

ORDINANCE NO. 2024 – 4

AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINSSES, 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 MUNICIPALITY OF KINGSTON 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.

ARTICLE I

Statutory Authorization

§ 97-1. Authorization.

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 health, safety, and the general welfare of its citizenry. Therefore, the Town Council of the Municipality of Kingston does hereby ordain as follows:

ARTICLE II

General Provisions

§ 97-2. Intent.

The intent of this Ordinance is to:

- A. Promote the general health, welfare, and safety of the Municipality of Kingston.
- 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.

§ 97-3. Applicability.

- A. It shall be unlawful for any person, partnership, business or corporation or government agency (land trusts, local, county, state, or federal entities are not exempt) to undertake, or cause to be undertaken, any construction or development anywhere within the Municipality of Kingston unless a permit has been obtained from the Floodplain Administrator.

§ 97-4. 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.

§ 97-5. Severability.

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

§ 97-6. 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 the Municipality of Kingston 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

§ 97-7. 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.
- B. The Floodplain Administrator may:
 - (1) Fulfill the duties and responsibilities set forth in these regulations;
 - (2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees; or
 - (3) Enter into written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations.
- C. Administration of any part of these regulations by another entity shall not relieve the Municipality of Kingston of its responsibility pursuant to the participation requirements of

the National Flood Insurance Program (NFIP) as set forth in the Code of Federal Regulations at 44 CFR Section 59.22.

- D. In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Administrator for the Municipality of Kingston or his/her designee.

§ 97-8. Permit required.

A permit shall be required before any construction or development is undertaken within any Identified Floodplain Area of the Municipality of Kingston.

§ 97-9. 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 Ordinance 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 United States 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 the Federal Emergency Management Agency's (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 Repetitively Damaged (Repetitive Loss) concerns can be addressed before the Permit is issued.
- E. Notify the Applicant if it is determined that the work constitutes Substantial Improvement or repair of Substantial Damage and that compliance with the "flood resistant design" and construction requirements of this Ordinance is required.
- F. 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 municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.

- G. In the discharge of his/her duties, the Floodplain Administrator 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.
- H. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Administrator of the Municipality of Kingston for whatever action he or she considers necessary.
- I. 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.
- J. The Floodplain Administrator is the official responsible for submitting a biennial report to the Federal Emergency Management Agency (FEMA) concerning the Municipality of Kingston's participation in the National Flood Insurance Program (NFIP) as requested.
- K. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the Floodplain Ordinance as the Floodplain Administrator/Manager.
- L. Federal Emergency Management Agency (FEMA) technical bulletins and subsequent guidance publications are incorporated by reference and shall be the basis for interpretation of the applicable provisions of the Uniform Construction Code (UCC) and of this Ordinance.
- M. The Floodplain Administrator shall consider the requirements of 34 PA Code and the 2018 International Construction Code (IBC) and the 2018 International Residential (Building) Code (IRC), or the latest revision thereof, as adopted by the Commonwealth of Pennsylvania.

§ 97-10. Application procedures and requirements.

- A. Application for such permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Municipality of Kingston. Such application shall contain the following:
 - (1) Name and address of the Applicant.
 - (2) Name and address of the Owner of land on which the proposed construction is to occur.
 - (3) Name and address of the Contractor.
 - (4) Site location, including address.

- (5) Listing of other permits required.
 - (6) Brief description of the proposed work and estimated cost, including a breakout of flood-related costs 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 Floodplain Administrator to determine that:
- (1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this Ordinance 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 flotation, 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, and air-conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
- (1) A completed Permit Application Form.
 - (2) A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to fifty (50) feet or less, showing the following:
 - (a) north arrow, scale, and date;
 - (b) topographic contour lines, if available;
 - (c) the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - (d) the location of all existing streets, drives, and other accessways; and

- (e) 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 a 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 International Building Code (IBC) and the 2018 International Residential (Building) Code (IRC) or the latest revision thereof, as adopted by the Commonwealth of Pennsylvania.
- (4) The following data and documentation:
- (a) a completed Federal Emergency Management Agency (FEMA) Elevation Certificate prepared by a Registered Professional Engineer or Land Surveyor;
 - (b) detailed information concerning any proposed floodproofing measures and corresponding elevations;
 - (c) if available, 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 effect of any proposed development within a Floodway Area (see § 97-19. A.) will not increase the Base Flood Elevation at any point;
 - (e) documentation, certified by a Registered Professional Engineer or Architect, to show that the cumulative effect of any proposed development within an AE Area/District without Floodway (see § 97-19. B.), when combined with all other existing and anticipated development, will not increase the Base Flood Elevation (BFE) more than one (1) foot at any point within the Municipality of Kingston;
 - (f) 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 development.

