

TOWNSHIP OF LOWER NAZARETH  
NORTHAMPTON COUNTY, PENNSYLVANIA

ORDINANCE NO. 212-06-14

AN ORDINANCE

AMENDING THE CODE OF ORDINANCES OF LOWER NAZARETH TOWNSHIP, ESTABLISHING AND IDENTIFYING THE FLOODPLAIN DISTRICT AS AN OVERLAY TO THE OFFICIAL TOWNSHIP ZONING MAP, AS AMENDED, BY INCORPORATING THE FLOOD INSURANCE RATE MAP OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY; SUPPLEMENTING THE LOWER NAZARETH TOWNSHIP ZONING ORDINANCE, AS AMENDED, AND THE LOWER NAZARETH TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE, AS AMENDED; PROMULGATING PERMITTED, PROHIBITED AND SPECIAL PERMIT USES IN SAID DISTRICT; PROVIDING FOR AND PROHIBITING CERTAIN VARIANCES; PROMULGATING REGULATIONS FOR THE USE, DEVELOPMENT, CONSTRUCTION, RECONSTRUCTION, MODIFICATION, ALTERATION OR IMPROVEMENT OF LANDS, BUILDINGS, STRUCTURES AND OTHER FACILITIES, LOCATED WITHIN SAID DISTRICT; PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE PROVISIONS THEREIN CONTAINED AND FIXING PENALTIES FOR THE VIOLATION THEREOF.

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

BE IT AND IT IS HEREBY ORDAINED by the Board of Supervisors in Lower Nazareth Township, Northampton County, Pennsylvania, does hereby order as follows:

**TABLE OF CONTENTS**

	<u>PAGE</u>
ARTICLE I. GENERAL PROVISIONS .....	3
ARTICLE II. ADMINISTRATION.....	4
ARTICLE III. IDENTIFICATION OF FLOODPLAIN AREAS .....	9
ARTICLE IV. USES.....	11
ARTICLE V. SPECIAL PERMITS .....	16
ARTICLE VI. EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS .....	21
ARTICLE VII. VARIANCES.....	22
ARTICLE VIII. TECHNICAL PROVISIONS .....	24
ARTICLE IX. DEFINITIONS.....	30
ARTICLE X. ENACTMENT.....	36

## **ARTICLE I GENERAL PROVISIONS**

### Section 1.01 Title

This ordinance shall be known and may be cited as the “Lower Nazareth Township Floodplain Management Ordinance.”

### Section 1.02 Intent

The intent of this Ordinance 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.

### Section 1.03 Applicability

- A. These provisions shall apply to all lands within the jurisdiction of Lower Nazareth Township that are located within the Floodplain District.
- B. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within Lower Nazareth Township unless a Permit has been obtained from the Floodplain Administrator.
- C. A Permit shall not be required for minor repairs to existing buildings or structures.

### Section 1.04 Abrogation and Greater Restrictions

This Ordinance supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Ordinance, the more restrictive shall apply.

### Section 1.05 Warning and Disclaimer of Liability

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood elevations may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance 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 Ordinance shall not create liability on the part of Lower Nazareth Township or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

## **ARTICLE II. ADMINISTRATION**

### **Section 2.01 Designation of the Floodplain Administrator**

The Zoning Officer is hereby appointed to administer and enforce this Ordinance and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- A. fulfill the duties and responsibilities set forth in these regulations,
- B. delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or
- C. enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Township Engineer.

### **Section 2.02 Permits Required**

A Permit shall be required before any construction or development is undertaken within any area of the Lower Nazareth Township. Construction and development activities subject to permit requirements in the Floodplain District regardless of value include, but are not limited to: construction, reconstruction, placement, replacement, expansion, extension, repair, or other improvement of uses or structures; placement of manufactured homes; mining; dredging; filling; grading; logging; paving; excavation; drilling operations.

### **Section 2.03 Duties and Responsibilities of the Floodplain Administrator**

- 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, and upon receipt of a report to be prepared by the Township Engineer.
- B. Prior to the issuance of any permit, the Floodplain Administrator and the Township Engineer shall review the permit application to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. In the case of existing structures, prior to the issuance of any development approval permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.
- D. During the construction period, the Floodplain Administrator, Township Engineer, or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.

- E. In the discharge of his/her duties, the Floodplain Administrator and Township Engineer 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 Ordinance.
- F. In the event the Floodplain Administrator or Township Engineer 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 Board of Supervisors for whatever action it considers necessary.
- G. The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of this Ordinance including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
- H. The Floodplain Administrator is the official responsible for submitting a biennial report to the FEMA concerning community participation in the National Flood Insurance Program.
- I. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the Floodplain Administrator.
- J. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or latest revisions thereof.

#### Section 2.04 Application Procedures and Requirements

- A. Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by Lower Nazareth Township. Such application shall contain the following:
  - 1. Name and address of applicant.
  - 2. Name and address of owner of land on which proposed construction is to occur.
  - 3. Name and address of contractor.
  - 4. Site location including address.
  - 5. Listing of other permits required.
  - 6. 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.
  - 7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
  - 8. State whether or not the structure includes a basement.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
  - 1. all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
  - 2. all utilities and facilities, such as sewer, gas, electrical and water systems are located and

