

BUILDING PERMIT ORDINANCE OF  
THE TOWNSHIP OF MIDDLETOWN

AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A BUILDING PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT, PROVIDING FOR THE ISSUANCE OF SUCH BUILDING PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE TOWNSHIP WHICH ARE SUBJECT TO FLOODING; AND ESTABLISHING PENALTIES FOR ANY PERSONS WHO FAIL, OR REFUSE TO COMPLY WITH, THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

BE IT ENACTED and ORDAINED by the Middletown Township, Susquehanna County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

#### ARTICLE I GENERAL PROVISIONS

##### Section 1.00 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.

##### Section 1.01 Applicability

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township, unless a Building Permit has been obtained from the Building Permit Officer.

- B. A Building Permit shall not be required for minor repairs to existing buildings or structures.

#### Section 1.02 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.

#### Section 1.03 Severability

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

#### Section 1.04 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 acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights 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 area, 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 the 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 2.00 Building Permits Required

Building Permits shall be required before any construction or development is undertaken within any area of the Township.

## Section 2.01 Issuance of Building Permit

- A. The Building Permit Officer shall issue a Building Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- B. Prior to the issuance of any building permit the Building Permit Officer shall review the application for permit to determine if all other necessary government permits such as those required by State and Federal laws have been obtained, such as those required by Act 537, the Pennsylvania Sewage Facilities Act; the Dam Safety and Encroachments Act; the U.S. Clean Water Act, Section 404, 33, U.S.C. 1334; and the Pennsylvania Clean Streams Act. No permit shall be issued until this determination has been made.
- C. 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 Township, and until all required permits or approvals have been first obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.

In addition, the Federal Insurance Administrator and Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified by the Township prior to any alteration or relocation of any watercourse.

## Section 2.02 Application Procedures and Requirements

- A. Application for such a building permit shall be made, in writing, to the Building Permit Officer on forms supplied by the 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.

5. Listing of other permits required.
  6. Brief description of proposed work and estimated cost.
  7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Building Permits and Special Permits shall also provide the following specific information:
1. A plan of the entire site, 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. a location map showing the vicinity in which the proposed activity or development is to be located within the municipality.
    - c. topography based upon the National Geodetic Vertical Datum of 1929 showing existing and proposed contours at intervals of two (2) feet,
    - d. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet,
    - e. the location of all existing streets, drives, and other accessways with information concerning widths, pavement types and construction, and elevations,
    - f. the location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, and any other natural or man-made features affecting, or affected by, the proposed activity or development,
    - g. the location of the identified floodplain area boundary line, floodway line if available, information and spot elevations concerning the one hundred (100) year flood elevations, and information concerning the flow of water including direction and velocities,

- h. a general plan of the entire site accurately showing the location of all proposed buildings, structures, and all other improvements, including the location of any existing or proposed subdivision and land development in order to assure that:
  - i.) all such proposals are consistent with the need to minimize flood damage;
  - ii.) all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
  - iii.) adequate drainage is provided so as to reduce exposure to flood hazards.
- 2. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
  - a. detailed architectural or engineering drawings including building size, floor plans, sections and exterior building elevations, as appropriate,
  - b. the proposed lowest floor elevations of any proposed building based upon National Geodetic Vertical Datum of 1929,
  - c. complete information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood,
  - d. detailed information concerning any proposed flood-proofing measures,
  - e. cross-section drawings for all proposed streets, drives, and other accessways and parking areas showing all rights-of-way and pavement widths,
  - f. profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades,

- g. plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities,
  - h. soil types.
3. The following data and documentation:
- a. a document, certified by a registered professional engineer or architect, which states that the proposed construction has been adequately designed to withstand the one hundred (100) year flood elevations, pressures, velocities, impact, and uplift forces and other hydrostatic, hydrodynamic and buoyancy factors associated with the one hundred (100) year flood.  
  
such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
  - b. detailed information needed to determine compliance with Section 4.01 G., Storage, and Section 4.02, Development Which May Endanger Human Life, including:
    - i.) the amount, location and purpose of any materials or substances referred to in Sections 4.01 G. and 4.02 which are intended to be used, produced, stored or otherwise maintained on site.
    - ii.) for any proposed structure regulated under Section 4.02, a description of the safeguards incorporated into the design of the structure to prevent leaks or spills of the above mentioned materials or substances during a one-hundred (100) year flood.
  - c. the appropriate component of the Department of Environmental Resources' "Planning Module for Land Development."
  - d. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources, to implement and maintain erosion and sedimentation control.