- (g) Detailed information needed to determine compliance with **§ 97-25. F. - Storage**, and **§ 97-26. - Development Which May Endanger Human Life**, including:
 - [1] The amount, location and purpose of any materials or substances referred to in **§ 97-25. F.** and **§ 97-26.** which are intended to be used, produced, stored or otherwise maintained on site.
 - [2] 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 **§ 97-26.** during a Base Flood.
- (h) The appropriate component of the Department of Environmental Protection's "Sewage Facilities Planning Module for Land Development."
- (i) 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 unless determined not to be necessary by the Floodplain Administrator.

- D. The Floodplain Administrator, or designee, shall not issue any Permit for a structure denied flood insurance coverage by the Federal Emergency Management Agency (FEMA), pursuant to Section 1316 of the National Flood Insurance Act of 1968, unless the Permit is for activities to bring the 1316 structure into compliance with this Code, and the 34 PA Code and the 2018 International Building Code (IBC) and the 2018 International Residential (Building) Code (IRC), or the latest revision thereof, as adopted by the Commonwealth of Pennsylvania.
- E. Applications for permits shall be accompanied by a fee, payable to the Municipality of Kingston, based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

§ 97-11. Review by County (Luzerne) Conservation District.

A copy of all applications and plans for any proposed construction or development in any Identified Floodplain Area to be considered for approval may be submitted by the Floodplain Administrator to the Luzerne Conservation District for review and comment prior to the issuance of a Permit unless determined not to be necessary by the Floodplain Administrator. The recommendations of the Luzerne Conservation District may be considered by the Floodplain Administrator for possible incorporation into the proposed plan.

§ 97-12. 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, Municipal Engineer, etc.) for review and comment.

§ 97-13. Changes.

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

§ 97-14. Placards.

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

§ 97-15. Start of construction.

- A. Work on the proposed construction or development shall begin within one hundred eighty (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. 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 a 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, which sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original Permit is compliant with the Ordinance & Flood Insurance Rate Map (FIRM)/Flood Insurance Study (FIS) in effect at the time the extension is granted.

§ 97-16. Enforcement; notice; violations and penalties.

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 of Kingston shall be guilty of a misdemeanor and, upon conviction, shall pay a fine to the Municipality of Kingston of not less than twenty-five dollars (\$25) nor more than six hundred dollars (\$600), plus costs of prosecution. 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 a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this Ordinance may be declared by the Administrator of the Municipality of Kingston to be a public nuisance and abatable as such.

§ 97-17. 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 of the Municipality of Kingston, which body's jurisdiction and authority is hereby expanded to allow such determinations. 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 appeal, the Zoning Hearing Board of the Municipality of Kingston shall consider an appeal in accordance with the Pennsylvania Municipalities Planning Code (MPC) or the Municipality of Kingston, 2023 Zoning Ordinance, or the latest revision, as amended.
- C. Any person aggrieved by any decision of the Zoning Hearing Board of the Municipality of

Kingston may seek relief therefrom by appeal to Luzerne County 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

§ 97-18. Identification.

The identified floodplain area shall be:

- A. any areas of the Municipality of Kingston classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs), dated June 20, 2024, 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 (FIS) and,
- B. any community Identified Flood Hazard Areas.

The above-referenced Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs), and any subsequent revisions and amendments, are hereby adopted by the Municipality of Kingston and declared to be a part of this Ordinance.

§ 97-19. 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 Flood Insurance Study (FIS) and the Flood Insurance Rate Map (FIRM) as Floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the Base Flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include: (a) Floodway Areas which have been identified in other available studies or sources of information for those Special Floodplain Areas where no Floodway has been identified in the Flood Insurance Study (FIS) and the Flood Insurance Rate Map (FIRM); and (b) in those areas where no Federal Emergency Management Agency (FMA) maps nor studies have defined, the boundary of the floodway, it is assumed, absent evidence to the contrary, that the Floodway extends from the stream, creek or other watercourse, fifty (50) feet, measured landward from the top of the bank of the stream, creek or other watercourse.
 - (1) With the exception of maintenance, construction and substantial improvements associated with the Wyoming Valley Flood Control Levee System, undertaken by the Luzerne County Flood Protection Authority or other authorized agency, or passive agricultural activities, encroachments, including fill, new construction, substantial improvements, or other development shall be prohibited within any Floodway Area.
 - (2) If the exceptions above are permitted by the municipality, the applicant must:

- (a) Demonstrate, through hydrologic and hydraulic analysis performed in accordance with standard engineering practice, that the proposed development would not result in any increase in flood levels within the community during the occurrence of the Base Flood Discharge.
 - (b) Obtain the appropriate Permit(s) from the Department of Environmental Protection Regional Office.
- B. The AE Area/District shall be those areas identified as an AE Zone on the Flood Insurance Rate Map (FIRM) included in the Flood Insurance Study (FIS) prepared by the Federal Emergency Management Agency (FEMA) for which Base Flood Elevations (BFEs) have been provided.
- (1) The AE Area adjacent to the Floodway shall be those areas identified as an AE Zone on the Flood Insurance Rate Map (FIRM) included in the Flood Insurance Study (FIS) prepared by the Federal Emergency Management Agency (FEMA) and for which Base Flood Elevations (BFEs) 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 Flood Insurance Rate Map (FIRM) included in the Flood Insurance Study (FIS) prepared by the Federal Emergency Management Agency (FEMA) and for which Base Flood Elevations (BFEs) have been provided but no floodway has been determined or delineated.
 - (a) 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 analyses 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 of more than one (1) foot within the entire community during the occurrence of the Base Flood Discharge.
 - (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 Regional Office.
- C. The A Area/District shall be those areas identified as an A Zone on the Federal Emergency Management Agency (FIRM) included in the Flood Insurance Study (FIS) prepared by the Federal Emergency Management Agency (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 of Kingston 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 of Kingston and/or its Municipal Engineer. In the absence of any of the above data or documentation, the Municipality of Kingston may require elevation of the lowest floor to be at least three (3) 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 Federal Emergency Management Agency (FIRM) and in the Flood Insurance Study (FIS). These areas are subject to inundation by one percent (1%) annual chance shallow flooding where average depths are between one (1) and three (3) 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 Municipality of Kingston 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.

§ 97-20. Changes in identification of area.

The Identified Floodplain Area may be revised or modified by the Municipality of Kingston Town Council 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 the Federal Emergency Management Agency (FEMA). Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency (FEMA) of the changes by submitting technical or scientific data. See §97-23. B. for situations.

§ 97-21. Boundary disputes.

Should a dispute concerning any Identified Floodplain Boundary arise, an initial determination shall be made by the Municipality of Kingston, and any party aggrieved by this decision or determination may appeal to the Municipality of Kingston Town Council. The burden of proof shall be on the Appellant.

§ 97-22. Jurisdictional boundary changes.

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

ARTICLE V
Technical Provisions

§ 97-23. General requirements.

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 of Kingston, and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.
- (2) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood-carrying capacity of the watercourse in any way.
- (3) In addition, the Federal Emergency Management Agency (FEMA) and the Pennsylvania Emergency Agency (PEMA) shall be notified prior to any alteration or relocation of any watercourse.

B. When the Municipality of Kingston proposes to permit the following encroachments:

- (1) Any development that causes a rise in the Base Flood Elevations within the Floodway;
or
- (2) Any development occurring in Zones A1-30 and AE without a designated Floodway, which will cause a rise of more than one (1) foot in the Base Flood Elevation; or
- (3) Alteration or relocation of a stream (including but not limited to installing culverts and bridges),

The following actions shall be taken by the Municipality of Kingston or the Applicant as follows shall:

- (1) The Applicant shall apply to the Municipality of Kingston for a conditional approval of such action.
- (2) Upon receipt and confirmation that all information and documentation required by this Ordinance has been submitted by the Applicant for such action, the Municipality of Kingston shall apply to the Federal Emergency Management Agency (FEMA) for a conditional approval of such action prior to permitting the encroachments to occur.
- (3) Upon receipt of the Federal Emergency Management Agency (FEMA) Administrator's conditional approval of map change and prior to approving the proposed encroachments, the Municipality of Kingston shall provide evidence to the Federal Emergency Management Agency (FEMA) of the adoption of Floodplain Management Ordinances

incorporating the increased Base Flood Elevations and/or revised Floodway reflecting the post-project condition.

- (4) Upon completion of the proposed encroachments, the Applicant shall provide “As-built” certifications to the Municipality of Kingston.
- (5) Upon acceptance and confirmation of the “As-built” certifications, the Municipality of Kingston shall submit the “As-built” certifications to the Federal Emergency Management Agency (FEMA), who in turn will initiate a final map revision in accordance with 44 CFR Part 70.

D. 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.

§ 97-24. Elevation and floodproofing requirements.

