

ARTICLE 15
FLOODPLAIN MANAGEMENT
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Section 1500 Intent

The intent of these provisions is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- A. Regulating uses, activities and development which, acting alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities, and frequencies.
- B. Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
- C. Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage.
- D. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.
- E. Maintaining, to the extent possible, the floodplain in its natural state and minimizing the removal of vegetation and compaction of soil to maximize its flood carrying capacity and water filtering capabilities.
- F. Complying with the provisions of the National Flood Insurance Program and the Pennsylvania Flood Plain Management Act (Act 1978-166).

Section 1501 General Provisions

- A. Applicability
 - 1. These provisions shall apply to all lands within the jurisdiction of Freeport Borough as shown as being located within the boundaries of any identified flood hazard district which are considered as a part of the official Zoning Map.
 - 2. The provisions of this Article shall be imposed in addition to the requirements of the underlying zoning districts. In the event that a conflict exists between the floodplain overlay regulations and the underlying districts, the more restrictive provisions shall apply.
- B. No development shall be undertaken, no structure or land shall hereafter be used; no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered; and no area shall be developed, graded, filled, or excavated in any Flood Hazard District except in full compliance with the terms and provisions of this Ordinance and any other applicable ordinances and regulations.
- C. Warning and Disclaimer of Liability
 - 1. 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 the identified flood hazard districts or that land uses permitted within such districts will be free from flooding or flood damages.
 - 2. This Ordinance shall not create liability on the part of Freeport Borough or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

Section 1502 Identification and Establishment of Flood Hazard Districts

- A. Identification

The identified floodplain area shall be those areas of Freeport Borough which are subject to the one hundred (100) year flood and the five hundred (500) year flood level where mapped, as identified in the most current Flood Insurance Study (FIS) and the accompanying maps prepared for Freeport Borough by the Federal Emergency Management Agency (FEMA). The referenced Flood Insurance Study is declared to be part of this Ordinance.

B. Description of Floodplain Areas

The Flood Hazard District shall consist of the following specific areas:

1. The Floodway District (FW) - The areas identified as "Floodway" in the AE Zone in the Flood Insurance Study prepared by FEMA. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study.
2. The Flood-Fringe District (FF) - The remaining portions of the one hundred (100) year floodplain in those areas identified as an AE Zone in the Flood Insurance Study, where a floodway has been delineated. The basis for the outermost boundary of this area shall be the one hundred (100) year flood elevations shown in the flood profiles contained in the Flood Insurance Study.
3. The General Floodplain Districts (FA)
 - a. The areas identified as Zone A in the Flood Insurance Study for which no one hundred (100) year flood elevations have been provided. When available, information from other federal, state and other acceptable sources shall be used to determine the one hundred (100) year elevation as well as a floodway area, if possible. When no other information is available, the one hundred (100) year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.
 - b. In addition to the sources listed in subsection a. above, the following data may be used to identify the General Floodplain Area:
 - (1) Corps of Engineers - Floodplain Information Reports.
 - (2) U. S. Geological Survey - Flood-prone Quadrangles.
 - (3) U.S.D.A. Soil Conservation Service - County Soil Surveys (Alluvial Soils) or P.L. 566 Flood Information.
 - (4) Pennsylvania Department of Environmental Protection - Flood Control Investigation.
 - (5) Known high-water marks from past floods.
 - (6) In lieu of the above, the Borough may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated

qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough.

C. Changes in the Delineation of the Flood Hazard District

The identified Flood Hazard District may be revised or modified by Borough Council where studies or information provided by a qualified agency or person documents the need for such revision or modification. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency (FEMA).

Section 1503 Special Requirements for the FW, FF, and FA Areas

A. Floodway District (FW). In the Floodway District (FW) any new construction and/or development that would cause any increase in one-hundred (100) year flood heights shall be prohibited.