### Section 2.03 Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Building Permit Officer to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

### Section 2.04 Changes

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

### Section 2.05 Placards

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

### Section 2.06 Start of Construction

Work on the proposed construction and/or development shall begin within six (6) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Building Permit Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation for basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

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

## Section 2.07 Inspection and Revocation

- A. During the construction period, the Building Permit Officer or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable Township laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.
- B. In the discharge of his duties, the Building Permit Officer shall have the authority to enter any building, structure, premises or development in the identified flood-prone area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.
- C. In the event the Building Permit Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Building Permit Officer shall revoke the building permit and report such fact to the Middletown Township Supervisors for whatever action it considers necessary.
- D. A record of all such inspections and violations of this ordinance shall be maintained.

## Section 2.08 Fees

Applications for a building permit shall be accompanied by a fee, payable to the Township, based upon the estimated cost of the proposed construction as determined by the Building Permit Officer at the following rates:

| <u>Estimated Cost</u>                                                 | <u>Fee</u> |
|-----------------------------------------------------------------------|------------|
| \$ 0.00 to \$1000.00                                                  | \$5.00     |
| Each additional \$1000.00, or part thereof beyond the first \$1000.00 | 1.00       |

## Section 2.09 Enforcement

### A. Notices

Whenever the Building Permit Officer or other authorized municipal representative determines that there are reasonable grounds to believe that

there has been a violation of any provisions of this Ordinance, or of any regulation adopted pursuant thereto, the Building Permit Officer shall give notice of such alleged violation as hereinafter provided. Such notice shall (a) be in writing; (b) include a statement of the reasons for its issuance; (c) allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires; (d) be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State; (e) contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Ordinance.

B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order or direction of the Building Permit Officer or any other authorized employee of the municipality shall be guilty of an offense and, upon conviction, shall pay a fine to Township of not less than Twenty-five Dollars (\$25.00) nor more than Three Hundred Dollars (\$300.00) plus costs of prosecution. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed ten (10) days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation or non-compliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliances within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in non-compliance with this Ordinance may be declared by the Middletown Township Supervisors to be a public nuisance and abatable as such.

## Section 2.10 Appeals

- A. Any person aggrieved by an action or decision of the Building Permit Officer, refusing to grant a modification to the provisions of this Ordinance covering the development of land or the manner of construction or materials to be used in the erection, alteration, modification, etc. of a building or structure, may appeal to the Middletown Township Supervisors. Such appeal must be filed, in writing, within thirty (30) days after the decision or action of the Building Permit Officer.
- B. Upon receipt of such appeal the Middletown Township Supervisors shall set a time and place, within not less than ten (10) nor more than thirty (30) days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.
- C. Any person aggrieved by any decision of the Middletown Township Supervisors may seek relief therefrom by appeal to court, as provided by the laws of this Commonwealth including The Pennsylvania Floodplain Management Act.

## ARTICLE III IDENTIFICATION OF FLOODPLAIN AREAS

### Section 3.00 Identification

The identified floodplain area shall be any area of the Middletown Township, subject to the one hundred (100) year flood, which is identified as a Special Flood Hazard Area (Zone A) on the Flood Hazard Boundary Map (FHBM) as issued by the Federal Insurance Administration dated JANUARY 2ND 1981.

