

**TOWNSHIP OF SILVER SPRING  
CUMBERLAND COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 07 of 2023**

**AN ORDINANCE OF THE TOWNSHIP OF SILVER SPRING, CUMBERLAND COUNTY, PENNSYLVANIA AMENDING CHAPTER 415 [ZONING] OF THE CODE OF THE TOWNSHIP OF SILVER SPRING TOWNSHIP, AS AMENDED, TO REPEAL ALL SUBSECTIONS OF SECTION 218 [FLOODPLAIN ZONE (FP)] AND REPLACE THEM WITH REVISED FLOODPLAIN REGULATIONS UNDER REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF SUCH PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE TOWNSHIP OF SILVER SPRING WHICH ARE SUBJECT TO FLOODING; AND AMENDING DEFINITIONS PERTINENT TO THE FLOODPLAIN REGULATIONS.**

**SECTION 1.**

The General Assembly of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978 as amended by Act 65 of 2022, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry.

Therefore, the Board of Supervisors of the Township of Silver Spring does hereby ordain that the Silver Spring Township Zoning Ordinance of 2022, as amended, shall be amended as follows (all section references are to the pending incorporation into codification of revisions to Chapter 415 the Silver Spring Township Code which will be numbered SST Code § 415- ### with ### corresponding to the below-referenced sections of the Silver Spring Township Zoning Ordinance of 2022, as amended):

**SECTION 2.**

The following definitions shall replace the definitions of the same terms (therefore repealing such existing definition), or shall be added to, Section 111 [DEFINITIONS] in the appropriate alphabetical order:

**BASE FLOOD** - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent (1%) annual chance flood).

**BASE FLOOD DISCHARGE** - the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

**BASE FLOOD ELEVATION (BFE)** - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

**BASEMENT** - any area of the building having its floor below ground level on all sides.

**CUMULATIVE SUBSTANTIAL DAMAGE** – flood related damages sustained by a structure on two or more separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

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

**DEVELOPMENT** - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** – the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FLOOD INSURANCE RATE MAP (FIRM)** - the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS)** - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

**FLOODPLAIN AREA** - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

**FLOODPROOF(ING)** - 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.

**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 any of the following:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. 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;
3. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
  - A. By an approved state program as determined by the Secretary of the Interior or
  - B. Directly by the Secretary of the Interior in states without approved programs.
5. Recognized by the Cumberland County Historical Society, or any Township-appointed body created for such purposes, as being historically significant.

**IDENTIFIED FLOODPLAIN AREA-** this term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study but may include additional areas identified by the community. See Section 219.C for the specifics on what areas the community 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 section.

**MANUFACTURED HOME** - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

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

**NEW CONSTRUCTION** - structures for which the start of construction commenced on or after the effective start date of Zoning Ordinance and includes any subsequent improvements to such structures. Any construction started after May 2, 1983, and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 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 a community.

**POST-FIRM STRUCTURE** - is a structure for which construction or substantial improvement occurred after December 31, 1974, or on or after the community's initial Flood Insurance Rate Map (FIRM) dated May 2, 1983, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

**PRE-FIRM STRUCTURE** - is a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map (FIRM) dated May 2, 1983, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

**REGULATORY FLOOD ELEVATION** - the base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1 ½) feet. The freeboard safety factor also applies to utilities and ductwork.

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

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

**START OF CONSTRUCTION** - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** – Any assembly of materials constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, any portion of which is above the natural surface grade, including but not limited to buildings, sheds, cabins, mobile homes and trailers, manufactured homes, dams, culverts, roads, railroads, bridges, storage tanks, and signs.

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

**SUBSTANTIAL DAMAGE** - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** - any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" or "cumulative substantial damage" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

### **SECTION 3.**

All subsections of Section 219 [Floodplain Zone (FP)] of the Silver Spring Township Zoning Ordinance of 2022, as amended, which is pending codification as Section 415-219 of the Silver Spring Township Code, are hereby repealed and the section heading shall remain.