1. Permitted Uses. In the Floodway District (FW) the following uses and activities are permitted provided they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill or storage of materials and equipment:

- a. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, and hunting and fishing areas;
- b. Uses accessory to those permitted in the underlying zoning district, including yard areas, gardens, play areas and parking areas, provided that no structures are erected, no impervious materials are used, and no fill is placed; and,
- c. Two-wire fences.

2. Uses Specifically Prohibited. See Section 1605 for the kinds of development which are specifically prohibited within the Floodway District (FW).

B. Flood-Fringe District (FF)

1. Permitted Uses. In the Flood-Fringe District (FF), the uses and activities of the Floodway District (FW) are permitted provided they are in compliance with the provisions of the underlying district, are not prohibited by any other ordinance and provided they do not require

structures, fill or storage of materials and equipment and do not cause any increase in the one hundred (100) year flood elevation/heights.

2. Special Provisions and Prohibitions for Certain Uses and Development. See Section 1504 for special requirements and procedures for certain kinds of development within the Flood-Fringe District (FF).

C. General Flood Hazard Districts (FA)

1. Permitted Uses. In the General Flood Hazard Districts (FA), the uses and activities of the Floodway District (FW) are permitted provided they are in compliance with the provisions of the underlying district, are not prohibited by any other ordinance, and provided they do not require structures, fill or storage of materials and equipment and do not cause any increase in the one hundred (100) year flood heights.
2. Special Provisions and Prohibitions for Certain Uses and Development. See Section 1504 for additional special requirements and procedures for certain kinds of development within the General Flood Hazard District (FA).

Section 1504 Special Provisions for Certain Kinds of Development within Flood Hazard Districts

- A. Development Which May Endanger Human Life - Hazardous Materials. In addition to all other applicable provisions, within any Floodway District (FW), General Flood Hazard Districts (FA) and Flood-Fringe District (FF), and in accordance with the Pennsylvania Floodplain Management Act and the regulations adopted by the Department of Community and Economic Development, no structure may be used for:

1. The production, storage, or use of any amount of radioactive substances; or
2. The production or storage of any of the following dangerous materials or substances; or
3. For any activity requiring the maintenance of a supply of more than five hundred and fifty (550) gallons (or other comparable volume) of any of the following dangerous materials or substances on the premises:
 - a. Acetone
 - b. Ammonia
 - c. Benzene
 - d. Calcium carbide
 - e. Carbon disulfide
 - f. Celluloid
 - g. Chlorine
 - h. Hydrochloric acid

- i. Hydrocyanic acid
 - j. Magnesium
 - k. Nitric acid and oxides of nitrogen
 - l. Petroleum products (gasoline, fuel, oil, etc.)
 - m. Phosphorus
 - n. Potassium
 - o. Sodium
 - p. Sulfur and sulfur products
 - q. Pesticides (including insecticides, fungicides and rodenticides)
 - r. Radioactive substances, insofar as such substances are not otherwise regulated
 - s. Other substances that may be added to this list due to an update of the DCED regulations pursuant to the PA Flood Plain Management Act.
- B. Developments Which May Endanger Human Life - Activities and Uses. In accordance with the regulations promulgated by the Pennsylvania Department of Community and Economic Development to implement the Pennsylvania Floodplain Management Act (Act 166), the following obstructions and activities shall be prohibited if located either partially or entirely within any identified Flood Hazard District:
- 1. Hospitals - public or private
 - 2. Nursing Homes - public or private
 - 3. Jails/Penal Institutions
 - 4. New individual mobile/manufactured homes or new mobile/manufactured home parks or new mobile/manufactured home subdivisions and substantial improvements to existing mobile/manufactured home parks or mobile/manufactured home subdivisions.

Section 1505 Existing Structures in Flood Hazard Districts

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued. However, when an improvement is proposed to be made to an existing structure in the Flood Hazard District, it shall be subject to the following conditions.

