding, shall be at or above the regulatory flood elevation and shall be flood-proofed to the greatest extent possible.

J. Placement of buildings and structures shall be such as to offer the minimum obstruction to the flow of flood waters and to have the minimum effect upon the flow and height of flood water.

L. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement. All ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored and affixed to prevent flotation.

M. With regard to anchoring of buildings, the design and construction requirements of the UCC as referred to in 34 Pa.Code, Chapters 401–405, and contained in the 2006 IBC, §§1605.2.2, 1605.3.1.2, 1612.4, and Appendix G501.3, the 2006 IRC, §§R301.1, R323.1.1, and ASCE 24-98, §5.6, shall be utilized. [*Ord.*

976]

N. 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.

O. Plywood used at or below the regulatory flood elevation shall be of a “marine” or “water-resistant” quality.

P. 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.

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

R. With reference to floors, walls and ceilings, the provisions of the UCC and referred to in 34 Pa.Code, Chapters 401–405, and contained in the 2006 IBC, §§801.1.3, 1403.2, 1403.4, 1403.6, and 1404.2, the 2006 IRC, §§R323.1.7 and R501.3, and ASCE 24-98, Chapter 6, shall apply. [*Ord. 976*]

S. Paints or other finishes used at or below the regulatory flood elevation shall be of a “marine” or “water-resistant” quality. All wooden components (doors, trim cabinets, etc.) shall be finished with a “marine” or “water-resistant” paint or other finishing material.

T. Adhesives used at or below the regulatory flood elevation shall be of a “marine” or “water-resistant” quality.

U. With reference to paints and adhesives, the standards and specifications contained in 34 Pa.Code, Chapters 401–405, the 2006 IBC, §§801.1.3, 1403.7, and Appendix G, and the 2006 IRC, §R323.1.7, shall apply. [*Ord. 976*]

V. Electrical distribution panels shall be at least three feet above the 100 year flood elevation. Separate electrical circuits shall serve lower levels and shall be dropped from above.

W. With reference to electrical components, the provisions referenced in the UCC and 34 Pa.Code, Chapters 401–405, and contained in the 2006 IBC, §1612.4, the 2006 IRC, §R323.1.5, the 2000 IFGC, §§R301.5 and R16013.8 and ASCE 24, Chapter 8, shall be utilized. [*Ord. 976*]

X. 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.

Y. With reference to mechanical equipment, the provisions referenced in the UCC and 34 Pa.Code, Chapters 401–405, and contained in the 2006 IBC, §1612.4, the 2006 IRC, §R323.1.5, the 2000 IFGC, §§R301.5 and R1601.3.8, and ASCE 24, Chapter 8, shall be utilized. [*Ord. 976*]

Z. All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

AA. *Uniform Construction Coordination.* The standards and specifications contained in 34 Pa.Code, Chapters 401–405, and not limited to the following

provisions, shall apply to the above and all other Parts and Sections of this Chapter, to the extent that they are more restrictive and/or implement the requirements of this Chapter:

(1) *International Building Code* (IBC) 2006, or the latest edition thereof: §§801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

(2) *International Residential Building Code* (IRC) 2006, or the latest edition thereof: §§R104, R105, R109, R323, Appendix AE101, Appendix E, and Appendix J.

[*Ord. 976*]

(*Ord. 782, 9/17/1986, §405; as amended by Ord. 976, 1/16/2008*)

Part 5**Activities Requiring Special Permits****§8-501. Identification of Activities Requiring a Special Permit.**

In accordance with the Pennsylvania Floodplain Management Act and regulations adopted by the Department of Community and Economic Development, as required by the Act, the following obstructions and activities are permitted only by special permit, if located partially or entirely within any identified floodplain area:

A. The commencement of any of the following activities; or the construction, enlargement or expansion of any structure used or intended to be used for any of the following activities:

(1) Hospitals.

(2) Nursing homes.

(3) Jails or prisons.

(4) New manufactured home parks or manufactured home subdivisions, and substantial improvement to an existing manufactured home park or manufactured home subdivision.

(*Ord. 782, 9/17/1986; as added by Ord. 976, 1/16/2008*)

§8-502. Application Requirements.

Applicants for special permits shall provide five copies of the following items:

A. A written request including a completed building permit application form.

B. A small-scale map showing the vicinity in which the proposed site is located.

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

(1) North arrow, scale and date.

(2) Topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of 2 feet.

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

(4) The location of all existing streets, drives, other access ways and parking areas, with information concerning widths, pavement types and construction and elevations.

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

(6) The location of the floodplain boundary line, information and spot elevations concerning the 100-year flood elevations and information concerning the flow of water including direction and velocities.

