

ORDINANCE 846- 2023

AN ORDINANCE OF EAST PENNSBORO TOWNSHIP, CUMBERLAND COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING THE CODE OF EAST PENNSBORO TOWNSHIP, VACATING AND RESCINDING CHAPTER 22 (LAND DEVELOPMENT), PART 6 (FLOODPLAIN MANAGEMENT) AND CHAPTER 27 (ZONING ORDINANCE), PART 4 (OVERLAY DISTRICTS), SECTION 401 (FLOODPLAIN OVERLAY DISTRICT), ESTABLISHING CHAPTER 23 (DESIGN AND NATURAL RESOURCES), PART 1 (FLOODPLAIN MANAGEMENT) AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF SUCH PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE TOWNSHIP OF EAST PENNSBORO 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, AND ENFORCEMENT, PENALTIES AND FINES FOR VIOLATIONS, SEVERABILITY, AND REPEALING INCONSISTENT ORDINANCES AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED AND ORDAINED by the Board of Commissioners of East Pennsboro Township, Cumberland County, Pennsylvania, and it is hereby enacted and ordained by authority of the same as follows:

SECTION 1: The Code of East Pennsboro Township, Chapter 22 (Land Development), Part 6 (Floodplain Management) and Chapter 27 (Zoning), Part 4 (Overlay Districts), Section 401 (Floodplain Overlay District) shall be repealed and rescinded in its entirety and replaced with a new Chapter 23 (Design and Natural Resources), Part 1 (Floodplain Management) entitled, and provided for as follows:

ARTICLE 1. STATUTORY AUTHORIZATION

§23-1.01 Floodplain Regulations

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, as amended by Act 65 of 2022, 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 Board of Commissioners of the Township of East Pennsboro does hereby order as follows.

§ 23-1.02 Short title.

This section shall be known and may be cited as the “East Pennsboro Township Floodplain Management Regulations”.

ARTICLE II. GENERAL PROVISIONS

§ 23-2.01. 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.

§ 23-2.02. Applicability.

It shall be unlawful for any person, partnership, business, or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township unless the appropriate development permit has been obtained from the Floodplain Administrator, their designee, or any other authorized Township official.

§ 23-2.03. 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.

§ 23-2.04. Severability.

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

§ 23-2.05. Warning and disclaimer of liability.

A. 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 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 areas, or that land uses permitted within such areas will be free from flooding or flood damages.

B. This ordinance shall not create liability on the part of East Pennsboro 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 III. ADMINISTRATION

§ 23-3.01. Designation of the Floodplain Administrator.

A. 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.

B. In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Zoning & Code Official, the Building Code Official, or other duly authorized Township official(s).

§23-3.02. Permits required.

Building and/or zoning permits shall be required before any construction or development is undertaken within any area of East Pennsboro Township.

§ 23-3.03. 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.

B. 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.

C. In the case of existing structures, prior to the issuance of any development permit, the Floodplain Administrator shall review the proposed cost of improvements or repairs and the pre-improvement market value of the structure, so that a substantial improvement/substantial damage determination can be made, in accordance with FEMA's Substantial Improvement/Substantial Damage Desk Reference.

D. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any cumulative substantial damage concerns can be addressed before the permit is issued.

E. During the construction period, the Floodplain Administrator 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 state, federal, and municipal laws and ordinances. Such inspections, as deemed necessary by the authorized official(s), will be made during and upon completion of the work.

F. In the discharge of his/her duties, the officials named in §23-3.01 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. Whenever an authorized agent or official of the Township has been refused access to a property for the purpose of conducting a survey or inspection, or reasonably requires access to such property without prior notice to the owner, such agent or Township official may apply for an inspection warrant to any commonwealth official authorized by law to issue a search or inspection warrant.

G. In the event the authorized Township official(s) discovers that the work for which the permit was issued 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, Zoning Officer, and/or Building Code Official shall issue a stop-work order and order corrective action to be taken by the applicant or permit holder before the cited work will be permitted to resume or shall revoke the Permit and report such fact to the Board of Commissioners for whatever action it considers necessary.

H. The Floodplain Administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this ordinance including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.

I. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program as requested.

J. 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 this ordinance as the Floodplain Administrator.

K. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2018 International Building Code (IBC) and the 2018 International Residential Code (IRC), or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.

§ 23-3.04. Application procedures and requirements.

A. Application for such a building and/or zoning permit shall be made, in writing, 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) The site location, including address.
- (5) A listing of other permits required.
- (6) A 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.

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 reviewing Township official(s) 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 Township to make the above determination:

- (1) A completed and signed building and/or zoning application form, including any supplemental application forms.
- (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;
 - (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 land development;
 - (e) The location of any 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;
 - (f) The location of any public or private easements, steep slopes, and any other environmentally sensitive areas;
 - (g) The location of all existing streets, driveways, and other access ways and parking areas, with information concerning widths, pavement types and construction and elevations; and
 - (h) 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) Supplemental information as may be necessary under 34 PA Code, the 2018 IBC or the 2018 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.
- (4) The following data and documentation:
- (a) FEMA Elevation Certificate.
 - (b) Detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - (c) Information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
 - (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 (See §23-101.18.) when combined with all other existing and anticipated development, will not cause any increase in the base flood elevation.
 - (e) A document, 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) Detailed information needed to determine compliance with Section §23-5.03F. Storage, and Section 5.04 Development Which May Endanger Human Life, including:
 - (i) The amount, location and purpose of any materials or substances referred to in Sections §23-5.03F and §23-5.04 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 §23-5.04 during a base flood.
 - (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.

(i) Where no permit is required by the Department of Environmental Protection (DEP), evidence shall be provided that DEP was contacted and that the activity does not require a state permit.

(j) For accessory structures, any best available data from past flooding events, distance of structure from flooding source, and any other information showing width of channel, stream, or river and direction/velocity of the water flow to show the location of the structure will cause the least obstruction to the flow of flood waters.

D. Applications for Permits shall be accompanied by a fee, payable to the Township based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator. Such fee amount or schedule shall be set from time to time by resolution by the Township Board of Commissioners.

§ 23-3.05. 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 Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. Planning Commission, Township Engineer, Fire Department, Fire Marshal, County Planning Commission, Department of Conservation and Natural Resources (DCNR), etc.) for their review and comment. The Applicant shall be responsible for any additional fees required by such outside agencies and/or individuals.

§ 23-3.06 Changes.

After the issuance of a Building and/or Zoning Permit or 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 permit-issuing Township official(s). Requests for any such change shall be in writing and shall be submitted by the applicant to the Floodplain Administrator, or their designee, for consideration.

§ 23-3.07. Placards.

In addition to the Permit, a placard shall be issued, or similar document, 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 appropriate reviewing Township official(s).

§ 23-3.08. Start of construction.

A. Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator or the Building Code Official. The issuance of a development permit does not refer to the zoning approval.

B. The actual start of construction 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 manufactured 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/or 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.

C. Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original permit is compliant with the ordinance Flood Insurance Rate Maps & Flood Insurance Study (FIRM/FIS) in effect at the time the extension is granted.

§ 23-3.09. Enforcement.

A. Notices.

Whenever the Floodplain Administrator 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 regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

- (1) Be in writing;
- (2) Include a statement of the reasons for its issuance;
- (3) Allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
- (4) 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;
- (5) Contain an outline of remedial actions which, if taken, will affect 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 of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of an offense and upon conviction shall pay a fine to Township of East Pennsboro, of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$600.00), plus costs of prosecution. 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 noncompliance or permit it to continue. All such persons shall be required to correct or remedy such violations and noncompliance within twenty (20) days, unless immediate correction or remedy is required due to imminent risk of loss of life or property. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this ordinance may be declared by the Zoning Officer to be a public nuisance and abatable as such.

§ 23-3.10. Appeals.

A. 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. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.

B. Upon receipt of such an appeal, the Zoning Hearing Board shall consider the appeal in accordance with the Municipalities Planning Code and any other local ordinance.

C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to the court of common pleas, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

ARTICLE IV. IDENTIFICATION OF FLOODPLAIN AREAS

§ 23-4.01. Identification of floodplain areas.