- A. No expansion or enlargement of an existing structure and/or use shall be allowed within any Floodway District that would cause any increase in the elevation of the one hundred (100) year flood.
- B. 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 minimum Elevation and Floodproofing Requirements (Section 4.02) and Design and Construction Standards (Section 4.03) as described in the Pa DCED publication "Suggested Provisions Meeting the Minimum Requirements of the National Flood Insurance Program and the Pennsylvania Flood Plain Management Act (1978-166) Section 60.3 (d)," January 2005 or its most recent version and 44 CFR60.3d and the IRC and IBC (International Codes) as amended.
- C. 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, shall be elevated and/or flood proofed to the greatest extent possible except as provided for in subsection D, below.
- D. 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 minimum Elevation and Floodproofing Requirements (Section 4.02) and Design and Construction Standards (Section 4.03) as described in the Pa DCED publication "Suggested Provisions Meeting the Minimum Requirements of the National Flood Insurance Program and the Pennsylvania Flood Plain Management Act (1978-166) Section 60.3 (d)," January 2005 or its most recent version and 44 CFR60.3d and the IRC and IBC (International Codes) as amended.
- E. Uniform Construction Code Coordination
- The Standards and Specifications contained in 34 PA Code (Chapter 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/or supplement the requirements of this ordinance:
1. International Building Code (IBC) 2003 or the latest edition thereof: Sections 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
 2. International Residential Building Code (IRC) 2003 or the latest edition thereof: Sections R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

Section 1506 Variances within Flood Hazard Districts

- A. If compliance with any of the requirements of this Ordinance would result in an exceptional hardship for a prospective builder, developer or landowner, the Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.
- B. Requests for variances shall be considered by the Zoning Hearing Board in accordance Article 25 of this Ordinance and with the following:
1. No variance shall be granted for any construction, development, use or activity within any floodplain or floodway area that would cause any

increase in the one hundred (100) year flood elevation.

2. No variance shall be granted for any of the other requirements pertaining specifically to Development Which May Endanger Human Life in accordance with Section 1504.B. of this Article.
3. If granted, a variance shall involve only the least modification necessary to provide relief.
4. In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety and welfare and to achieve the objectives of this Ordinance.
5. Whenever a variance is granted, the Zoning Hearing Board 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.
6. In reviewing any request for a variance, the Zoning Hearing Board shall consider, but not be limited to the following:
 - a. There is good and sufficient cause for the variance.
 - b. Failure to grant the variance would result in exceptional hardship to the applicant.
 - c. The granting of the variance will not result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with any other applicable state or local ordinance regulations.
7. A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.
8. Notwithstanding any of the above, however, all structures, whether residential or non-residential, shall be designed, located, constructed and maintained so as to have the capability of resisting the one hundred (100) year flood or the five hundred (500) year flood where mapped. In addition, such structures shall be in compliance with the minimum Elevation and Floodproofing Requirements and Design and Construction Standards as outlined in the Pennsylvania Department of Community and Economic Development publication "Suggested Provisions Meeting the

Minimum Requirements of the National Flood Insurance Program and the Pennsylvania Flood Plain Management Act (1978-166) Section 60.3 (d),” January 2005 or its most recent version.

C. In reviewing applications for a variance, the Zoning Hearing Board shall consider all relevant factors and procedures specified in other sections of the Zoning Ordinance and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other lands or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the Comprehensive Plan.
10. The safety of access to the property in times of flood of ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
12. The requirements of the National Flood Insurance Program Regulations, Part 59: General Provisions, and Part 60: Criteria for Land Management and Use.
13. Such other factors which are relevant to the purposes of this Ordinance.

D. Supplemental Technical Review

1. The Zoning Hearing Board may refer any application and accompanying

documentation pertaining to any request for a variance to the Borough engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.

2. All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough and the Pennsylvania Department of Community and Economic Development.
3. All costs associated with any special studies or reviews required by the Borough engineer or Borough Council shall be the responsibility of the applicant.