### **SECTION 4.**

The following shall be inserted by this amendment as the new subsections of Section 219:

#### **A. GENERAL PROVISIONS**

##### **1. Intent and Objectives**

It is hereby found that the Conodoguinet Creek, Hogestown Run, Trindle run, and all streams, creeks and waterways of the Township, are subject to recurring flooding, that such flooding damages and endangers life and public and private property and facilities, that this condition is aggravated by developments and encroachments in the floodplain, and that the most appropriate method of alleviating such condition is through regulation of such developments and encroachments. It is, therefore, determined that the special and paramount public interest in the floodplain justifies the regulation of property located therein as provided in this section, which is in the exercise of the police power of the municipality, for the protection of the persons and property of its inhabitants, and for the preservation of the public health, safety and general welfare.

The intent of this section shall be to protect areas of floodplain subject to and necessary for the containment of flood waters, and to permit and encourage the retention of open space land uses which will be so located and utilized as to constitute a harmonious and appropriate aspect of the continuing physical development of the Township.

**Specific Objectives:**

- a. To combine with present zoning requirements, certain restrictions made necessary for flood-prone areas to promote the general health, welfare, and safety of the Township;
- b. To prohibit the erection of buildings and structures in areas unfit for human usage by reason of danger from flooding;
- c. To minimize danger to public health by protecting the quality and quantity of surface and subsurface water supplies adjacent to and underlying flood-prone areas and promoting safe and sanitary drainage;
- d. To permit only those uses, which can be appropriately located in the floodplain as herein defined, and which will not impede the flow or storage of flood waters, or otherwise cause danger to life and property at, above, or below their locations along the floodplains;
- e. To provide sufficient drainage courses to carry abnormal flows or storm water in periods of heavy precipitation;
- f. To protect adjacent landowners and those both upstream and downstream from damages resulting from development within a floodplain and the consequent obstruction or increase in flow of flood waters;
- g. To protect the entire Township from individual uses of land, which may have an effect upon subsequent expenditures for public works and disaster relief, and adversely affect the economic well-being of the Township;
- h. To maintain undisturbed, the ecological balance between those natural systems elements, including wildlife, vegetation and marine life, dependent upon water courses and water areas;
- i. To protect other municipalities within the same watershed from the impact of improper development and the consequent increased potential for flooding;
- j. To provide areas for the temporary natural storage of flood waters; and,
- k. To require that uses vulnerable to floods, including public facilities, be constructed so as to be protected from flood damage in accordance with Federal and State Floodplain Management Requirements of the (National Flood Insurance Program, P.L. 93-234).

## 2. Applicability

It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township of Silver Spring unless a Permit has been obtained from the Floodplain Administrator.

## 3. Abrogation and Greater Restrictions

The provisions of this section create an overlay zoning district which is applicable within floodplains in all other zoning districts established by this Zoning Ordinance. To the extent, the provisions of this section are applicable and more restrictive; they shall supersede conflicting provisions within all other sections of this Zoning Ordinance and all other ordinances of the Township. However, all other provisions of all other articles of this Zoning Ordinance and all other Ordinances of the Township shall remain in full force.

## 4. Severability

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

## 5. Warning and Disclaimer of Liability

The degree of flood protection sought by the provisions of this section 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 section 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.

This section shall not create liability on the part of the Township of Silver Spring or any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

## B. ADMINISTRATION

### 1) Designation of the Floodplain Administrator

The Zoning Officer is hereby appointed to administer and enforce this section and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may: (A) Fulfill the duties and responsibilities set forth in these regulations; (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or as later designated by resolution of the Board of Supervisors; or (C) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Lead Land Development Specialist.

2) Permits Required

A Permit shall be required before any construction or development is undertaken within any area of the Township of Silver Spring.

3) Duties and Responsibilities of the Floodplain Administrator

- a. The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- b. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- c. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the proposed cost of improvements or repairs and the pre-improvement market value of the structure, so that a substantial improvement/substantial damage determination can be made, in accordance with FEMA's Substantial Improvement/Substantial Damage Desk Reference.
- d. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any cumulative substantial damage concerns can be addressed before the permit is issued.
- e. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
- f. 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 section.
- g. 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 Board of Supervisors for whatever action it considers necessary.