The identified floodplain area shall be:

A. Any areas of the Township of East Pennsboro, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated September 7, 2023 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 the Township and declared to be a part of this ordinance.

§ 23-4.02. Description and special requirements of identified floodplain areas.

The identified floodplain area 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 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 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 (DEP) 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) AE Area without 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 but no floodway has been determined.

(i) No encroachments, including fill, new construction, substantial improvements, or other development shall be permitted in an AE Zone without floodway, unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed development together with all other existing and anticipated development, would not result in an increase in flood levels within the entire community during the occurrence of the base flood discharge.

(ii) 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 the appropriate permit is obtained from the Department of Environmental Protection (DEP) Regional Office.

C. The A Area/District shall be those areas identified as an A Zone 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 sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which 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. In the absence of any of the above data or documentation, the community may require elevation of the lowest floor to be at least three feet above the highest adjacent grade.

D. The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

E. Community Identified Flood Hazard Areas shall be those areas where the 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.

F. Permitted Uses within all identified Floodplain Areas. The following uses and activities are permitted provided that they are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

(1) Agricultural uses such as farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.

(2) Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, and hunting and fishing areas.

(3) Residential uses such as yard areas, gardens, play areas, and parking areas.

(4) Industrial and commercial uses such as yard areas, parking and loading areas, and airport landing strips.

§ 23-4.03. Changes in identification of area.

The Identified Floodplain Area may be revised or modified by the Board of Commissioners 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, a community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See § 23-5.01.B. for situations where FEMA notification is required.

§ 23-4.04. Boundary disputes.

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Township Zoning Officer; and any party aggrieved by this decision or determination may appeal to the Zoning Hearing Board, with the approval of FEMA. The burden of proof shall be on the appellant.

§ 23-4.05. Jurisdictional boundary changes.

Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community 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 V. TECHNICAL PROVISIONS

§ 23-5.01. General technical provisions.

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 (DEP). Additional permits may be required by the Department of Community and Economic Development (DCED), Department of Conservation and Natural Resources (DCNR), and the Bureau of Dams and Waterway Management.

(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 Emergency Management Agency (PEMA) shall be notified prior to any alteration or relocation of any watercourse.

B. When the Township proposes to permit the following encroachments:

- Any development that causes a rise in the base flood elevations within the floodway; or
- Any development occurring in Zones A1-30 and 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, at their expense, 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 FEMA 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, the applicant 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 other watercourse.

§ 23-5.02. Elevation and floodproofing requirements.

A. Residential Structures.

(1) In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation.

(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 Regulatory Flood Elevation determined in accordance with § 23-4.02.C. herein.

(3) In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.

(4) The design and construction standards and specifications contained in the 2018 International Building Code (IBC) and in the 2018 International Residential Code (IRC) or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and American

Society of Civil Engineers (ASCE) 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

B. Non-residential Structures.

(1) In AE, A1-30 and AH Zones, 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 no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the Regulatory Flood Elevation determined in accordance with § 23-4.02.C. herein.

(3) In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.

(4) Any non-residential structure, or part thereof, made watertight below the Regulatory Flood Elevation shall be floodproofed in accordance with the W1 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 in EP 1165-2-314, December 1995) 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. There shall be a statement submitted with the permit application and a statement submitted with the as-built Floodproofing Certificate prior to the issuance of the Certificate of Occupancy.

(5) Any non-residential structure that will be floodproofed must submit the following to the Floodplain Administrator along with the non-residential Floodproofing Certificate and prior to the issuance of the Certificate of Occupancy:

(a) An Inspection and Maintenance Plan detailing the annual maintenance of floodproofed components ensuring that all components will operate properly under flood conditions. Components that must be inspected include at a minimum:

(i) Mechanical equipment such as sump pumps and generators,

(ii) Flood shields and closures,

(iii) Walls and wall penetrations, and

(iv) Levees and berms (as applicable).