A. Residential structures:

- (1) In AE, A1-30, and AH Zones, any new construction shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation. Although not necessarily required to 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 Flood Insurance Rate Map (FIRM), any new construction shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation determined in accordance with § 97-19. C. of this Ordinance.
- (3) In AO Zones, any new construction 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 Flood Insurance Rate Map (FIRM).
- (4) The design and construction standards and specifications contained in the 2018 International Building Code (IBC) and in the 2018 International Residential (Building) Code (IRC), or the latest edition thereof, adopted by the Commonwealth of Pennsylvania, and 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 Flood Insurance Rate Map (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 § 97-19.C of this Ordinance.
- (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 Flood Insurance Rate Map (FIRM).
- (4) Any nonresidential 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 United States Army Corps of Engineers (June 1972, as amended EP 1165-2-314, December 1995), or the flood load, and flood-resistant construction requirements of ASCE 24. 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 should 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:
 - [1] Mechanical equipment such as sump pumps and generators;
 - [2] Flood shields and closures;
 - [3] Walls and wall penetrations; and
 - [4] Levees and berms (as applicable).
 - (b) A 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:

- [1] An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan;
 - [2] 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 if the primary persons responsible are unable to complete their assigned duties under the plan;
 - [3] 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;
 - [4] 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; and
 - [5] 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 officials of the Municipality of Kingston.
- (6) The design and construction standards and specifications contained in the 2018 International Building Code (IBC) and in the 2018 International Residential (Building) Code (IRC), or the latest revision thereof, as adopted by the Commonwealth of Pennsylvania, and ASCE 24 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) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters 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 on two (2) separate walls;

- (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 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:

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 floodwaters;
- (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, etc., are prohibited;
- (7) Sanitary facilities are prohibited;
- (8) 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 (2) 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 floodwaters.
- (9) For accessory structures that are two hundred (200) square feet (footprint) in size (area) up to six hundred (600) square feet in size (area) and that are below the Base Flood Elevation, a variance is required as set forth in Article VIII. 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.
- (10) Prohibit the storage of Hazardous Materials in accessory structures.

§ 97-25. 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 shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions shall apply:

- (1) extend laterally at least fifteen (15) feet beyond the building line from all points;
- (2) consist of soil or small rock materials only. Sanitary landfills shall not be permitted;
- (3) be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
- (4) be no steeper than one (1) vertical foot to two (2) horizontal feet, unless substantiated data justifying steeper slopes is submitted to, and approved by the Floodplain Administrator; and
- (5) be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage facilities:

Storm drainage facilities shall be designed to convey the flow of stormwater 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 floodwaters.

- (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
- (3) No part of any on-site sewage system shall be located within any Identified Floodplain Area except in strict compliance with all state and local regulations for such systems. If any such system is permitted, it shall be located to avoid impairment to it, or contamination from it, during a flood.
- (4) The design and construction provisions of the Universal Construction Code (UCC) and the Federal Emergency Management Agency (FEMA) Publication 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 § 97-26, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or be floodproofed to the maximum extent possible.

G. Placement of buildings and structures:

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

H. Anchoring:

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

I. Floors, walls and ceilings:

- (1) Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain, without causing structural damage to the building.
- (2) Plywood used at or below the Regulatory Flood Elevation shall be of a marine or “water-resistant” variety.
- (3) Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are “water-resistant” and will withstand inundation.
- (4) Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other “water-resistant” material.

J. Paints and adhesives:

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

K. Electrical components:

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

L. Equipment:

Water heaters, furnaces, air-conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation and shall be anchored to resist flotation, collapse, and lateral movement.

M. Fuel supply systems:

All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.

N. Tanks:

- (1) Underground tanks. Underground tanks in Flood Hazard Areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.
- (2) Above-ground tanks not elevated. Above-ground tanks that do not meet the elevation requirements of this Ordinance shall:
 - (a) Be permitted in Flood Hazard Areas (Zone A), provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy, assuming the tank is empty, and the effects of flood-borne debris.
- (3) Above-ground tanks, elevated. Above-ground tanks in Flood Hazard Areas shall be elevated to or above the Regulatory Flood Elevation and attached to a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable Flood Hazard Area.
- (4) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (a) At or above the Regulatory Flood Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

O. Fences in Regulated Floodways that have the potential to block the passage of floodwaters, such as stockade fences, PVC fences, and wire mesh fences, shall meet the limitations of §97-19. A.