- h. The Floodplain Administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this section including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
- i. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program as requested.
- j. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the floodplain administrator/manager.
- k. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2018 IBC and the 2018 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.

4) Application Procedures and Requirements

- a. Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Township of Silver Spring. Such application shall contain the following:
  - 1) Name and address of applicant.
  - 2) Name and address of owner of land on which proposed construction is to occur.
  - 3) Name and address of contractor.
  - 4) Site location including address.
  - 5) Listing of other permits required.
  - 6) Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
  - 7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- b. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the 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 and all other applicable codes and ordinances;

- 2) all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
  - 3) adequate drainage is provided so as to reduce exposure to flood hazards;
  - 4) structures will be anchored to prevent floatation, collapse, or lateral movement;
  - 5) building materials are flood-resistant;
  - 6) appropriate practices that minimize flood damage have been used; and
  - 7) electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- c. Applicants shall file the following minimum information plus any other pertinent information as may be required by the 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 one hundred (100) 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, driveways, and other access ways; 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 suitable scale showing the following:
    - a) the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
    - b) the elevation of the base flood;
    - c) supplemental information as may be necessary under 34 PA Code, the 2018 IBC or the 2018 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.

- 4) The following data and documentation:
- a) detailed information concerning any proposed floodproofing measures and corresponding elevations.
  - b) if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
  - c) documentation, certified by a registered professional engineer or architect, to show that the effect of any proposed development within a Floodway Area (See section 4.02 A) will not increase the base flood elevation at any point.
  - d) 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 Section 219.C.2) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point within the community.
  - e) a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.
  - f) detailed information needed to determine compliance with Section 219.D.3.f., Storage, and Section 219.D.4, Development Which May Endanger Human Life, including:
    - i. the amount, location and purpose of any materials or substances referred to in Sections 219.D.3.f and 219.D.4 which are intended to be used, produced, stored or otherwise maintained on site.
    - ii. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 219.D.4 during a base flood.
  - g) the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
  - h) where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
- d. Applications for Permits shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

### C. 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.

#### 6. 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 Floodplain Administrator for consideration.

#### 7. Placards

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

#### 8. Start of Construction

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

The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

## C. IDENTIFICATION OF FLOODPLAIN AREAS

### 1. Identification

The identified floodplain area shall be:

- a. any areas of Township of Silver Spring, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated September 7, 2023, and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study and,
- b. any Community Identified Flood Hazard Areas.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Township of Silver Spring and declared to be a part of this section.

### 2. Description and Special Requirements of Identified Floodplain Areas

The identified floodplain area shall consist of the following specific areas:

- a. The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
  - 1) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  - 2) Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- b. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
  - 1) The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
  - 2) AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.

- 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 analysis performed in accordance with standard engineering practice that the proposed development together with all other existing and anticipated development, would not result in an increase in flood levels of more than one foot within the entire community during the occurrence of the base flood discharge.
- c. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.

In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality. In the absence of any of the above data or documentation, the community may require elevation of the lowest floor to be at least three feet above the highest adjacent grade.

- d. The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.
- e. Community Identified Flood Hazard Areas shall be all other streams and/or waterways not depicted upon the Township's Flood Boundary and Floodway Maps, the Floodplain Zone shall be deemed to include:
  - 1) An area measuring fifty (50') feet horizontally perpendicular from the top of the bank of the watercourse; or,
  - 2) The area inundated by the base flood as determined through qualified hydrologic and hydraulic study. Such study shall be signed, sealed, and certified by a registered professional of the Commonwealth of Pennsylvania. Such certification shall acknowledge the accuracy of the study or survey and the qualification of the individual to perform such study or survey. Copies of such studies and surveys shall be submitted by the Zoning Officer to the Township Engineer and the Federal Emergency Management Agency, who shall have thirty (30) days to comment. Any property owner whose property is so studied shall pay all costs of these studies and surveys, except for work done under retainer to, or on behalf of, the Township.

### 3. Changes in Identification of Area

The Identified Floodplain Area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See 5.01 (B) for situations where FEMA notification is required.