- constructed to minimize or eliminate flood damage;
3. adequate drainage is provided so as to reduce exposure to flood hazards;
  4. structures will be anchored to prevent floatation, collapse, or lateral movement;
  5. building materials are flood-resistant;
  6. appropriate practices that minimize flood damage have been used; and
  7. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
1. A completed Permit Application Form.
  2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
    - a. north arrow, scale, and date;
    - b. topographic contour lines, if available;
    - c. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
    - d. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
    - e. the location of all existing streets, drives, and other access ways; and
    - f. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
  3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
    - a. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
    - b. the elevation of the base flood;
    - c. if the structure has been flood proofed, the elevation (in relation to mean sea level) to which the structure was flood proofed; and
    - d. supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC.
  4. The following data and documentation:
    - a. 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;
    - b. if available, information concerning flood depths, pressures, velocities, impact

and uplift forces and other factors associated with a base flood;

- c. detailed information concerning any proposed floodproofing measures and corresponding elevations;
- d. 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 in the Base Flood Elevation.
- e. documentation, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development;
- f. documentation, 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 Base Flood Elevation and the effects such materials and debris may have on Base Flood Elevations and flows;
- g. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development;"
- h. 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; and
- i. detailed information needed to determine compliance with Section 4.02 and Section 8.03.F, including:
  - i. the amount, location and purpose of any materials or substances referred to in Sections 4.02.M and 7.02.C which are intended to be used, produced, stored or otherwise maintained on site.
  - ii. 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 Section 4.02.M during a base flood.

D. Applications for Permits shall be accompanied by a fee, payable to the municipality, prescribed, and from time to time, revised by resolution of the Board of Supervisors; said fee shall be based upon actual costs incurred by the Township for engineering, legal, and administrative services rendered by the Township Engineer, Solicitor, Floodplain Administrator, and other Township personnel in the course of review and approval of plans and applications and during the course of development and field inspection.

#### Section 2.05 Regulations and Reviews by Others

A. A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain

Administrator or Township Engineer to any other appropriate agencies and/or individuals (e.g. planning commission, county conservation district, township engineer, etc.) for review and comment.

- B. Where applicable and where possible, all necessary permits or other written approvals will be obtained from all other agencies before any approvals of plans, special exceptions, variances, or permits may be granted by Lower Nazareth Township or its agencies, officials, or employees.
- C. Where necessary, permits or written approvals from other agencies cannot be obtained prior to action by the Township, any approval of plans, special exceptions, variances, or permits by the Township or its agencies, officials, or employees shall be conditioned upon receiving such other agencies' permits or written approvals.

#### Section 2.06 Changes

After the issuance of a Permit by the Floodplain Administrator, 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 Floodplain Administrator and the Township Engineer. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator and the Township Engineer for consideration.

#### Section 2.07 Placards

In addition to the Permit, the Floodplain Administrator 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, the date of its issuance, and be signed by the Floodplain Administrator.

#### Section 2.08 Start of Construction

Work on the proposed construction or development shall begin and be completed within the timeframes defined in Section 9.02(49) Start of Construction. Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original permit is compliant with the ordinance & FIRM/FIS in effect at the time the extension is granted. Time extensions requested for projects started prior to issuance of a permit will be given additional scrutiny.

#### Section 2.09 Enforcement, Violations and Penalties

All of the enforcement, violations and penalty provisions of the Lower Nazareth Township Zoning Ordinance Section 117 of shall apply to the administration of this Ordinance.

#### Section 2.10 Appeals

Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Ordinance may appeal to the Zoning Hearing Board pursuant to the provisions of the Lower Nazareth Township Zoning Ordinance Article I. The Zoning Hearing Board shall solicit testimony from the Township Engineer, or other qualified and licensed professional engineer, to review and comment on technical matters pertaining to this Ordinance.



**ARTICLE III. IDENTIFICATION OF FLOODPLAIN AREAS**

Section 3.01 Identification

The identified floodplain area shall be:

- A. any areas of Lower Nazareth Township, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated July 16, 2014 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study; and
- B. any Community Identified Flood Hazard Areas.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Lower Nazareth Township and declared to be a part of this Ordinance.

Section 3.02 Overlay Concept

- A. The Floodplain District shall be considered an overlay to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions of the Floodplain District shall serve as a supplement to the underlying district provisions.
- B. Where there happens to be any conflict between the provisions or requirements of the Floodplain District and those of any underlying district, the more restrictive provision shall apply.

Section 3.03 Description and Special Requirements of Identified Floodplain District

The identified Floodplain District shall consist of the following specific areas:

- A. The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
  - 1. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community or adjacent municipalities during the occurrence of the base flood discharge.
  - 2. Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- B. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
  - 1. The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
  - 2. The AE Area without floodway shall be those areas identified as Zone AE on the FIRM

included in the FIS prepared by FEMA and for which Base Flood Elevations have been provided in the FIS but no floodway has been delineated.

- a. No permit shall be granted for any construction, development, use, or activity within any AE Area without floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the BFE at any point within the community or adjacent municipalities.
  - b. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.”
- C. The A Area shall be those areas identified as Zone A on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable source shall be used when available. Where other acceptable information is not available, the elevation shall be determined by using the highest elevation of a point on the boundary of the identified floodplain area which either runs through or is nearest the construction site.

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

- D. Community Identified Flood Hazard Areas shall be those areas where Lower Nazareth Township has identified local flood hazard or ponding areas, as delineated and adopted on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high water marks, soils or approximate study methodologies.

#### Section 3.04 Changes in Identification of Area

The identified Floodplain District areas may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, Lower Nazareth Township shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data.

#### Section 3.05 Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Floodplain Administrator and any party aggrieved by this decision or determination may appeal to the Zoning Hearing Board pursuant to the provisions of Lower Nazareth Township Zoning Ordinance Article 1. The Zoning Hearing Board shall solicit testimony from the Township Engineer, or other qualified and licensed professional engineer, to review and comment on technical matters pertaining to this Ordinance.