P. Pools reference ASCE 24 and the Federal Emergency Management Agency (FEMA) guidance documentation.

Q. Uniform Construction Code (UCC) coordination:

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

- (1) 2018 International Building Code (IBC), or the latest revision thereof as adopted by the Commonwealth of Pennsylvania: Sections 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

- (2) 2018 International Residential Building Code (IRC), or the latest revision thereof: as adopted by the Commonwealth of Pennsylvania: Sections R104, R105, R109, and R322, Appendix E and Appendix J.

§ 97-26. 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: (§ 97-26. A., B., C., & D.)

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 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;
- (2) will be used for any activity requiring the maintenance of a supply of more than five hundred 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 subject to the provisions of this Section, in addition to all other applicable provisions. 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.
- B. Within any Identified Floodplain Area, any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- C. Within any Floodway Area, any structure of the kind described in Subsection A., above, shall be prohibited. Where permitted within any Identified Floodplain Area, any new or substantially improved residential structure of the kind described in §97-26. A., above, shall be elevated to remain completely dry up to at least one and one half (1½) feet above the Base Flood Elevation and built in accordance with § 97-23., § 97-24., and § 97-25.
- D. Where permitted within any Identified Floodplain Area, any new or substantially improved non-residential structure of the kind described in § 97-26. A., above, shall be built in accordance with § 97-23., § 97-24., and § 97-25., including:
- (1) elevated, or designed and constructed to remain completely dry up to at least one and one half (1½) feet above the Base Flood Elevation; and
 - (2) designed to prevent pollution from the structure or activity during a base flood.

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing, contained in the publication “Flood-proofing Regulations” (United States Army Corps of Engineers, June 1972, as amended, March 1992), or with some other equivalent watertight standard.

§ 97-27. Special requirements for subdivisions and development.

All subdivision proposals and development proposals, containing at least fifty (50) lots or at least five (5) acres, whichever is the lesser, in Identified Floodplain Areas where Base Flood Elevation data is 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 the Federal Emergency Management Area (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.

§ 97-28. Special requirements for manufactured homes.

- A. Within any Identified Floodplain Area, Manufactured Homes shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions listed below shall apply:
- B. Within any Floodway Area/District, Manufactured Homes shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions listed below shall apply:
- (1) Within any Identified Floodplain Area, Manufactured Homes shall be prohibited within

the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

(2) Where permitted, within any Identified Floodplain Area, all Manufactured Homes, and any improvements thereto, shall be:

- (a) placed on a permanent foundation;
- (b) elevated so that the lowest floor of the Manufactured Home is least one and one half (1½) feet above the Base Flood Elevation;

(c) and anchored to resist flotation, collapse, or lateral movement.

(3) Equipment Requirement:

(a) Water heaters, furnaces, air conditioning and ventilating units, and other electrical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation and shall be anchored to resist flotation, collapse, and lateral movement.

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

(4) Installation of Manufactured Homes shall be done in accordance with the manufacturer's installation instructions as provided by the manufacturer. Where the Applicant cannot provide the above information, the requirements of Appendix E of the 2018 "International Residential (Building) Code" (IRC) or the "United States

Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing", 1984 Edition, draft or latest revision thereto, and 34 PA Code Chapter 401-405 shall apply.

(5) Consideration shall be given to the installation requirements of the 2018 "International Building Code" (IBC), and the 2018 "International Residential (Building) Code" (IRC) or the latest revision thereto, as adopted by the Commonwealth of Pennsylvania, and 34 PA Code, as amended, where appropriate and/or applicable to units where the manufacturer's standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

§ 97-29. Special requirements for recreational vehicles.

Within any Identified Floodplain Area, the storage of Recreational Vehicles shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply:

A. Recreational Vehicles in Zone A, A1-30, AH and AE must:

- (1) be on the site for fewer than one hundred eighty (180) consecutive days; and
- (2) be fully licensed and ready for highway use which means the recreational vehicle or

park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security device, and has no permanent attachments such as additions, rooms, stairs, decks, and porches; and

- (3) be removed from the Floodplain when a flood warning is issued.

ARTICLE VI

Activities Requiring Variances and Special Permits

§ 97-30. General provisions.

In accordance with the administrative regulations promulgated by the 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 (PEMA) in connection with the Department of Environmental Protection as required by the Act, the following activities shall be prohibited within any Identified Floodplain Area unless a Variance, obtained in accordance with the criteria in article III, and a Special Permit have been issued by the Municipality of Kingston:

- 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 Home Park or Manufactured Home Subdivision, or Substantial Improvement to an existing Manufactured Home Park or Manufactured Home Subdivision.

§ 97-31. Application requirements for Special Permits.