### Section 3.01 Determination of the Regulatory Flood Elevation

For the purposes of this Ordinance, the regulatory flood elevation, i.e. the one hundred (100) year flood elevation shall be used. To determine the one hundred year flood elevation, the elevation at a given point on the boundary of the identified floodplain area which is nearest the construction site in question

will be used. In helping to make this necessary elevation determination other sources of data, where available, shall be used such as:

- A. Corps of Engineers - Flood Plain Information Reports
- B. U.S. Geological Survey - Flood Prone Quadrangles
- C. U.S.D.A., Soil Conservation Service - County Soil Surveys (Alluvial Soils) or P.L. 566 Flood Information
- D. Pennsylvania Department of Environmental Resources - Flood Control Investigations
- E. Known Highwater Marks from Past Floods
- F. Other sources

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 Township.

#### Section 3.02 Changes in Identification of Area

The delineation of any of the identified floodplain area may be revised by the Middletown Township Supervisors where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, River Basin Commission or other qualified agency or individual documents the notification for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

#### Section 3.03 Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Township Planning Commission and any party aggrieved by this decision may appeal to the Middletown Township Supervisors. The burden of proof shall be on the appellant.

## ARTICLE IV. GENERAL TECHNICAL REQUIREMENTS

### Section 4.00 General

- A. In the identified floodplain area, the development and/or use of any land shall be permitted provided that the development and/or use adheres to the restrictions and requirements of this and all other applicable codes and ordinances in force in the municipality.
- B. 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 Resources, Bureau of Dams and Waterway Management.
- C. Within any identified floodplain area, the elevation of the lowest floor (including basement) of any new or improved residential structures shall be one and one-half (1½) feet or more above the one hundred (100) flood elevation.
- D. Within any identified floodplain area, the elevation of the lowest floor (including basement) of non-residential structures shall be one and one-half (1½) feet or more above the one hundred (100) flood elevation or be floodproofed up to that height.

Any structure, or part thereof, which will not be completely or adequately elevated, shall be floodproofed in accordance with the provisions of this article. Additional information may be obtained from the publication entitled "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972).

### Section 4.01 Design and Construction Standards

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

A. Fill

If fill is used, it shall:

1. extend laterally at least fifteen (15) feet beyond the building line from all points;
2. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
3. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
4. be no steeper than one (1) vertical to two (2) horizontal, unless substantiated data, justifying steeper slopes are submitted to, and approved by the Building Permit Officer; and,
5. 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 insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. Sanitary Sewer Facilities

All new or replacement sanitary sewer facilities, and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

D. Water Facilities

All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system, and be located and constructed to minimize or eliminate flood damages.

E. Streets

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

F. Utilities

All utilities such as gas lines, electrical and telephone systems being placed in an identified floodplain area should be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

G. 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 4.03, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or floodproofed to the maximum extent possible.

H. Placement of Buildings and Structures

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

I. 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.

J. Floors, Walls and Ceilings

1. Wood floorings 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.

K. Paints and Adhesives

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

L. Electrical Systems and Components

1. Electric water heaters, furnaces, air conditioning and ventilating systems, and other electrical equipment or apparatus shall not be located below the Regulatory Flood Elevation.
2. Electrical distribution panels shall be at least three (3) feet above the one hundred (100) year flood elevation.
3. Separate electrical circuits shall serve lower levels and shall be dropped from above.

M. Plumbing

1. Water heaters, furnaces, and other mechanical equipment or apparatus shall not be located below the Regulatory Flood Elevation.
2. No part of any on-site sewage disposal system shall be located within any identified floodplain area.
3. Water supply systems and sanitary sewage systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters.
4. 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.

Section 4.02 Development Which May Endanger Human Life

- A. In accordance with the Pennsylvania Floodplain Management Act, and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following materials or substances or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume or any amount of radioactive substances) of any of the following

materials or substances on the premises, shall be subject to the provisions of this section, in addition to all other applicable provisions:

1. Acetone
2. Ammonia
3. Benzene
4. Calcium carbide
5. Carbon disulfide
6. Celluloid
7. Chlorine
8. Hydrochloric acid
9. Hydrocyanic acid
10. Magnesium
11. Nitric acid and oxides of nitrogen
12. Petroleum products (gasoline, fuel oil, etc.)
13. Phosphorus
14. Potassium
15. Sodium
16. Sulphur and sulphur products
17. Pesticides (including insecticides, fungicides, and rodenticides)
18. Radioactive substances, insofar as such substances are not otherwise regulated.

B. Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in Section A. above shall be:

1. elevated or designed and constructed to remain completely dry up to at least one and one-half ( $1\frac{1}{2}$ ) feet above the one-hundred (100) year flood and,
2. designed to prevent pollution from the structure or activity during the course of a one hundred (100) year 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 flood-proofing contained in the publication "Flood-Proofing Regulations

(U.S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

#### Section 4.03 Special Requirements for Mobile Homes

- A. Where permitted within any identified floodplain area, all mobile homes and additions thereto shall be:
1. anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the American National Standards as specified in the Standard for the Installation of Mobile Homes Including Mobile Home Park Requirements (NFPA No. 501A-1974 (ANSI A119.3-1975)) as amended for Mobile Homes in Hurricane Zones or other appropriate standards such as the following:
    - a. over-the-top ties shall be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations for units fifty (50) feet or more in length, and one (1) additional tie per side for units less than fifty (50) feet in length.
    - b. frame ties shall be provided at each corner of the mobile home, with five (5) additional ties per side at intermediate locations for units fifty (50) feet or more in length, and four (4) additional ties per side for units less than fifty (50) feet in length.
    - c. all components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4800) pounds.

NOTE: Section 4.03 B. 2.

The placement of mobile homes in existing mobile home parks may be exempted from the requirements in Section 4.03 B. 2., if a municipality desires to do so. When making this modification, add the FIA definition of "existing mobile home park" to Article VIII and allow space to put the adoption date of this Ordinance somewhere in the definition. Always retain the reference to this adoption date in any future rewrite of, or amendment to, the Ordinance since it

will be an important factor in properly administering Section 4.03 over the years.

2. All mobile homes and any additions thereto shall also be elevated in accordance with the following requirements:
  - a. the stands or lots shall be elevated on compacted fill, or on pilings so that the lowest floor of the mobile home will be at or above the elevation of the Regulatory Flood.
  - b. adequate surface drainage is provided.
  - c. adequate access for a hauler is provided.
  - d. where pilings are used for elevation, the lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than ten (10) feet apart; reinforcement shall be provided for pilings that will extend for six (6) feet or more above the ground level.
- B. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the appropriate Township officials for mobile home parks.

## ARTICLE V ACTIVITIES REQUIRING SPECIAL PERMITS

### Section 5.00 General

In accordance with the Department of Community Affairs' administrative regulations implementing the Pennsylvania Floodplain Management Act, (Act 1978-166), the following obstructions and activities are prohibited if located entirely or partially within an identified floodplain area unless a Special Permit is issued:

- A. hospitals (public or private)
- B. nursing homes (public or private)
- C. jails or prisons
- D. new mobile home parks and mobile home subdivisions, and substantial improvements to such existing parks and development.

#### Section 5.01 Special Permit Application Requirements

Application for a Special Permit shall consist of at least 5 copies of the following items:

- A. A written request which includes the information specified in Section 2.02, pertaining to building permit application procedures.
- B. The following documentation:
  - 1. certification from the applicant that the site upon which the activity or development is proposed is an existing and single parcel, owned by the applicant or the client he represents;
  - 2. certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the 100-year flood;
  - 3. a statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a 100-year flood, including a statement concerning the effects such pollution may have on human life;
  - 4. a statement certified by a registered professional engineer, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on 100-year flood elevations and flows;
  - 5. a statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the 100-year flood elevation and the effect such materials and debris may have on 100-year flood elevations and flows;

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

#### Section 5.02 Application Review Procedures

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

- A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Township Planning Commission and Township Engineer for review and comment.
- B. If an application is received that is incomplete, the Township shall notify the applicant in writing, stating in what respects the application is deficient.
- C. If the Township decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- D. If the Township approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community Affairs, by registered or certified mail, within five (5) working days after the date of approval.
- E. Before issuing the Special Permit, the Township shall allow the Department of Community Affairs thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the Township.
- F. If the Township does not receive any communication from the Department of Community Affairs during the thirty (30) day review period, it may issue a Special Permit to the applicant.