Section 3.06 Jurisdictional Boundary Changes

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

**ARTICLE IV. USES**

Section 4.01 Uses Permitted in the Floodplain District

The following uses and others are permitted in the Floodplain District, provided they are allowed in the underlying zoning district and provided they do not involve any grading or filling which would cause any increase in flood elevations or frequency, and provided they comply with other sections of this Ordinance:

- A. Agriculture, horticulture/outdoor plant nursery and animal husbandry that:
  - a. does not include any structures;
  - b. does not require grading that would cause any increase in flood elevation or frequency; and
  - c. are conducted in accordance with recognized soil conservation practices. In the case of agricultural uses, this would include compliance with an approved, up-to-date USDA Natural Conservation Resources Service (NRCS) Conservation Plan.
- B. Wildlife sanctuary, woodland preserve, arboretum and passive recreation parks, including hiking, bicycle and bridle trails, but excluding facilities subject to damage by flooding.
- C. Picnic tables, park benches, fireplaces and grills, and playground equipment, all anchored to prevent flotation, provided that Township Engineer approves design as creating limited to no obstruction of flood waters.
- D. Game farms or hunting and fishing reserves for the protection and propagation of wildlife, but permitting no structures except blinds and tree stands that are anchored to prevent flotation.
- E. Forestry, lumbering and reforestation according to recognized natural resources conservation practices.
- F. Front, side, and rear yards and required lot area in any zoning district, provided such yards are not to be used for on-site sewage disposal systems and further provided that no land in the Floodplain District shall qualify in computing the minimum district area where specified in the Lower Nazareth Township Zoning Ordinance.
- G. Sign posts, light posts, fences, and temporary protective fences that do not impede floodwaters.
- H. Sanitary collection mains and storm sewers with the approval of the Township Engineer and the Board of Supervisors. These systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters.
- I. Floodproofing of lawfully existing non-conforming structures and lawfully existing non-conforming uses within structures.
- J. Public roads, public trails and stormwater projects, including maintenance and improvements to existing facilities, as authorized by the Lower Nazareth Township Board of Supervisors with

required permits and/or approvals from the PA Department of Environmental Protection, PA Public Utility Commission, and/or US Army Corps of Engineers.

- K. Parking areas for four (4) or less vehicles and access driveways in support of the uses permitted above. Parking lots and driveways subject to scouring shall be permanently stabilized, preferably with a pervious paver material or with paving where pervious materials are not practical. Final grade of parking areas and access driveways shall not be constructed more than one (1) foot below the Base Flood Elevation.

#### Section 4.02 Prohibited Uses in the Floodplain District

The following uses are prohibited in the Floodplain District:

- A. All uses prohibited in the underlying zoning district.
- B. All structures and accessory structures not otherwise specifically permitted under Section 4.01 or allowed as a Special Permit Use under Section 4.03.
- C. The construction, expansion, or enlargement of any structure or building associated with the following uses:
- hospitals
  - nursing homes
  - jails
  - prisons
  - cemeteries
- D. Any development, structure, or use which may, whether alone or in combination with others, obstruct flood waters or increase the flood elevation except where specifically authorized elsewhere in this Article.
- E. Recreational vehicles and Transient Commercial Enterprise vehicles.
- F. Swimming pools, in-ground and above-ground.
- G. Grading and placement of fill that would obstruct flood waters or increase the flood elevation.
- H. The removal of topsoil.
- I. Sanitary landfills, dumps, junkyards, and outdoor storage of hazardous materials.
- J. Outdoor storage of vehicles and non-hazardous materials except as specifically permitted under Section 4.01 or allowed as a Special Permit Use under Section 4.03.
- K. Parking for hotels, motels, bed and breakfast use, dormitories, hospitals, life care centers, personal care centers, nursing homes, jails, and prisons.
- L. Private water supply wells.
- M. Any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances, or which will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substance, or the production or use of any amount of radioactive substance:

- acetone
- ammonia
- benzene
- calcium carbide
- carbon disulfide
- celluloid
- chlorine
- hydrochloric acid
- hydrocyanic acid
- magnesium
- nitric acid and oxides of nitrogen
- petroleum products (gasoline, fuel oil, etc.)
- phosphorus
- potassium
- sodium
- sulfur and sulfur products
- pesticides (including insecticides, fungicides, herbicides and rodenticides)
- radioactive substances, insofar as such substances are not otherwise regulated
- other substances defined as hazardous under §75.261, Chapter 75, Title 25 of the Pa. Code

#### Section 4.03 Special Permit Uses Permitted in the Floodplain District

The following uses shall require application for a Special Permit from the Zoning Hearing Board pursuant to the requirements of Article V if located in whole or in part in the Floodplain District, however such uses shall not be allowed if they would violate Lower Nazareth Township Zoning Ordinance Article XVI Environmental Protection or other applicable environmental protection laws and regulations:

- A. Any allowed parking lot that will include spaces for more than four (4) motor vehicles, and any allowed commercial or industrial outdoor storage area. All parking and storage areas shall be no greater than one (1) foot below the Base Flood Elevation.
- B. Any allowed solar energy system.
- C. Private roads, driveways, and trails for legal uses not otherwise permitted under Section 4.01.
- D. Active recreational use, whether open to the public or restricted to private membership, such as parks, camps, picnic areas, golf courses, fishing areas, sport or boating clubs. Structures

associated with the recreational use shall be prohibited with the following exceptions:

- a. Toilet facilities, however these shall be located outside of the floodway and shall be connected to either public water and sewage systems, or on-lot water well and sewage systems located outside of the Floodplain District.
  - b. Bulkheads, piers, docks and floats.
  - c. Unenclosed shelters usually found in developed outdoor recreational areas, however these must be located outside of the floodway unless otherwise permitted by the PA Department of Environmental Protection.
  - d. Structures specifically permitted under Section 4.01, however these shall be located outside of the floodway unless otherwise permitted by the PA Department of Environmental Protection.
- E. Grading, or re-grading, of lands, including the deposit of topsoil and the grading thereof, and including the use of any retaining walls or bulkheads. The application for such a permit shall be accompanied by the following:
- a. Detailed engineering studies indicating the effects on drainage and streams on all adjacent and upstream properties as well as the property in question.
  - b. An application for amending the boundaries of the Floodplain District if the boundaries are affected by the grading or regarding of land.
  - c. A plan indicating the depositing of any fill or materials proposed to be deposited by the grading or regarding of land; such fill or other materials shall be permanently stabilized by methods to be approved by the Township Engineer and, as required, the Northampton County Conservation District.
- F. Sewage treatment plant, outlet installations for sewage treatment plants and sewage pump stations with the approval of the Township Engineer, appropriate sewer authorities, the PA Department of Environmental Protection, when accompanied by documentation as to the necessity for locating within the boundaries of the Floodplain District.
- G. Sealed public water supply wells with the approval of the Township Engineer and the PA Department of Environmental Protection.
- H. Stormwater management and erosion and sedimentation pollution control facilities, structures, impoundment basins and other measures with the approval of the Township Engineer and the PA Department of Environmental Protection.
- I. The repair or expansion of riparian buffers, including removal of non-native vegetation and the removal of trees in danger of falling causing:
- a. damage to dwellings or other structures;
  - b. the blockage of a watercourse or a public road.
- J. Public and private dams, culverts, bridges, approaches to culverts and bridges, and altered or relocated watercourses subject to the following conditions:
- a. Permits and approvals from all applicable regulatory agencies, including but not limited: PA Department of Environmental Protection; PA Public Utility Commission; US Army Corps of Engineers; Delaware River Basin Commission; PA Department of

Transportation.

- b. All bridge and culvert structures shall minimally meet design standards of the PA Department of Transportation.
  - c. 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 flood elevation.
- K. Water monitoring devices subject to approval of Township Engineer and state regulatory agencies as required.
- L. 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, water lines, 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 floodway or overall storage volume 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 shut-off valves for service to the Floodplain District to allow positive control during flood emergencies.
  - b. Electrical transmission 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. Electrical transmission lines of 15 kilovolts or more may be allowed above ground as a special exception, provided they are certified by a licensed professional engineer registered by the Commonwealth of Pennsylvania as meeting all of the following standards:
    - i. Above-ground lines and supporting structures shall enter the Floodplain District only to cross a watercourse, shall cross the watercourse and the Floodplain District using the most direct and shortest route possible consistent with the goals, objectives, purposes, and intents of this Ordinance, shall make the minimum number of crossings necessary, and shall be designed and installed so as to minimize or eliminate flood damage.
    - ii. Above-ground lines shall be elevated so that their lowest portions are a minimum of ten (10) feet above the Base Flood Elevation.
    - iii. Supporting structures for above-ground lines within the Floodplain District shall be the minimum necessary to carry the lines across the Floodplain District. Supporting Structures shall be designed and installed so as to be able to withstand the maximum volume, velocity, and force of flood waters which can be expected at the point where they are located.
    - iv. Facilities and service in the Floodplain District shall be designed so that flood

damage within the District does not disrupt service outside the District.

- M. Fish hatcheries, including uncovered ponds and raceways, which are approved, as required, by the PA Fish and Boat Commission, PA Department of Environmental Protection, Delaware River Basin Commission, U.S. Environmental Protection Agency, and other applicable regulatory agency, but excluding other structures.
- N. Other uses similar to the above, provided the use will not obstruct flood waters or increase the flood elevation.

## **ARTICLE V. SPECIAL PERMITS**

### Section 5.01 General

Special Permit applications shall be submitted to the Zoning Hearing Board for uses defined in Section 4.03. Special Permit applications shall be administered in accordance with the Pennsylvania Municipalities Planning Code and this Article.

### Section 5.02 Standards and Criteria for Special Permits

In addition to the provisions of Section 4.03, the Zoning Hearing Board shall also determine that the application complies with the following standards and criteria:

- A. That danger to life and property due to increased flood elevations, velocities, or frequencies caused by encroachments is minimized.
- B. That the danger of floodwaters or materials being conveyed to other lands or downstream may cause injury to life, property and the environment is minimized.
- C. That the possibility of creating or transporting disease, pollutants, and unsanitary conditions is minimized.
- D. That the proposed facility needs a waterfront or floodplain location.
- E. That available alternative locations not subject to flooding on the subject parcel and adjacent parcels owned by the same owner are not suitable to the proposed use.
- F. That the proposed use is compatible with existing and anticipated development.
- G. That the proposed use is consistent with the Lower Nazareth Township Comprehensive Plan and any floodplain management program in the area.
- H. That safe access to the property in times of flooding for ordinary and emergency vehicles is assured.
- I. That the expected area, elevation, depth, velocity, pressure, frequency, duration, rate of rise, seasonality, and sediment, debris and pollutant load of floodwaters expected at the site is not inconsistent with the proposed use.
- J. That the proposed activity will not unduly alter natural water flow or water temperature.
- K. That archeological or historic sites and structures, endangered or threatened species of animals and plants, high quality wildlife habitats, scarce vegetation types, and other irreplaceable land uses will not be degraded or destroyed.
- L. That the natural, scenic, and aesthetic values at the proposed site will be conserved.
- M. That a minimal amount of danger, damage, and injury to all adjoining properties on both sides of



any watercourses will occur. 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.