Applicants for Special Permits shall provide five (5) copies of the following items:

- A. A written request including a completed Permit Application Form.
- B. A small-scaled map showing the vicinity in which the proposed site is located.
- C. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to fifty (50) feet or less, showing the following:
 - (1) North arrow, scale and date;
 - (2) topography based upon the North American Vertical Datum (NAVD) of 1988,

showing existing and proposed contours at intervals of two (2) feet;

- (3) all property lines including dimensions, and the size of the site expressed in acres or square feet;
 - (4) the location of all existing streets, driveways, other access ways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
 - (5) the location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development;
 - (6) the location of the Floodplain Boundary Line, information and spot elevations concerning the Base Flood Elevation, and information concerning the flow of water including direction and velocities;
 - (7) the location of all proposed buildings, structures, utilities, and any other improvements; and
 - (8) any other information which the Municipality of Kingston considers necessary for adequate review of the application.
- D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at a suitable scale showing the following:
- (1) sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate and applicable;
 - (2) for any proposed building, the elevation of the lowest floor (including basement) and as required, the elevation of any other floor;
 - (3) complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the Base Flood;
 - (4) detailed information concerning any proposed floodproofing measures, including the Flood Emergency Operation Plan and the Inspection and Maintenance Plan;
 - (5) cross-section drawings for all proposed streets, driveways, other accessways, and parking areas, showing all rights-of-way and pavement widths;
 - (6) profile drawings for all proposed streets, driveways, and other vehicular accessways

including existing and proposed grades; and

- (7) plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

- (1) certification from the Applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the Applicant or the client he represents;
- (2) certification from a Registered Professional Engineer or Architect that the proposed construction has been adequately designed to protect against damage from the Base Flood;
- (3) a statement, certified by a registered professional engineer or Architect, which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during a Base Flood, including a statement concerning the effects such pollution may have on human life;
- (4) a statement certified by a Registered Professional Engineer or Architect which contains a complete and accurate description of the effects the proposed development will have on the Base Flood Elevation and flows;
- (5) a statement, certified by a Registered Professional Engineer or Architect which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the Base Flood Elevation and the effects such materials and debris may have on the Base Flood Elevation and flows;
- (6) the appropriate component of the Pennsylvania Department of Environmental Protection "Sewage Facilities Planning Module for Land Development";
- (7) where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection and the Luzerne Conservation District, to implement and maintain erosion and sedimentation control, unless otherwise determined not to be necessary by the Floodplain Administrator;
- (8) any other applicable permits such as, but not limited to, a Permit for any activity regulated by the Department of Environmental Protection under Section 302 of the Act 1978-166; and
- (9) an evacuation plan which fully explains the manner in which the site will be safely

evacuated before or during the course of a Base Flood.

§ 97-32. Application review procedures.

Upon receipt of an application for a Special Permit by the Municipality of Kingston, the following procedures shall apply in addition to those of Article III:

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

§ 97-33. Special technical requirements.

- A. In addition to the requirements of Article V of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Article V of this Ordinance or in any other code, ordinance, or regulation, the more restrictive

provision shall apply:

- B. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed, and maintained in a manner which will:
- (1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
 - (a) the structure will survive inundation by waters of the Base Flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the Base Flood Elevation (BFE);
 - (b) the lowest floor (including basement) will be elevated to at least one and one half (1½) feet above the Base Flood Elevation (BFE).
 - (c) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the Base Flood.
 - (2) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

All hydrologic and hydraulic analyses shall be undertaken only by registered professional engineers, 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 of Kingston and the Pennsylvania Emergency Management Agency (PEMA).

ARTICLE VII

Existing Structures Identified in Floodplain Areas

§ 97-34. Existing structures.

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of § 97-35 shall apply.

§ 97-35. 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 Floodway Area/District that would cause any increase in the Base Flood Elevation (BFE).

- B. No expansion or enlargement of an existing structure shall be allowed within an AE Area/District without Floodway that would, together with all other existing and anticipated development, increase the Base Flood Elevation (BFE) more than one (1) foot at any point.
- C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
- D. The above activity shall also address the requirements of 34 PA Code, as amended, and the 2018 International Building Code (IBC) and the 2018 International Residential (Building) Code (IRC), or most recent revision thereof, as adopted by the Commonwealth of Pennsylvania.
- E. Within any Floodway Area/District (See § 97-19. A.), no new construction or development shall be allowed, unless the appropriate Permit is obtained from the Department of Environmental Protection Regional Office.
- F. Within any AE Area/District without Floodway (See § 97-19. 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 Regional Office.
- G. Any modification, alteration, reconstruction, or improvement of any kind occurring as a result of being “Repetitively Damaged” (“Repetitive Loss”), as defined in this Ordinance, shall be undertaken only in full compliance with the provisions of this Ordinance.

