

ORDINANCE NO. 2012- 09

AN ORDINANCE OF THE TOWNSHIP OF ROCKLAND, BERKS COUNTY, PENNSYLVANIA, REPEALING ORDINANCE NO. 1997-09, THE ROCKLAND TOWNSHIP FLOODPLAIN MANAGEMENT REGULATIONS; SETTING FORTH STANDARDS FOR DETERMINING IDENTIFIED FLOODPLAIN AREAS WITHIN THE TOWNSHIP; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN ANY IDENTIFIED FLOODPLAIN AREAS OF THE TOWNSHIP; REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES AND CORPORATIONS TO OBTAIN A PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT WITHIN ANY IDENTIFIED FLOODPLAIN AREAS OF THE TOWNSHIP; PROVIDING FOR THE ISSUANCE OF SUCH PERMITS; AND ESTABLISHING PENALTIES FOR ANY PERSONS WHO FAIL TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Rockland, Berks County, Pennsylvania as follows:

Rockland Township Ordinance No. 1997-09, Rockland Township Flood Plain Management Regulations is hereby repealed in its entirety and replaced with a new Ordinance entitled, Rockland Township Floodplain Management Ordinance as follows:

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ARTICLE I – GENERAL PROVISIONS

Section 100 Statutory Authorization

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Board of Supervisors of Rockland Township does hereby order as follows.

Section 101 Intent

The intent of this Ordinance is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with federal and state floodplain management requirements.

Section 102 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 any Identified Floodplain Area within the Township unless in strict conformance with the provisions of this Ordinance and unless a Permit has been obtained from the Floodplain Administrator.

Section 103 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.

Section 104 Severability

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

Section 105 Warning and Disclaimer of Liability

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.

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

ARTICLE II – IDENTIFICATION & REGULATION of FLOODPLAIN AREAS

Section 201 Identification

A. The Identified Floodplain Area shall be:

1. any areas of the Township classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated July 3, 2012 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,
2. any floodplain determined by hydrologic and hydraulic calculations as may be required by this Ordinance.

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

Section 202 Description and Special Requirements of Identified Floodplain Areas

A. The Identified Floodplain Area shall consist of the following specific areas:

1. Zone AE without a designated floodway shall be those areas identified as such on the FIRM included in the FIS prepared by FEMA and for which Base Flood Elevations have been provided in the FIS but no floodway has been delineated.
2. Zone A shall be those areas identified as such on the FIRM included in the FIS prepared by FEMA and for which no Base Flood Elevations (one-percent (1%) annual chance flood) have been provided.

For these areas, elevation and floodway information from other Federal, State, or other acceptable source shall be used when available. Where other acceptable information is not available, the elevation may 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 applicant may be required, as determined by the Rockland Township, to calculate 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. The analysis must be forwarded to FEMA for their review, approval and issuance of the appropriate document (such as a Letter of Map Revision (LOMR), etc.) when the applicant wishes to be designated outside of the identified floodplain area.

3. For subdivisions and land developments see Section 305.

B. Only those uses listed in the EP-1 Floodplain Overlay District of the Rockland Township Zoning Ordinance adopted March 9, 2010, amended December 14, 2010 and as may be amended from time to time shall be allowed within the Identified Floodplain Area.

C. No permit shall be granted for any construction, development, use, or activity within Zone AE without a designated floodway unless:

1. It is an allowed use per the Zoning Ordinance as referenced above, or it is granted a zoning variance, and
2. It is demonstrated that the cumulative effect of the proposed development will not, together with all other existing and anticipated development, increase the BFE at any point.

The applicant must provide hydrologic and hydraulic engineering calculations supporting that there is no increase in BFE. 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. The analysis shall be required to be forwarded to FEMA for their review and comment.

Should there be any increase in BFE, and the necessary relief is granted allowing the construction, development, use or activity, adjoining property owners affected by the increase in BFE shall be notified.

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.

Section 203 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, approval must be obtained from the FEMA. As soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data. Preparation and submittal of all studies and information required by FEMA for changes to the identified floodplain shall be the responsibility of the applicant.

Section 204 Boundary Disputes

Should a dispute concerning any Identified Floodplain Area 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 Rockland Township Zoning Hearing Board. The burden of proof shall be on the appellant.