- N. That the susceptibility to flood damage of the proposed facility and its content(s), the effect of such damage on the individual owners, and the need for and effect of flood-proofing, are minimized.
- O. That the grant of the Special Permit shall not cause:
  - a. increased flood elevations;
  - 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.

### Section 5.03 Application Requirements for Special Permits

The burden of proof shall be on the applicant. The Zoning Hearing Board shall require the applicant to submit such plans, specifications, and other information as it may deem necessary. Applicants for Special Permits shall minimally provide 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 one (1) inch being equal to one hundred (100) feet or less, showing the following:
  - 1. north arrow, scale and date;
  - 2. topography based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at a maximum interval of two (2) feet – Township Engineer may request contours at a one (1) foot or one-half (1/2) foot as warranted based on the flatness of the site;
  - 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 Base Flood Elevation, and information concerning the flow of water including direction and velocities;
  - 7. the location of all proposed buildings, structures, utilities, and any other improvements;

and

8. any other information which the municipality 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 base flood;
  4. detailed information concerning any proposed floodproofing measures;
  5. cross section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
  6. profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
  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 base 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 base 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 Base Flood Elevation 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 Base Flood Elevation and the effects such materials and debris may have on Base Flood Elevation and flows;
  6. the appropriate component of the Department of Environmental Protection's "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 Section 302 of Act 1978-166; and
9. an evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.

#### Section 5.04 Application Submission Requirements

Complete copies of all items required under Section 5.03 and any additional information required by the Zoning Hearing Board for any proposed Special Permit application shall be supplied to Lower Nazareth Township for distribution to the following persons/agencies for their review, comment and recommendations:

- A. Lower Nazareth Township Zoning Officer (1 copy)
- B. Zoning Hearing Board Members (1 copy individually)
- C. Lower Nazareth Township Engineer (1 copy)
- D. Lower Nazareth Township Planning Commissioners (1 copy individually)
- E. PA Department of Community and Economic Development (1 copy if approved)

The Applicant shall be responsible to supply and distribute copies of the application to the following agencies, if required, in the quantity required by each agency:

- A. Lehigh Valley Planning Commission (required)
- B. PA Department of Environmental Protection (as required)
- C. PA Department of Transportation (as required)
- D. Delaware River Basin Commission (as required)
- E. Other regulatory agencies (as required)

The Zoning Hearing Board shall take no action until such time as comments or recommendations are received, as required, from the aforementioned agencies, authorities and departments. However, the Zoning Hearing Board may solicit the comments and recommendations of any other experts or authorities as it may deem necessary to assist it in arriving at a fair and impartial determination.

#### Section 5.05 Application Review Procedures

Upon receipt of an application for a Special Permit by the Zoning Hearing Board, the following procedures shall apply in addition to those of Article II:

- A. Within five (5) business days following submission of the application to Lower Nazareth Township, the Zoning Officer shall distribute copies of the Application to the Zoning Hearing Board members, the Zoning Hearing Board Solicitor, the Planning Commission, and the Township Engineer.
- B. Within five (5) business days following submission of the application to Lower Nazareth Township, the Applicant shall submit a complete copy of the application and all accompanying

documentation to the Lehigh Valley County Planning Commission by registered or certified mail for its review and recommendations. Copies of the Lehigh Valley Planning Commission review application shall be forwarded to the Lower Nazareth Township Zoning Hearing Board, Planning Commission and Township Engineer (or other qualified and licensed professional engineer), for review and comment.

- C. If an application is received that is incomplete, Lower Nazareth Township shall notify the applicant in writing, stating in what respect the application is deficient.
- D. The Planning Commission may, at their option if they determine there will be substantial impacts on the community, review a proposed Special Permit application and submit an advisory recommendation to the Zoning Hearing Board. The intent of this section is to allow an additional review for proposed uses that would have Township-wide effects.
- E. The Zoning Hearing Board shall not render a decision on the Special Permit application without reviewing any reports received from the Zoning Officer, Planning Commission and Township Engineer.
- F. If the Zoning Officer, Planning Commission, or Township Engineer do not submit written reports, the Zoning Hearing Board may still hold a hearing and decide the request.
- G. If Lower Nazareth Township decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- H. If Lower Nazareth Township 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 registered or certified mail, within five (5) working days after the date of approval.
- I. Before issuing the Special Permit, the Lower Nazareth Township shall allow the Department of Community and Economic Development thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the Lower Nazareth Township.
- J. If Lower Nazareth Township does not receive any communication from the Department of Community and Economic Development during the thirty (30) day review period, it may issue a Special Permit to the applicant.
- K. If the Department of Community and Economic Development should decide to disapprove an application, it shall notify Lower Nazareth Township and the applicant, in writing, of the reasons for the disapproval, and Lower Nazareth Township shall not issue the Special Permit.

#### Section 5.06 Conditions and Safeguards in the granting of a Special Permit

In granting any Special Permit, the Zoning Hearing Board may attach such reasonable conditions and safeguards in addition to those expressed in this Ordinance as it may deem necessary to implement the purposes of this Ordinance.

#### Section 5.07 Fees

All reasonable fees incurred by Lower Nazareth Township in connection with any hearing on a Special Permit Application for Special Permit Uses, including, but not necessarily limited to stenographic fees, transcript fees, Township Solicitor and Engineer fees, and administrative charges shall be paid by the applicant.

## Section 5.08 Special Technical Requirements

- A. In addition to the requirements of Article VIII, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Article VIII or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
- B. 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 base flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE;
    - b. the lowest floor (including basement) will be elevated to at least one and one half (1 ½) feet above Base Flood Elevation; and
    - c. the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood.
  2. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

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 Lower Nazareth Township and the Department of Community and Economic Development.