Article VIII

Variances

§ 97-36 General provisions.

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

§ 97-37 Variance procedures and conditions.

- A. Requests for variances shall be considered by the Municipality of Kingston in accordance with the procedures contained in § 97-17 and the following:
 - (1) No variance shall be granted for any construction, development, use, or activity within any Floodway Area/District that would cause any increase in the Base Flood Elevation (BFE).
 - (2) No variance shall be granted for any construction, development, use, or activity within

any AE Area/District without Floodway that would, together with all other existing and anticipated development, increase the Base Flood Elevation (BFE) than one (1) foot at any point.

- (3) No variances shall be granted for a proposed accessory structure that exceeds 600 square feet in size. A signed Non-Conversion Agreement is required as a condition of receiving the variance.
 - (4) Except for a possible modification of the Regulatory Flood Elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically, to development regulated by Special Permit (Article VI) or to Development Which May Endanger Human Life (§ 97-26.).
 - (5) If granted, a variance shall involve only the least modification necessary to provide relief.
 - (6) In granting any variance, the Municipality of Kingston 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.
 - (7) Whenever a variance is granted, the Municipality of Kingston shall notify the applicant, in writing, that:
 - (a) The granting of the variance may result in increased premium rates for flood insurance.
 - (b) Such variances may increase the risks to life and property.
 - (9) In reviewing any request for a variance, the Municipality of Kingston shall consider, at a minimum, the following:
 - (a) That there is good and sufficient cause.
 - (b) That failure to grant the variance would result in exceptional hardship to the Applicant.
 - (c) That the granting of the variance will:
 - [1] neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense;
 - [2] nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- B. A complete record of all variance requests and related actions shall be maintained by the Municipality of Kingston. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency (FEMA).

- C. 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

§ 97-38. Interpretation.

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

§ 97-39. 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.

ASCE 24 – Means a standard titled “Flood Resistant Design and Construction” that is referenced by the Uniform Construction Code (UCC). ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

BASE FLOOD – A flood which has a one percent (1%) chance of being equaled or exceeded in any given year (also called the "one-hundred-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, and A1-30 that indicates the water surface elevation resulting from a flood that has a one percent (1%) 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.

DECLARATION of LAND RESTRICTION – 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 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 Municipality of Kingston.

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).

FLOOD – A temporary inundation of normally dry land areas.

FLOOD INSURANCE RATE MAP (FIRM) – The official map on which the Federal Emergency Management Agency (FEMA) has delineated both the Areas of Special Flood Hazards and the risk premium zones applicable to the Municipality of Kingston.

FLOOD INSURANCE STUDY (FIS) – The official report provided by the Federal Emergency Management Agency (FEMA) that includes flood profiles, the Flood Insurance Rate Map (FIRM), 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 STRUCTURES – Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the 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 programs 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 – This term is an umbrella term that includes all of the areas within which the Municipality of Kingston has selected to enforce Floodplain Regulations. It will include the area identified as the Special Flood Hazard Area (SFHA) on the Flood Insurance Rate Maps (FIRM) and Flood Insurance Study (FIS) but may include additional areas identified by the Municipality of Kingston. See §97-19. A. and §97-19. B. for the specifics on what areas the Municipality of Kingston has included in the Identified Floodplain Area.

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.

MANUFACTURED HOME – A structure, transportable in one (1) 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 (2) or more Manufactured Home lots for rent or sale.

MARKET VALUE (AS IT PERTAINS TO THE FLOODPLAIN MANAGEMENT ORDINANCE) – The building value, excluding the land, as would be agreed to between a willing buyer and seller, as established by what the local real estate market will bear. Market Value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value) or adjusted assessed tax assessment values adjusted to approximate market value by a factor provided by the Luzerne County Tax Assessment Office.

NEW CONSTRUCTION – Structures for which the start of construction commenced on or after the *effective start date of Floodplain Management Ordinance* and includes any subsequent improvements to such structures. Any construction started after June 1, 1977, and before *effective start date of 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.

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 the Municipality of Kingston.

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.

POST-FIRM STRUCTURE – A structure for which construction or Substantial Improvement occurred after the Municipality of Kingston’s initial Flood Insurance Rate Map (FIRM), dated June 1, 1977, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program (NFIP).

PRE-FIRM STRUCTURE – A structure for which construction or Substantial Improvement occurred on or before the Municipality of Kingston’s initial Flood Insurance Rate Map (FIRM), dated June 1, 1977, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program (NFIP).