(b) Flood Emergency Operation Plan detailing the procedures to be followed during a flooding event and must include information pertaining to how all

components will operate properly under all conditions, including power failures. The design professional must produce the plan. An adequate plan must include the following:

- (i) An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.
- (ii) A procedure for notification of necessary parties when flooding threatens and flood warnings are issued. Personnel required to be at the building should have a planned and safe means of ingress and should have no other emergency response duties during a flood event. Alternates should be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.
- (iii) A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.
- (iv) An evacuation plan for all personnel or occupants; those without duties for the flood emergency as well as those with duties for implementing the plan. All possible ingress and egress routes must be identified.
- (v) A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials.

(6) The design and construction standards and specifications contained in the 2018 International Building Code (IBC) and in the 2018 International Residential Code (IRC) or the latest revision thereof as adopted by the Commonwealth of Pennsylvania, and ASCE 24 Flood Resistant Design and Construction and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

C. Space below the lowest floor.

(1) Fully enclosed space below the lowest floor (excluding basements) 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 (2) openings having a net total area of not less than one (1) square inch for every square foot of enclosed space installed on two (2) separate walls,
- (b) the bottom of all openings shall be no higher than one (1) foot above grade, and

(c) opening 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.

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.

E. Accessory structures.

Accessory structures in this section are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof. Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

- (1) The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
- (2) Floor area shall not exceed Two Hundred (200) square feet.
- (3) The structure will have a low damage potential.
- (4) The structure will be located on the site so as to cause the least obstruction to the flow of flood waters. If it is determined that the structure can be placed outside of any special flood hazard area, then it shall comply with all applicable provisions of the Zoning Ordinance and Land Development Ordinance.
- (5) Power lines, wiring, and outlets will be elevated to the Regulatory Flood Elevation.
- (6) Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, outdoor wood-fired boilers, fireplaces, smokers, etc. are prohibited.
- (7) Sanitary facilities are prohibited.
- (8) Pools and spas, both in-ground and above-ground, are prohibited.
- (9) The structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - (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 grade.

- (c) Openings may be equipped with screens, louvers, etc. or other coverings or devices, provided that they permit the automatic entry and exit of flood waters.
- (10) For accessory structures that are two hundred (200) square feet or larger in area (footprint) and that are below the base flood elevation, a variance is required as set forth herein. If a variance is granted, a signed Declaration of Land Restriction (Non-conversion Agreement) shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.
- (11) Prohibit the storage of Hazardous Materials in accessory structures.
- (12) No accessory structure is permitted in any floodway or Community Identified Flood Hazard Areas.

§ 23-5.03. Design and construction standards.

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

A. Fill.

Within any Identified Floodplain Area the use of fill is prohibited. If a variance is obtained in accordance with the criteria in Article VII, then the following provisions apply:

- 1. 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 two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator;
 - (e) Be used to the extent to which it does not adversely affect adjacent properties.
 - (f) When combined with all other existing and anticipated development, will not cause any increase in the base flood elevation.
 - (g) No fill shall be permitted in a floodway.
 - (h) A written request including a completed Permit Application form shall be submitted in accordance herein. In addition, the following shall be submitted:
 - (i) Plans showing the location of the floodplain boundary line and spot elevations concerning the base flood elevation, and information concerning the flow of water including direction and velocities;
 - (ii) Location and amount of fill, including existing and proposed grading of the lot or area affected.

(iii) A statement, certified by a registered professional engineer or other qualified person which contains a complete and accurate description of the nature and extent of the use of fill and how such fill will affect adjacent properties.

(iv) Any other information which the Township and/or agency considered necessary for adequate review of the application.

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 waste disposal 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 5.04 Development which development may endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or 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 no effect upon the flow and height of flood water.

H. The following shall not be placed or caused to be placed in identified flood-prone areas:

Fences (except fencing as identified in Attached Exhibit "A") other structures or other matter which may impede, retard or change the direction of the flow of water, or that will catch or collect debris carried by such water, or that are placed where the natural flow of the stream or floodwaters would carry the same downstream to the damage or detriment of either public or private property adjacent to the flood-prone areas.

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 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.

K. 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.

L. 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.

M. Equipment.

(1) 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 and shall be anchored to resist floatation, collapse, and lateral movement.

(2) Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.

