

ORDINANCE NO.: 376 of the BOROUGH OF FREEPORT RESTATING AND
AMENDING ORDINANCE NO.: 306

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 BOROUGH OF FREEPORT, ARMSTRONG COUNTY, PA, 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.

Section 1: Ordinance 306 is restated and amended by adding the following preamble to:

ARTICLE 1.

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. Therefore, the Council of the Borough of Freeport does hereby order as follows:

Section 2: Amends Article 2 Section 2.01A by adding a Section 2.01A-1 as follows:

Section 2.01A-1

The Building Permit 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.

Section 3: Referring to Article II Section 2.01B shall read as follows:

Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); 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.

Section 4: Referring to Article II Section 2.01C shall add the following language:

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 impeded the flood carrying capacity of the watercourse in any way.

Section 5: Referring to Article II Section 2.02B shall add the following language:

- d) structures will be anchored to prevent floatation, collapse, or lateral movement;
- e) building materials are flood resistant;
- f) appropriate practices that minimize flood damage have been used; and
- g) electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.

Section 6: Referring to Article III Section 3.00 shall add the following language:

The Borough hereby adopts the February 17, 2016 Flood Insurance Rate Map (FIRM) and Flood Insurance Study and any revisions and amendments to same.

Section 7: Referring to Article III Section 3.01 shall add the following language:

The Borough shall notify FEMA of changes in the base flood elevation by submitting technical or scientific data within 6 months of the change.

Section 8: Referring to Article IV Section 4 shall add the following language:

C. Special provisions for subdivisions and proposals or other developments greater than 50 lots or 5 acres.

1. All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, 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 and Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

2. All new construction and substantial improvements, that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage have permanent openings designed to allow the entry and exit of flood waters.

3. All recreational vehicles in A1-30, AH and AE Zones to be placed on a site be elevated and anchored or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

Section 9: Referring to Article IV Section 8.01 of Ordinance 306 is replaced with the following:

DEFINITIONS

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

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 give 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. 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.
8. 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.
9. 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.
10. Flood – temporary inundation of normally dry land areas.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

17. Historic structures – any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing is 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 either:
 - i. By an approved state program as determined by the Secretary of the Interior; or
 - ii. Directly by the Secretary of the Interior in states without approved programs.

18. 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.

19. 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.

20. Manufactured home park or subdivision – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

21. 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.

22. New construction – structures for which the start of construction commenced on or after February 17, 2016 and includes any subsequent improvements to such structures. Any construction started after June 17, 1986 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.

23. 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.

24. 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.

25. 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 June 17, 1986, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

26. 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 June 17, 1986, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

27. 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.

28. Regulatory flood elevation – the base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1 ½) feet.

29. 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.

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

31. Special flood hazard area (SFHA) – means an area in the floodplain subject to a 1 percent or greater change of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or AH.

32. 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 filing; 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.

33. Structure – a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

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

35. 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.

36. 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” when a repetitive loss provision is used) 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.

37. 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.

38. 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 Sec.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.

ORDAINED and ENACTED this 1st day of February, 2016.

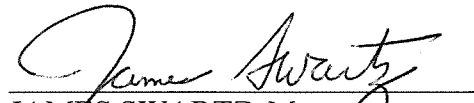
Borough of Freeport


by: RICHARD HASTINGS
President of Council

ATTEST:


CAROL CRYTZER
Borough Secretary

Approved as to form and substance:


JAMES SWARTZ, Mayor