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; and
- 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 (1½) feet. The freeboard safety factor also applies to utilities and ductwork.

REPETITIVELY DAMAGED (REPETITIVE LOSS) – Flood-related damages sustained by a structure on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, cumulatively, equals or exceeds fifty percent (50%) of the market value of the structure before the damages occurred.

SPECIAL FLOOD HAZARD AREA (SFHA) – 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 Flood Insurance

Rate Map (FIRM) as Zone A, AO, A1-A30, AE, A99, or AH.

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.

START OF CONSTRUCTION – Includes Substantial Improvement and other proposed new development and means the date the Permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days from 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 a 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 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 – A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a Manufactured Home.

SUBDIVISION – The division or redivision of a lot, tract, or parcel of land by any means into two (2) 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 percent (50%) or more of the Market Value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT –

- A. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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 "Repetitively Damaged" ("Repetitive Loss"), regardless of the actual repair work performed. The rolling period of accumulation of improvements for a building or structure ends when the Permit for the first improvement is finalized or closed. 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.

- B. 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.

TANK – A receptacle, container or structure, typically used for the storage or holding of liquids, gases and other similar types of fluids or products, including those associated with utility service to a building that are attached to or located under a building, underground adjacent to a building or on the same site as the building being served, or above ground adjacent to a building or on the same site as the building being served.

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 of Kingston, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, the Code adopted the 2018 International Building Code (IBC) and the 2018 International Residential (Building) Code (IRC), by reference, as the construction standard applicable to State Floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the 2018 International Building Code (IBC) and the 2018 International Residential (Building) Code (IRC) and

VARIANCE – A grant of relief by the Municipality of Kingston from the terms of a Floodplain Management Regulation.

VIOLATION – The failure of a structure or other development to be fully compliant with the Municipality of Kingston'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.

Article X Enactment

§ 97-40. Repealer.

All ordinances or parts thereof which are inconsistent with this Ordinance are hereby repealed to

the extent of their inconsistencies.

§ 97-41. Effective date.

This Ordinance shall be effective as provided in accordance with the following Sections of the Charter of the Municipality of Kingston, Luzerne County, Pennsylvania:

Section 212. Forms of Action by the Council.

- A. All actions of the Council shall be in the form of an ordinance, resolution, or motion. All ordinances and resolutions must be in written form. All final action in adopting ordinances or resolutions shall be by roll call vote, and the vote of each member of Council shall be entered into the record of the meeting. No action of Council shall be taken in the absence of a quorum which shall consist of four (4) Council members.
- B. Resolutions and motions of the Council shall be passed by an affirmative vote of a majority of the Council members present and entitled to vote. Ordinances shall be adopted by an affirmative vote of a majority of the total number of the whole Council.
- C. All legislation, including but not limited to the adoption of all budgets and capital programs, the adoption of all tax levies, the adoption of an administrative code and amendments thereto, the grant, renewal or extension of all franchises, the borrowing of funds with the exception of revenue anticipation loans, the enactment of all zoning and sub-division regulations and technical codes, and the amendment or repeal of existing ordinances shall be done by ordinance. All ordinances of the Council shall be introduced at any duly convened meeting of the Council, but no ordinance shall be adopted until a subsequent meeting of Council, duly convened and occurring at least twenty-five (25) days following the introduction of the ordinance. [Amended 12-5-1994 by Ord. No. 1994-21]
- D. Upon adoption, an ordinance shall be signed by the President of Council and submitted to the Mayor within five (5) days. The Mayor shall approve or veto such ordinance within ten (10) days thereafter. However, such a veto may be overridden at the next succeeding regular meeting of Council by an affirmative vote of a majority plus one (1) of the total number of the Council members. Should the Mayor fail to act within said ten (10) days the ordinance shall be deemed enacted.

Section 213. Publication and Effective Date of Ordinances.

- A. The Municipal Administrator shall cause all ordinances to be published in summary form within ten (10) days following their enactment, at least once in a newspaper circulating generally within the municipality.
- B. An ordinance shall become effective thirty (30) days following its publication date unless the ordinance shall specify a later date.

INTRODUCED at a meeting of the Town Council of the Municipality of Kingston held the 20th day of May, 2024.

FOR THE TOWN COUNCIL OF
THE MUNICIPALITY OF KINGSTON

By: Robert Jacobs
Robert Jacobs, President

ATTEST:

By: Angela Sallemi
Angela Sallemi, Municipal Secretary

Date: 5/20/24

APPROVED:

By: Jeffrey R. Coslett
Jeffrey R. Coslett, Mayor

Date: 5-20-24