N. 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.

O. Uniform Construction Code coordination.

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

International Building Code (IBC) 2018 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania: Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2018 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania: Secs. R104, R105, R109, R322, Appendix E, and Appendix J.

§ 23-5.04. Development that may endanger human life.

Within any identified Floodplain Area, any structure of the kind described in Subsection A., below, shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply:

A. In accordance with the Pennsylvania Flood Plain Management Act as amended, and the regulations originally adopted by the Department of Community and Economic Development, to be further adopted or amended by the Pennsylvania Emergency Management Agency in consultation with the

Department of Environmental Protection (DEP) as required by the Act, any new or substantially improved structure which:

- (1) Will be used for the production or storage of any of the following dangerous materials or substances; or,
- (2) Will be used 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; or,
- (3) Will involve the production, storage, or use of any amount of radioactive substances;

shall be prohibited. The following list of materials and substances are considered dangerous to human life:

- 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
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

§ 23-5.05. Special requirements for subdivisions and land development.

All subdivision proposals and land development proposals containing at least twenty (20) lots or at least three (3) 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 (CLOMR) and Letter of Map Revision (LOMR). Submittal requirements and processing fees shall be the responsibility of the applicant.

§ 23-5.06. Special requirements for manufactured/mobile homes.

- A. Within any Floodway Area/District, manufactured/mobile homes shall be prohibited.
- B. Within any Identified Floodplain Area manufactured/mobile homes shall be prohibited.

C. An evacuation plan acceptable to the East Pennsboro Township Emergency Management Director, Fire Marshal and Fire Department, indicating alternative vehicular access and escape routes, shall be filed with the Township Building Code Official for mobile home/manufactured home parks.

§ 23-5.07. Special requirements for recreational vehicles.

Within any Identified Floodplain Area the storage of recreational vehicles shall be prohibited unless:

A. Recreational vehicles in Zones A, A1-30, AH and AE must either:

If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply:

(1) be on site for fewer than One Hundred and Eighty (180) days between April 1st through October 31st and

(2) be fully licensed and ready for highway use, or

(3) meet the permit requirements for manufactured homes in Section § 23-5.06.

B. Failure to provide proof of compliance with the regulations herein above to the Floodplain Administrator for which the recreational vehicle will be stored in an identified floodplain area shall constitute a violation as set forth in this Ordinance.

ARTICLE VI. PROHIBITED ACTIVITIES

§ 23-6.01. Activities Prohibited.

In accordance with the administrative regulations originally adopted by the Pennsylvania Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act as amended, to be further adopted or amended by the Pennsylvania Emergency Management Agency in consultation with the Department of Environmental Protection as required by the Act, the following activities shall be prohibited within any Identified Floodplain Area in the Township of East Pennsboro:

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

(1) Hospitals.

(2) Nursing homes.

(3) Jails or prisons.

B. The commencement of, or any construction of, a new manufactured/mobile home park or manufactured/mobile home subdivision, or substantial improvement to an existing manufactured/mobile home park or manufactured/mobile home subdivision.

ARTICLE VII EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREA

§ 23-7.01. Existing structures in identified floodplain areas.

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 7.02 shall apply.

§ 23-7.02. 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 cause any increase in Base Flood Elevation (BFE). In A Area/District(s), BFEs are determined using the methodology in Section § 23-4.02C.
- 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 provisions of this ordinance.
- C. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2018 IBC and the 2018 IRC or most recent revision thereof as adopted by the Commonwealth of Pennsylvania.
- D. Within any Floodway Area/District (See Section § 23-4.02A.), no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection (DEP) Regional Office.
- E. Within any AE Area/District without Floodway (See § 23- 402.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 the appropriate permit is obtained from the Department of Environmental Protection (DEP) Regional Office.
- F. 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 floodproofed to the greatest extent possible.
- G. Any modification, alteration, reconstruction, or improvement of any kind occurring as a result of “cumulative substantial damage,” as defined in this ordinance, shall be undertaken only in full compliance with the provisions of this ordinance.