- G. If the Department of Community Affairs should decide to disapprove an application, it shall notify the Township and the applicant, in writing, of the reasons for the disapproval, and the Township shall not issue the Special Permit.

#### Section 5.03 Special Technical Requirements

- A. In addition to the requirements of Article IV of this Ordinance, 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 IV of this Ordinance 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 one-hundred (100) year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the one-hundred (100) year flood elevation.
    - b. the first floor elevation will be at least one and one-half (1 ½) feet above the one-hundred (100) year flood elevation.
    - c. the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the one-hundred year 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 Township and the Department of Community Affairs.

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

Structures existing in any identified floodplain area prior to the enactment of this Ordinance, but which are not in compliance with these provisions, may continue to remain, provided that:

- A. 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 be undertaken only in full compliance with the provisions of this Ordinance.

#### ARTICLE VII VARIANCES

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

Requests for variances shall be considered by the Township in accordance with the procedures contained in Section 2.11 and the following:

1. Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit (Art. V) or to Development Which May Endanger Human Life (Sec. 4.02).
2. If granted, a variance shall involve only the least modification necessary to provide relief.
3. In granting any variance, the 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.

4. Whenever a variance is granted, the Township shall notify the applicant in writing that:
  - a. the granting of the variance may result in increased premium rates for flood insurance
  - b. such variances may increase the risks to life and property.
5. In reviewing any request for a variance, the Township shall consider, at a minimum, the following:
  - a. that there is good and sufficient cause.
  - b. that failure to grant the variance would result in exceptional hardship to the applicant.
  - c. that the granting of the variance will (i) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extra-ordinary public expense, (ii) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable State of local ordinances and regulations.
6. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.

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

#### ARTICLE VIII DEFINITIONS

##### Section 8.00 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 8.01 Specific Definitions

- A. 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.
- B. Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all mobile homes and trailers to be used for human habitation.

- C. Construction - the construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of mobile homes.
- D. Development - any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of mobile homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations and the subdivision of land.
- E. Flood - a temporary inundation of normally dry land areas.
- F. 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.
- G. Flood-proofing - means any combination of structural and non-structural 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.
- H. Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.
- I. Mobile home - means a transportable, single family dwelling intended for permanent occupancy, office, or place of assembly, contained in one

or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term does not include recreational vehicles or travel trailers.

- J. Mobile home park - a parcel of land under single ownership which has been planned and improved for the placement of two or more mobile homes for nontransient use.
- K. Obstruction - any wall, dam, wharf, embankment, levee, dike, pike abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or floodprone area, 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 is placed where the flow of the water might carry the same downstream to the damage of life and property.
- L. One hundred year flood - a flood that, on the average, is likely to occur once every one hundred (100) years (i.e. that has one (1) percent chance of occurring each year, although the flood may occur in any year).
- M. Regulatory flood elevation - the one hundred (100) year flood elevation plus a freeboard safety factor of one and one-half ( $1\frac{1}{2}$ ) feet.
- N. Special permit - a special approval which is required for hospitals, nursing homes, jails, and new mobile home parks and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.
- O. Structure - anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, mobile homes, and other similar items.
- P. Subdivision - the division or redivision of a lot, tract, or parcel of land by any means into

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

#### ARTICLE IX ENACTMENT

This Ordinance shall become effective on May 11, 1981, and shall remain in force until modified, amended, or rescinded by the Township of Middletown, Susquehanna County, Pennsylvania.

Adopted by Middletown Township Supervisors this 4th day of May, 1981.

Signed:

Thomas W. Young

John Hunter

Attest:

Sol M. Seco