### 4. Boundary Disputes

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

### 5. Jurisdictional Boundary Changes

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

## D. TECHNICAL PROVISIONS

### 1. General

#### a. Alteration or Relocation of Watercourse

- 1) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have first been obtained from the Department of Environmental Protection 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, FEMA and the Pennsylvania Emergency Management Agency shall be notified prior to any alteration or relocation of any watercourse.
- b. When Township of Silver Spring proposes to permit the following encroachments: any development that causes a rise in the base flood elevations within the floodway; any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or alteration or relocation of a stream (including but not limited to installing culverts and bridges), the applicant shall (as per 44 CFR Part 65.12):

- 1) apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
  - 2) Upon receipt of the FEMA Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and / or revised floodway reflecting the post-project condition.
  - 3) Upon completion of the proposed encroachments, the applicant shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.
- c. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this section and any other applicable codes, ordinances and regulations.
- d. 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.
- e. Permitted Uses - The following uses and no others are permitted in the Identified Floodplain Area:
- 1) Cultivation and harvesting crops according to recognized soil conservation practices;
  - 2) Pasture and grazing of livestock (including only one- or two-strand wire fences) according to recognized soil conservation practices, and further provided that such livestock shall not be confined to pastures or other enclosures located entirely within the Floodplain Zone;
  - 3) Outdoor plant nursery or orchard according to recognized soil conservation practices;
  - 4) Wildlife sanctuary, woodland preserve, arboretum and passive recreation or parks, including hiking, bicycle and bridle trails, but including no facilities subject to damage by flooding;
  - 5) Game farms, fish hatchery, or hunting and fishing reserve, for the protection and propagation of wildlife, but permitting no structures;
  - 6) Forestry (see Section 304.19), lumbering and reforestation according to recognized natural resources conservation practices;
  - 7) Front, side and rear yards and required lot area of lots existing prior to the adoption of this Ordinance, in any district, provided such yards are not to be used for on-site sewage disposal systems;



- 8) Normal accessory uses (except enclosed structures, freestanding satellite dish antennas, fences and above-ground swimming pools) on lots existing prior to the adoption of this Ordinance, permitted under the applicable zoning district;
- 9) Recreational use, whether open to the public or restricted to private use, such as parks, camps, picnic areas, golf courses, fishing areas, sport or boating clubs, not to include enclosed structures except flood-proof toilet facilities, but permitting piers, docks, floats or unenclosed shelters usually found in developed outdoor recreational areas. Any flood-proof toilet facilities provided shall be connected to public water and sewerage systems;
- 10) Sewage treatment plant, outlet installations for sewage treatment plants and sewage pumping stations with the approval of the Township Authority Engineer, appropriate sewer authorities and the Pennsylvania Department of Environmental Protection, when accompanied by documentation as to the necessity for locating within the boundaries of the Floodplain Zone;
- 11) Sealed public water supply wells with the approval of the Pennsylvania Department of Environmental Protection;
- 12) Dams, culverts, bridges, and altered or relocated watercourses with the approval of appropriate authorities with jurisdiction such as the Commonwealth of Pennsylvania, Department of Environmental Protection; and,
- 13) Sanitary or storm sewers and impoundment basins, with the approval of the Pennsylvania Department of Environmental Protection

## 2. Elevation and Floodproofing Requirements

Within any Identified Floodplain Area any development not listed under Permitted Uses above shall be prohibited. If a variance is obtained for new construction or substantial improvements in the Identified Floodplain Area in accordance with the criteria in Section 219.G, then the following provisions apply:

### a. Residential Structures

- 1) In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation.
- 2) In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation determined in accordance with Section 219.C.2.