ARTICLE VIII. VARIANCES

§ 23-8.01. 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 Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements. The East Pennsboro Township Board of Commissioners shall provide to the Township Zoning Hearing Board its recommendation regarding any variance application under this Article. Further, the Township Planning Commission shall provide to the Board of Commissioners a recommendation concerning any variance application under this Article.

§ 23-8.02. Variance procedures and conditions.

Requests for variances shall be considered by the Zoning Hearing Board in accordance with the procedures contained in § 23-3.11 and the following:

- A. No variance shall be granted within any Identified Floodplain Area that would cause any increase in BFE. In A Area/District, BFEs are determined using the methodology in Section § 23-4.02C.

B. No variances shall be granted for a proposed accessory structure that exceeds Six Hundred (600) square feet in size. A signed Non-Conversion Agreement is required as a condition of receiving the variance.

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 Development Which May Endanger Human Life.

D. No variance shall be granted for Prohibited Activities (Article VI).

E. If granted, a variance shall involve only the least modification necessary to provide relief.

F. In granting any variance, the Township 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.

G. Whenever a variance is granted, the Township Zoning Hearing Board 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. In reviewing any request for a variance, the Township Zoning Hearing Board 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 heights, 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.

I. A complete record of all variance requests and related actions shall be maintained by the Township Zoning Hearing Board. 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 one-percent (1%) annual chance flood.

ARTICLE IX. DEFINITIONS

§ 23-9.01. General 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.

§ 23-9.02. Specific definitions.

As used in this ordinance, the following terms shall have the meanings indicated:

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.

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 one-percent (1%) annual chance flood).

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).

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.

BASEMENT – Any area of the building having its floor below ground level on all sides.

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.

BOARD OF COMMISSIONERS—The Township of East Pennsboro Board of Commissioners

COMMUNITY—The Township of East Pennsboro

COMPLETELY DRY SPACE – A space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

CUMULATIVE SUBSTANTIAL DAMAGE – Flood related damages sustained by a structure on two or more 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 Twenty-five percent (25%) of the market value of the structure before the damages occurred.

DECLARATION OF LAND RESTRICTION (NON-CONVERSION AGREEMENT) – A form signed by the property owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions.

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.

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 the community.

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).

FEMA – The Federal Emergency Management Agency.

FLOOD – A temporary inundation of normally dry land areas.

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.

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.

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.

FLOODPROOFING – Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY – The 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 (1) foot.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE – 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 either:
 - (1) By an approved state program as determined by the Secretary of the Interior, or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

IDENTIFIED FLOODPLAIN AREA – This term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study,

but may include additional areas identified by the community. See Sections § 23-4.01 and § 23-4.02 for the specifics on what areas the community has included in the Identified Floodplain Area.

LAND DEVELOPMENT – Any of the following activities:

A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:

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

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

B. A subdivision of land.

LOW DAMAGE POTENTIAL – Where structures are designed and/or located in a manner that inundated by flood waters results in minimal damage to the structure and its contents. When considering flood-related damage, the elements of physical damage, contents damage, and loss of function shall be considered along with any other requirements as defined in FEMA’s Bulletin P2140, as amended.

LOWEST FLOOR – The lowest floor of the lowest fully enclosed area (including the 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.

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 One Hundred Eighty (180) consecutive days.

MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – 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.

MANUFACTURED HOME PARK OR SUBDIVISION, EXPANSION TO AN EXISTING – 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).

MANUFACTURED HOME PARK OR SUBDIVISION, NEW – 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.

MARKET VALUE – The price for which the asset or property is sold on a given market.

NEW CONSTRUCTION – Structures for which the start of construction commenced on or after September 27, 2023 and includes any subsequent improvements to such structures. Any construction started after April 15, 1977 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 One Hundred Eighty (180) days of permit issuance.

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.

PLANNING COMMISSION—Planning Commission of East Pennsboro Township.

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 April 15, 1977, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

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 April 15, 1977, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

RECREATIONAL VEHICLE – A vehicle which is:

- A. Built on a single chassis;
- B. Not more than Four Hundred (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.

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. The freeboard safety factor also applies to utilities and ductwork.

SPECIAL PERMIT - A special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks/ subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.