## **ARTICLE VI. EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS**

### Section 6.01 Existing Structures

The provisions of this Ordinance 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 Section 6.02 shall apply.

### Section 6.02 Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any Identified Floodplain Area:

- A. No expansion or enlargement of an existing structure shall be allowed within any Identified Floodplain Area that would, together with all other existing and anticipated development, cause any increase in the BFE. For Zone A, BFE is determined using the methodology in Section 3.03.C.
- B. No expansion or enlargement of an existing structure shall be allowed within any Identified Floodplain Area that would, together with all other existing and anticipated development, cause any increase in the BFE.
- C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure

to an extent or amount of fifty (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 Ordinance.

- D. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of less than fifty (50) percent of its market value, said structure shall be elevated and/or floodproofed to the greatest extent possible to a maximum cost of fifteen (15%) percent of a construction cost basis. The construction cost basis shall be calculated based on the cost of construction to make the proposed improvements excluding the cost to elevate and/or floodproof. Applicant shall provide documentation of the construction cost basis as required, which the Township may have reviewed by a qualified architect or engineer.
- E. Any substantial improvement to, or replacement of, an existing manufactured home shall be placed on a permanent foundation, anchored to resist flotation, collapse, or lateral movement, and elevated so that the lowest floor is at least one and one-half (1½) feet above the Base Flood Elevation.
- F. Within any Identified Floodplain Area, no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.

The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009 IBC and the 2009 IRC.

- G. 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 Ordinance.

## **ARTICLE VII. VARIANCES**

### Section 7.01 General

- A. If compliance with any of the requirements of this Ordinance 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.
- B. Variance applications shall be submitted to the Zoning Hearing Board pursuant to the provisions of Lower Nazareth Township Zoning Ordinance Article 1 and the supplementary procedures and conditions defined in Section 7.02 of this ordinance. The Zoning Hearing Board shall solicit testimony from the Township Engineer, or other qualified and licensed professional engineer, to review and comment on technical matters pertaining to this Ordinance.

### Section 7.02 Supplementary Variance Application Procedures and Conditions

Requests for variances shall be considered by the Zoning Hearing Board in accordance with the procedures contained in Lower Nazareth Township Zoning Ordinance Article 1 and the following:

- A. No variance shall be granted within any Identified Floodplain Area that would cause any increase in BFE. In a Zone A Area, BFEs are determined using the methodology in Section 3.03.C.
- B. Notwithstanding the provisions of this Article, no variance shall be granted for the following obstructions and activities if located entirely or partially within any identified floodplain area:

1. Hospitals (public or private)
  2. Nursing Homes (public or private)
  3. Jails or prisons
  4. New manufactured home parks and manufactured home subdivisions.
  5. Any new or substantially improved structure which will be used for:
    - a. the production, storage, supply or use of any amount of radioactive material or substance, or
    - b. the production of any of the dangerous, non-radioactive materials and substances listed in Section 4.02.M, or
    - c. any activity requiring the storage or maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the dangerous, non-radioactive materials and substances listed in Section 4.02.M.
- 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 regulated by Special Permit (Article V) or to Development Which May Endanger Human Life (Section 8.04).
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any variance, Lower Nazareth Township 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 Ordinance.
- F. In reviewing any request for a variance, Lower Nazareth Township 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
    - a. neither result in an unacceptable or prohibited increase in flood elevations, additional threats to public safety, or extraordinary public expense,
    - b. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- G. Whenever a variance is granted, Lower Nazareth Township shall notify the applicant in writing that:
1. The granting of the variance may result in increased premium rates for flood insurance.
  2. Such variances may increase the risks to life and property.
- H. A complete record of all variance requests and related actions shall be maintained by Lower Nazareth Township. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

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

## **ARTICLE VIII. TECHNICAL PROVISIONS**

### Section 8.01 General

#### A. Alteration or Relocation of Watercourse

1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.
2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
3. In addition, FEMA and the Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse within the Floodplain District overlay defined by the FEMA Flood Insurance Rate Map.

#### B. When a community proposes to permit the following encroachments:

- any development that causes a rise in the Base Flood Elevation within the floodway; or
- any development occurring in Zone AE without a designated floodway, which will cause a rise of more than one foot in the Base Flood Elevation; or
- alteration or relocation of a stream (including but not limited to installing culverts and bridges)

The applicant, with copies of all correspondence provided to the Township, shall (as per 44 CFR Part 65.12):

1. apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
  2. Upon receipt of the Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased Base Flood Elevations and / or revised floodway reflecting the post-project condition.
  3. Upon completion of the proposed encroachments, a community shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.
- C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.
- D. Within any identified floodplain area, no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.
- E. All new construction and substantial improvement shall be constructed with materials and utility equipment resistant to flood damage, and shall be constructed by methods and practices that minimize flood damage.



## Section 8.02 Elevation and Floodproofing Requirements

### A. Residential Structures

1. In Zone AE, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the RFE.
2. 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 RFE based on a BFE determined in accordance with Section 3.03.C.
3. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

### B. Non-residential Structures

1. In Zone AE, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation, or be designed and constructed so that the space enclosed below the Regulatory Flood Elevation:
  - a. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water; and
  - b. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
2. In A Zones, where 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 RFE based on a BFE determined in accordance with Section 3.03.C.
3. Any non-residential 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.
4. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

### C. Space below the lowest floor

1. 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 flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully 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 one (1) square inch for every square foot of enclosed space;
  - b. the bottom of all openings shall be no higher than one (1) foot above grad; and
  - c. openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

#### D. Historic Structures

See Section 9.02 (25) and (53) for requirements for the substantial improvement of any historic structures. The Board of Supervisors shall have the right to waive, as a Special Permit, any of the requirements of this Ordinance for any structure listed on the National Register of Historic Places or the Pennsylvania Register of Historic Sites and Landmarks so long as it is the minimum necessary to preserve the historic character and design of the structure.