- 3) In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
- 4) The design and construction standards and specifications contained in the 2018 International Building Code (IBC) and in the 2018 International Residential Code (IRC) or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

b. Non-residential Structures

- 1) In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation, or be designed and constructed so that the space enclosed below the Regulatory Flood Elevation:
  - a) is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
  - b) has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
- 2) In A Zones, where no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the Regulatory Flood Elevation determined in accordance with Section 219.C.2.
- 3) In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
- 4) Any non-residential structure, or part thereof, made watertight below the Regulatory Flood Elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended in EP 1165-2-314, December 1995) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards. There 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:
  - i. Mechanical equipment such as sump pumps and generators,
  - ii. Flood shields and closures,
  - iii. Walls and wall penetrations, and
  - iv. Levees and berms (as applicable)
- b) Flood Emergency Operation Plan detailing the procedures to be followed during a flooding event, and must include information pertaining to how all components will operate properly under all conditions, including power failures. The design professional must produce the plan. An adequate plan must include the following:
  - i. An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.
  - ii. A procedure for notification of necessary parties when flooding threatens, and flood warnings are issued. Personnel required to be at the building should have a planned and safe means of ingress and should have no other emergency response duties during a flood event. Alternates should be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.
  - iii. A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.
  - iv. An evacuation plan for all personnel or occupants; those without duties for the flood emergency as well as those with duties for implementing the plan. All possible ingress and egress routes must be identified.
  - v. A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials.
- 6) The design and construction standards and specifications contained in the 2018 International Building Code (IBC) and in the 2018 International Residential Code (IRC) or the latest revision thereof as adopted by the Commonwealth of Pennsylvania, and ASCE 24 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 flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
- 2) Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - a) a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space installed on two (2) separate walls.
  - b) the bottom of all openings shall be no higher than one (1) foot above grade.
  - c) openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

3. 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 Section 219.G, then the following provisions apply:

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

b. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

c. Water and Sanitary Sewer Facilities and Systems

- 1) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
- 2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
- 3) No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
- 4) The design and construction provisions of the UCC and FEMA #348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.

d. Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

e. Streets

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

f. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 219.D.4, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.

g. Placement of Buildings and Structures

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

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

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

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

m. Fuel Supply Systems

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

n. Uniform Construction Code Coordination

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

International Building Code (IBC) 2018 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania:

Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2018 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania:

Secs. R104, R105, R109, R322, Appendix E, and Appendix J.

4. 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 variance shall conform to the following provisions:

- 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; or,
- 2) will be used for any activity requiring the maintenance of a supply of more than 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
  - Sulfur and sulfur 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. of this Subsection 4, 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 Section 5.04 (A), above, shall be elevated to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation and built in accordance with Sections 5.01, 5.02 and 5.03.
- d. Where permitted within any Identified Floodplain Area, any new or substantially improved non-residential structure of the kind described in Section 5.04 (A) above, shall be built in accordance with Sections 5.01, 5.02 and 5.03 including:
- 1) elevated, or designed and constructed to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation, and
  - 2) designed to prevent pollution from the structure or activity during the course of 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 (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.



## 5. Special Requirements for Subdivisions and Development

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR). Submittal requirements and processing fees shall be the responsibility of the applicant.

## 6. Special Requirements for Manufactured Homes

- a. Within any Identified Floodplain Area new manufactured homes shall be prohibited.
- b. If any existing manufactured home shall be replaced, reconstructed or expanded by addition thereto, then the manufactured home shall be within any Identified Floodplain Area, all manufactured homes, and any improvements thereto, shall be:
  - 1) placed on a permanent foundation;
  - 2) elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above base flood elevation;
  - 3) and anchored to resist flotation, collapse, or lateral movement.
- c. Equipment requirement:
  - 1) Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation and shall be anchored to resist floatation, collapse, and lateral movement.
  - 2) Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.
- d. Installation of manufactured homes shall be done in accordance with the manufacturers' 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" or the "U.S. 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.
- e. Consideration shall be given to the installation requirements of the 2018 IBC, and the 2018 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 manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

## 7. Special Requirements for Recreational Vehicles

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

### **E. ACTIVITIES REQUIRING SPECIAL PERMITS**

#### **1. General**

In accordance with the administrative regulations originally adopted 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 in consultation with the Department of Environmental Protection as required by the Act, the following activities shall be prohibited within any Identified Floodplain Area unless otherwise permitted in the zoning district in which it is to be sited and a Special Permit has been issued by the Township of Silver Spring in accordance with this section:

- a. The commencement of any of the following uses; 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
- 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.