SPECIAL FLOOD HAZARD AREA (SFHA) – Means an area in the floodplain subject to a one percent (1%) 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.

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.

STRUCTURE – Anything constructed or erected on the ground or attached to the ground, including but not limited to, walled and/or roofed buildings, sheds, manufactured homes, and other similar items. This term includes a gas or liquid storage tank that is principally above ground, as well as a manufactured home. This term also includes any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to land.

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 (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

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.

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 "cumulative substantial damage" 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.

TOWNSHIP-- The Township of East Pennsboro

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.

VARIANCE – A grant of relief by the community from the terms of a floodplain management regulation.

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.

ZONING HEARING BOARD – The Zoning Hearing Board of East Pennsboro Township.

SECTION 2: All other ordinances and parts of ordinances inconsistent herewith are hereby repealed.

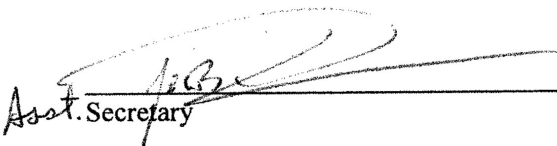
SECTION 3: The provisions of this Ordinance are severable and if any of its sections, clauses or sentences shall be held illegal, invalid, or unconstitutional, such provision shall not affect or impair any other remaining sections, clauses, or sentences of the same.

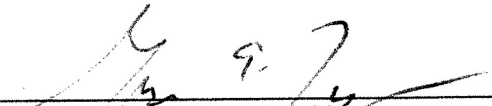
SECTION 4: This Ordinance shall take effect and be in force immediately upon enactment.

ENACTED AND ADOPTED by the Board of Commissioners this 2nd day of August, 2023.

ATTEST:

TOWNSHIP OF EAST PENNSBORO


Asst. Secretary

By: 
George A. Tyson, President,
Board of Commissioners

Fence or Wall Type	Uses of Fencing/Walls Allowed				
	Floodway Fringe	Floodway	Main Channel	Shallow Sheet Flow Area	Ponding Areas (w/ Limited Vel.)
A	Yes	Yes	Yes, unless the purpose is to contain livestock within a corral	Yes	Yes
B	Yes	Yes, with limited cross fencing	No, this usually involves livestock	Yes	Yes
C	Case by case review of design required.				
D	Yes, if elevated to or above the flood height. ¹	Case by case review of design required.	No	Yes, if elevated to or above the flood height. ¹	Yes
E	Yes, if elevated to or above the flood height. ¹	No	No	Yes, if elevated to or above the flood height. ¹	Yes
F	Case by case review of design required.	No	No	Yes, if elevated to or above the flood height ¹ , or adequate openings provided	Yes, if elevated to or above the flood height ¹ , or adequate openings provided

Fence/Wall Types:

- A. "Open" barbed or barbless wire. For floodplain management purposes, barbed and/or barbless wire will be considered "open" if there is no more than one horizontal strand per foot of height¹ and no more than one vertical wire or post every six feet.
- B. "Open" pipe or rail fencing (e.g. corrals). For floodplain management purposes, pipe/rail fencing will be considered open if the horizontal pipes/rails occupy less than 10% of the area fenced and posts are spaced no closer than eight (8) feet.
- C. Collapsible fencing.
- D. Other wire, pipe, or rail type fencing (e.g. field fence, chicken wire, etc.) which does not meet the "open" requirements described above.
- E. Chain link fencing
- F. Continuous wood fencing or masonry walls.

Fencing and Walls in floodplains and/or erosion hazard areas require a Floodplain Use Permit.

¹ Individual horizontal wire strands can be placed below the flood height provided they are spaced no closer than six (6) inches apart. Individual vertical wire strands can be placed below the flood height provided they are spaced no closer than six (6) feet apart. For wire, pipe, or rail fencing that does not meet the "open" requirements, and for wood or masonry walls/fences, the bottom of the wall/fence must be elevated to or above the elevation of the water during the 100-year flood event. Wood and masonry fencing/walls do not need to be elevated if they provide enough openings at their bases to allow the free flow of floodwaters without increasing the depth of water at all.

EXHIBIT "A"