### Section 8.03 Design and Construction Standards

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

#### A. Fill

1. The Township may require any imported fill material tested for hazardous materials, pollutants, or other matter that can be harmful to life or the environment. All testing costs will be at the applicant's expense.
2. If fill is used, it shall:
  - a. extend laterally at least fifteen (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 (1) vertical to three (3) horizontal, feet unless substantiated data, justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
  - e. be used to the extent to which it does not adversely affect adjacent properties.

#### B. Drainage Facilities

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

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

1. All new or replacement water supply and sanitary sewer facilities and systems shall be

located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.

2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
3. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
4. The design and construction provisions of the UCC and FEMA #348, Protecting Building Utilities from Flood Damages and The International Private Sewage Disposal Code shall be utilized.

#### D. Other Utilities

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

#### E. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

#### F. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 4.02 Prohibited Uses, shall be elevated to remain completely dry up to at least three (3') feet above Base Flood Elevation, or in the case of non-residential structures, floodproofed to the maximum extent possible.

#### G. Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and elevation of flood water.

#### H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

#### I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
2. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
3. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and

constructed of materials that are "water-resistant" and will withstand inundation.

4. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other "water-resistant" material.

#### J. Paints and Adhesives

1. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.
2. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
3. All wooden components (doors, trim, cabinets, etc.) used at or below the Regulatory Flood Elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

#### K. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the Base Flood Elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

#### L. Equipment

Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

#### M. Fuel Supply Systems

All gas and oil supply systems shall be designed to prevent the infiltration of 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.

#### N. Uniform Construction Code Coordination

The Standards and Specifications contained 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and subsections of this Ordinance, to the extent that they are more restrictive and supplement the requirements of this Ordinance.

International Building Code (IBC) 2009 or the latest edition thereof:

Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2009 or the latest edition thereof:

Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

#### Section 8.04 Development Which May Endanger Human Life

- A. Within any Floodway Area, the production or storage of any materials and substances listed in Section 4.02.M shall be prohibited.
- B. Where permitted within any Identified Floodplain Area, any new or substantially improved residential structure containing substances of the kind described in Section 4.02.M shall be elevated to remain completely dry up to at least three (3') feet above Base Flood Elevation.

- C. Where permitted within any Identified Floodplain Area, any new or substantially improved non-residential structure containing substances of the kind described in Section 4.02.M shall be:
1. elevated, or designed and constructed to remain completely dry up to at least three (3') feet above Base Flood Elevation, and
  2. 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.

#### Section 8.05 Special Requirements for Subdivisions

All subdivision proposals and development proposals in Identified Floodplain Areas where Base Flood Elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine Base Flood Elevations and floodway information. The analyses shall be prepared by a 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.

#### Section 8.06 Special Requirements for Manufactured Homes

- A. Where existing manufactured homes are located within Identified Floodplain Areas, all manufactured homes replaced, rebuilt, or otherwise substantially improved, shall be:
1. placed on a permanent foundation,
  2. elevated so that the lowest floor of the manufactured home is at least one and one half feet (1 ½) above the Base Flood Elevation,
  3. anchored to resist flotation, collapse, or lateral movement, and
  4. have all ductwork and utilities including HVAC/heat pump elevated to the Regulatory Flood Elevation.
- B. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 "International Residential Building Code" 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 and 34 PA Code Chapter 401-405.
- C. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the most recent revisions thereto and 34 PA Code, as amended where appropriate and applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

## **ARTICLE IX. DEFINITIONS**

### Section 9.01 General

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

### Section 9.02 Specific Definitions

1. 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.
2. Base flood - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or 1% annual chance flood).
3. 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).
4. 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 1-percent or greater chance of being equaled or exceeded in any given year.
5. Basement - any area of the building having its floor below ground level on all sides.
6. 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.
7. Channel - A natural or artificial watercourse with a definite bed and banks which confine and conduct continuously or periodically flowing water.
8. Channel Flow - That water which is flowing within the limits of a defined channel.
9. Conservation Plan - A plan including a map(s) and narrative that, at the very least, outlines an erosion and sedimentation control plan for an identified parcel of land.
10. Construction - the construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of manufactured homes.
11. 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.
12. Driveway - a private drive providing access between a public or private street or access drive and a permitted use or structure.
13. 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.
14. 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).

15. Fill - Material placed or deposited so as to form an embankment or raise the surface elevation of the land, including but not limited to levees, bulkheads, dikes, jetties, embankments, and causeways.
16. Flood - a temporary inundation of normally dry land areas.
17. 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.
18. Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
19. Flood of Record - the flood which has reached the highest flood elevation above mean sea level at a particular location.
20. 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.
21. 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.
22. 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.
23. Hazardous Material - Materials which have the potential to damage health or impair safety. Hazardous materials include but are not limited to inorganic mineral acids or sulfur, fluorine, chlorine, nitrogen, chromium, phosphorous, selenium, and arsenic and their common salts, lead, nickel, and mercury and their inorganic salts or metallo-organic derivatives; coal tar acids, such as phenols and cresols, and their salts; petroleum products; and radioactive material. Also included are floatable materials with the potential to cause physical damage, such as logs, storage tanks, and large containers.
24. Highest Adjacent Grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
25. Historic structures - any structure that is:
  - a. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
  - d. individually listed on a local inventory of historic places in communities with historic

preservation that have been certified by:

- i. either an approved state program as determined by the Secretary of the Interior;
  - ii. or directly by the Secretary of the Interior in states without approved programs.
26. Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this Ordinance.
27. Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.
28. Manufactured home park or subdivision – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
29. Maximum Flood Elevation - the water surface elevations of a flood that would completely fill the floodplain to the boundaries of the Floodplain District.
30. Mean Sea Level - the average elevation of the sea for all stages of the tide, using the North American Vertical Datum of 1988.
31. Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring, mechanical or other work affecting public health or general safety.
32. New construction - structures for which the start of construction commenced on or after the effective start date of this Ordinance adopted by the community and includes any subsequent improvements to such structures. Any construction started after May 4, 1988 and before the effective start date of this Floodplain Management Ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.
33. 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.
34. Obstruction - Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, or other matter in, along, across, or projecting into any channel, watercourse, or floodplain, 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 that is placed where the flow of water might carry the same downstream to cause damage to life or property.



35. 100-Year Flood - see “Base Flood”
36. 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.
37. Pesticide - Any substance or mixture of substances intended for use in preventing, destroying, repelling, sterilizing, or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds, or other forms of plant or animal life.
38. Petroleum Product - Oil or petroleum of any kind and in any form, including crude oil and derivatives of crude oil. It may be alone, as a sludge, as oil refuse, or mixed with other wastes.
39. Post-FIRM Structure - is a structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the community’s initial Flood Insurance Rate Map (FIRM) dated May 4, 1988, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.
40. Pre-FIRM Structure - is a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the community’s initial Flood Insurance Rate Map (FIRM) dated May 4, 1988, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.
41. Radioactive Material - Any natural or artificially produced substance which emits radiation spontaneously.
42. Recreational vehicle - a vehicle which is:
- a. built on a single chassis;
  - b. not more than 400 square feet, measured at the largest horizontal projections;
  - c. designed to be self-propelled or permanently towable by a light-duty truck,
  - d. not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
43. Regulatory Flood Elevation - the Base Flood Elevation (BFE) or estimated flood elevation as determined using simplified methods plus a freeboard safety factor of one and one-half (1 ½) feet.
44. Repetitive loss - flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on *average*, equals or exceeds 25 percent of the market value of the structure before the damages occurred.
45. Special Permit - a special approval that is required for uses listed in Section 4.03 when such development is located in all, or a designated portion, or a floodplain.
46. Soil Survey - the latest published version of the United States Department of Agriculture’s soil survey for Northampton County, Pennsylvania.
47. Solid Waste - garbage, sludge, refuse, trash, rubbish, debris, and other discarded materials, including, but not limited to, solid and liquid waste materials resulting from industrial, commercial, agricultural, residential, and community activities.
48. Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 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.

49. Start of construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture 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.
50. Structure - Anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, sheds, manufactured homes, and other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land including, but not limited to, gas or liquid storage tanks.
51. Subdivision - the division or re-division 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 ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.
52. 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 fifty (50) percent or more of the market value of the structure before the damage occurred.
53. Substantial improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (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" 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.

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this Ordinance, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

54. Transient Commercial Enterprise Vehicle – any vehicle that is:
- a. built on a single chassis or part of an articulated trailer;
  - b. designed to be self-propelled or permanently towable by a truck;
  - c. designed for use to conduct mobile, semi-permanent or permanent enterprise such as, but not limited to, the sale of food, goods, or services.
55. Uniform Construction Code (UCC) - The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
56. Violation - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
57. Watercourse - A permanent or intermittent stream, river, brook, run, creek, channel, swale, pond, lake, or other body of surface water, carrying or holding surface water, whether natural or manmade.
58. Watershed - All the land from which water drains into a particular watercourse.

**ARTICLE X ENACTMENT**

Section 10.01 Severability

It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section or part thereof, other than any part declared invalid, if it had advance knowledge that any part would be declared invalid. If the entire Ordinance should be declared invalid, then the Lower Nazareth Township Floodplain Zoning Ordinance that was in effect immediately prior to the enactment of this new Lower Nazareth Township Floodplain Management Ordinance shall automatically be re-instated as floodplain management ordinance for Lower Nazareth Township.

Section 10.02 Procedural Defects in Enactment

Allegations that this Ordinance or any amendment was enacted in a procedurally defective manner shall be appealed as provided in State law and be filed not later than thirty (30) days after the intended effective date of the Ordinance or amendment.

Section 10.03 Repealer

The pre-existing "Lower Nazareth Township Floodplain Zoning Ordinance," Ordinance No. 149 of April 25, 2001, as amended, is hereby repealed, in addition to the repeal of any other Township ordinances or resolutions or parts thereof that were adopted prior to this Ordinance that are clearly in direct conflict with this Ordinance.

Section 10.04 Adoption

This Ordinance shall be effective 5 days after adoption and shall remain in force until modified, amended or rescinded by Lower Nazareth Township, Northampton County, Pennsylvania.

ENACTED AND ORDAINED into law of Lower Nazareth Township, Northampton County, Pennsylvania this 11th day of June, 2014.

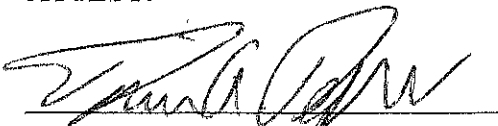
LOWER NAZARETH TOWNSHIP

BY: 

Eric E. Nagle, Chairman

Board of Supervisors

ATTEST:



Timm A. Tenges, Secretary