#### **2. Application Requirements for Special Permits**

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

- a. A written request including a completed Permit Application Form.
- b. A small scale 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 one hundred (100) 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 and lot 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 considers necessary for adequate review of the application.
- d. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:
- 1) sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;
  - 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 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 applicant represents;
  - 2) certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the base flood;

- 3) a statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a base flood, including a statement concerning the effects such pollution may have on human life;
- 4) a statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on base flood elevation and flows;
- 5) a statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the base flood elevation and the effects such materials and debris may have on base flood elevation and flows;
- 6) the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development;"
- 7) 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;
- 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 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.

### 3. Application Review Procedures

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

- a. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Township of Silver Spring Planning Commission and Township of Silver Spring engineer for review and comment.
- b. If an application is received that is incomplete, the Township of Silver Spring shall notify the applicant in writing, stating in what respect the application is deficient.
- c. If the Township of Silver Spring decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.

- d. If the Township of Silver Spring approves an application, it shall file written notification, together with the application and all pertinent information, with the Pennsylvania Emergency Management Agency, by registered or certified mail, within five (5) working days after the date of approval.
- e. Before issuing the Special Permit, the Township of Silver Spring shall allow the Pennsylvania Emergency Management Agency thirty (30) days, after receipt of the notification by the Agency, to review the application and decision made by the Township of Silver Spring.
- f. If the Township of Silver Spring does not receive any communication from the Pennsylvania Emergency Management Agency during the thirty (30) day review period, it may issue a Special Permit to the applicant.
- g. If the Pennsylvania Emergency Management Agency should decide to disapprove an application, it shall notify the Township of Silver Spring and the applicant, in writing, of the reasons for the disapproval, and the Township of Silver Spring shall not issue the Special Permit.

4. Special Technical Requirements

- a. In addition to the requirements of Article V of this section, 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 section 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 BFE.
    - b) the lowest floor (including basement) will be elevated to at least one and one half (1 ½) feet above base flood elevation.
    - c) the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the 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 professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Township of Silver Spring and the Pennsylvania Emergency Management Agency.

## F. EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

### 1. Existing Structures

The following provisions shall apply whenever any improvement is made to an existing structure located within any Identified Floodplain Area:

- a. Any modification, alteration, reconstruction, or improvement of any kind occurring as a result of "cumulative substantial damage," as defined in this section, shall be undertaken only in full compliance with the provisions of this section.
- b. Continuation - All uses or structures lawfully existing in the Floodplain Zone on the effective date of this section, which are not in conformity with the provisions of this section, shall be deemed non-conforming uses or structures. Such non-conforming uses or structures may be continued, maintained, repaired, and flood-proofed, except as prohibited by Sections 219.F.1.c and 219.F.1.e(2), of this Ordinance. However, such non-conforming uses or structures may at any time be improved to comply with existing State or Township health, sanitary, or safety code specifications which are necessary solely to assure safe living conditions;
- c. Abandonment - Non-conforming uses or structures which have been discontinued or vacated for twelve (12) consecutive months shall be considered abandoned. Vacation of land or structures or the non-operative status of the use normally carried on by the property shall be evidence of discontinuance. No abandoned use or structure may be reestablished, repaired, or reoccupied. The Supervisors may require the removal of any abandoned non-conforming use or structure upon prior notice to the owner of the property on which an abandoned non-conforming use or structure exists. If the owner has not completely removed the abandoned use or structure within a reasonable amount of time, not to exceed nine months, the Supervisors shall have the authority to cause the removal to be accomplished, the costs of such removal to be paid by the property owner;
- d. Expansion and Modification - A non-conforming use or structure may not be expanded or modified in any manner, which would increase or aggravate flooding or flood hazards. Nothing shall be done which would otherwise violate any of the provisions of this section. No non-conforming use or structure shall be expanded, enlarged, or altered in any way which increases its non-conformity with respect to height, area, yard, and other requirements established in other sections of this Zoning Ordinance, nor in any way which causes it to occupy more space within the Floodplain Zone that was occupied by it on the effective date of this section;

e. Replacement and Rebuilding:

- 1) A non-conforming use or structure may be replaced, repaired, or rebuilt if it is damaged or destroyed by any means, including floods, to the extent of less than fifty percent (50%) of its fair market value at the time of its damage or destruction. In such a case, however, the non-conformity of the new use or structure with respect to requirements as expressed in provisions of this Zoning Ordinance shall not exceed that of the original use or structure which was damaged or destroyed. Nothing shall be done which would otherwise violate any of the provisions of this section;
  - 2) A non-conforming use or structure which has been damaged or destroyed by any means, including floods, to the extent of fifty percent (50%) or more of its fair market value at the time of its damage or destruction may not be replaced, restored, repaired, reconstructed, improved, or rebuilt in any way other than in complete conformity and full compliance with Section 219.D. and all other sections of this Zoning Ordinance, and all other ordinances of the Township. The Zoning Hearing Board may waive as a special exception, the requirements of this paragraph where it is shown that such requirements could not be met on land owned by the appellant or where such requirements would impose undue hardship to the appellant in the efficient operations of the premises. In such a case, the Zoning Hearing Board shall be authorized to grant only the minimum relief necessary, and the least modification possible of the provisions of this section, while respecting and maintaining the purpose and intent of this section; and,
  - 3) The Floodplain Administrator shall have the initial responsibility of determining the percent of damage or destruction and the fair market value of the damaged or destroyed use or structure at the time of its damage or destruction, and may call on any experts or authorities he may deem necessary to assist him in arriving at a fair and impartial determination. Appeals of the decision of the Zoning Officer may be made to the Zoning Hearing Board.
- f. Historic Structures - The Zoning Hearing Board shall have the right to waive, as a special exception, any of the requirements of Sections 219.F.1.c and 219.F.1.e(2) for any historic structure, as defined herein that would 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;

G. VARIANCES

1. General

The Township of Silver Spring Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements upon an applicant meeting the full burden for a variance and subject to the procedures and conditions of this Subsection G.

## 2. Variance Procedures and Conditions

Requests for variances shall be considered by the Zoning Hearing Board in strict accordance with the procedures and burdens under this Zoning Ordinance and the Municipalities Planning Code and the following:

- a. No variance shall be granted for any construction, development, use, or activity within any Floodway Area/District that would cause any increase in the BFE.
- b. 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 BFE more than one (1) foot at any point.
- c. Except for a possible modification of the Regulatory Flood Elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit pursuant to 219.E or to Development Which May Endanger Human Life pursuant to Section 219.D.4.
- d. If granted, a variance shall involve only the least modification necessary to provide relief.
- e. In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this section.
- f. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:
  - 1) The granting of the variance may result in increased premium rates for flood insurance.
  - 2) Such variances may increase the risks to life and property.
- g. In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:
  - 1) That there is good and sufficient cause.
  - 2) That failure to grant the variance would result in unnecessary hardship to the applicant.
  - 3) That the granting of the variance will
    - a) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
    - b) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.



- h. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent (1%) annual chance flood.

#### H. VIOLATIONS OF THIS SECTION

Any violations under this Section shall be enforceable in accordance with the provisions of this Zoning Ordinance. Additionally, 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.

#### **SECTION 5. Severability**

If any section, subsection, sentence, clause, phrase, provision, or portion of this Ordinance is found to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision. Such decision shall not affect the validity of the remaining portions of this Ordinance.

#### **SECTION 6. Effective Date.**

This Ordinance shall become effective as soon as permissible by law after its enactment by the Board of Supervisors of the Township of Silver Spring, County of Cumberland, Commonwealth of Pennsylvania.

DULY ENACTED AND ORDAINED INTO LAW as Ordinance No. 07 of 2023 this 26<sup>th</sup> day of July 2023.

ATTEST:

SILVER SPRING TOWNSHIP  
BOARD OF SUPERVISORS



Willetta D. Huth, Secretary



Carldon R. Machamer, Chair