(7) The location of all proposed buildings, structures, utilities and any other improvements.

(8) Any other information which the Borough considers necessary for adequate review of the application.

D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:

(1) Sufficiently detailed architectural or engineering drawings, including floor plans, sections and exterior building elevations, as appropriate.

(2) For any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor.

(3) Complete information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood.

(4) Detailed information concerning any proposed flood-proofing measures.

(5) Cross-section drawings for all proposed streets, drives, other access ways and parking areas, showing all rights-of-way and pavement widths.

(6) Profile drawings for all proposed streets, drives and vehicular access ways including existing and proposed grades.

(7) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems and any other utilities and facilities.

E. The following data and documentation:

(1) Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents.

(2) Certification from a registered professional engineer, architect or landscape architect that the proposed construction has been adequately designed to protect against damage from the 100-year flood.

(3) A statement, certified by a registered professional engineer, architect, landscape architect or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a 100-year flood, including a statement concerning the effects such pollution may have on human life.

(4) A statement certified by a registered professional engineer, architect or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on 100-year flood elevations and flows.

(5) A statement, certified by a registered professional engineer, architect or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the 100-year flood elevation and the effects such materials and debris may have on 100-year flood elevations and flows.

(6) The appropriate component of the Department of Environmental Protections' "Planning Module for Land Development."

(7) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control.

(8) Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under §302 of Act 1978-16.

(9) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a 100-year flood.

(*Ord. 782, 9/17/1986; as added by Ord. 976, 1/16/2008*)

§8-503. Application Review Procedures.

Upon receipt of an application for a special permit by the Borough, the following procedures shall apply in addition to all other applicable permit procedures which are already established.

A. Within 3 working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Borough Planning Commission and Borough Engineer for review and comment.

B. If an application is received that is incomplete, the Borough shall notify the applicant in writing, stating in what respects the application is deficient.

C. If the Borough decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.

D. If the Borough approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by certified mail, within 5 working days after the date of approval.

E. Before issuing the special permit, the Borough shall allow the Department of Community and Economic Development 30 days after receipt of the notification by the Department to review the application and the decision made by the Borough.

F. If the Borough does not receive any communication from the Department of Community and Economic Development during the 30-day review period, it may issue a special permit to the applicant.

G. If the Department of Community and Economic Development should decide to disapprove an application, it shall notify the Borough and the applicant, in writing, of the reasons for the disapproval, and the Borough shall not issue the special permit.

(*Ord. 782, 9/17/1986; as added by Ord. 976, 1/16/2008*)

§8-504. Technical Requirements for Development Requiring a Special Permit.

In addition to any other applicable requirements, the following provisions shall also apply to the activities requiring a special permit. If there is any conflict between any of the following requirements and any otherwise applicable provision, the more restrictive provision shall apply:

A. No application for a special permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:

(1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located and constructed so that:

(a) The structure will survive inundation by waters of the 100-year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the 100-year flood elevation.

(b) The lowest floor elevation (including basement) will be at least 1½ feet above the 100-year flood elevation.

(c) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the 100-year flood.

(2) Prevent any significant possibility of pollution, increased flood levels or flows or debris endangering life and property.

B. All 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 and the Department of Community and Economic Development.

(*Ord. 782, 9/17/1986; as added by Ord. 976, 1/16/2008*)

§8-505. Location in Floodplain.

Within any identified floodplain area, any structure of the kind described in §8-404, above, shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.

(*Ord. 782, 9/17/1986; as added by Ord. 976, 1/16/2008*)

§8-506. Variances for Special Permits.

Except for a possible modification of the freeboard requirement involved, no variance shall be granted for any of the other requirements of this Chapter.

(*Ord. 782, 9/17/1986; as added by Ord. 976, 1/16/2008*)

Part 6**Existing Structures in Identified Floodplain Areas****§8-601. Existing Structures.**

Structures and uses 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 or use 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.

C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than 50 percent of its market value, shall be elevated and floodproofed to the greatest extent possible.

2. The above activity shall also address the requirements of 34 Pa.Code, Chapters 401–405, and the 2006 IBC, §§3402.1 and 1612.4, and the 2006 IRC, §§R105.3.1.1 and R323.1.4. [*Ord. 976*]

(*Ord. 782, 9/17/1986, §501; as amended by Ord. 976, 1/16/2008*)

Part 7**Variances****§8-701. Variances.**

No variance shall be granted for any construction, development, use or activity within and floodway area that would cause any increase in the 100-year flood elevation. (*Ord. 782*, 9/17/1986, §601; as amended by *Ord. 859*, 10/18/1995, §5; and by *Ord. 866*, 5/15/1996, §6)