Section 205 Jurisdictional Boundary Changes

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

ARTICLE III – TECHNICAL PROVISIONS

Section 301 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 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 FEMA and Pennsylvania Department of Community and Economic Development shall be notified prior to any alteration or relocation of any watercourse.

- B. Technical or scientific data shall be submitted by the applicant to FEMA for a Letter of Map Revision (LOMR) as soon as practicable, but within six (6) months of any new construction, development, or other activity resulting in changes in the BFE. The situations when a LOMR or a Conditional Letter of Map Revision (CLOMR) are required are:
1. Any development occurring in Zone AE without a designated floodway which will cause a rise of more than one (1) foot in the Base Flood Elevation; or
 2. Any revision or modification to the boundary of the Identified Floodplain Area; or
 3. Alteration or relocation of a stream (including but not limited to installing culverts and bridges).

Section 302 Elevation and Floodproofing Requirements

If the necessary relief is granted to allow a structure within the Identified Floodplain Area, as required by this Ordinance and/or the Zoning Ordinance, then the following requirements shall apply:

A. Residential Structures

1. In Zone AE without a designated floodway, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation. The Regulatory Flood Elevation is the Base Flood Elevation plus a safety factor of 1 ½ feet.
2. In Zone A, 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 which is the Base Flood Elevation determined in accordance with subsection 202.A.2 & 305.A of this ordinance plus 1 ½ feet.
3. The design and construction standards and specifications contained in the latest adopted Pennsylvania version of the International Building Code and the International Residential Code as amended, shall be utilized.

B. Non-residential Structures

1. In Zone AE without floodway, 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 Zone A, 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 or completely floodproofed up to, or above, the Regulatory Flood Elevation which is the Base Flood Elevation determined in accordance with subsection 202.A.2 & 305.A of this ordinance plus 1 ½ feet.
3. Any non-residential structure, or part thereof, made watertight below the Regulatory Flood Elevation shall be floodproofed in accordance with the WI 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 March 1992) 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.
4. The design and construction standards and specifications contained in the latest adopted Pennsylvania versions of the International Building Code and the International Residential Code as amended shall be utilized.

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.
 - 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

See subsection 802.35 for requirements for the substantial improvement of any historic structures.

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 200 square feet.
3. The structure will have a low damage potential.
4. The structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
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 or movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - b. The bottom of all openings shall be no higher than one (1) foot above grade.
 - c. Openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

Section 303 Design and Construction Standards

If the necessary relief is granted to allow structures or other development within the Identified Floodplain Area, as required by this Ordinance and/or the Zoning Ordinance, then the following minimum standards shall apply:

- A. Fill shall be prohibited in the Identified Floodplain Area.
 1. If the necessary relief is granted and 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 insure 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. Any part of an on-site sewage system shall be prohibited within any Identified Floodplain Area. 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 304, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or flood proofed 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

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.

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 of the latest adopted Pennsylvania versions of the International Building Code and International Residential Code as amended shall apply to the above and other sections and sub-sections of this ordinance, to the extent that they are more restrictive and supplement the requirements of this ordinance.

Section 304 Development Which May Endanger Human Life

In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development 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 prohibited in identified floodplain areas.

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.

Section 305 Special Requirements for Subdivisions

- A. All subdivision proposals establishing any new buildable lots or dwelling units and all other types of development proposals in Identified Floodplain Areas classified as SFHAs in the FIS and accompanying FIRMs shall provide hydrologic and hydraulic engineering analyses that determine Base Flood Elevations and floodway information as applicable. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. FEMA submittal requirements and processing fees shall be the responsibility of the applicant.
- B. For subdivision proposals establishing any new buildable lots or dwelling units and for all land development proposals that contain a watercourse with a watershed area greater than or equal to one hundred (100) acres, but for which there is no Identified Floodplain Area classified as SFHAs in the FIS and accompanying FIRMs, BFEs shall be determined by hydrologic and hydraulic engineering analyses. The calculated floodplain shall be delineated based upon the following criteria:
1. The horizontal and vertical limits of the floodplain shall be determined by the Standard Step Method (i.e., HEC-RAS or similar approved computer model). Where approved by the Township Engineer, the Manning Equation may be used for relatively small drainage areas.
 2. The applicant shall submit an electronic version of the calculations.
 3. The design flow used to determine the floodplain shall be based on the methods in Technical Release No. 55, "Urban Hydrology for Small Watersheds", latest edition or other approved computer model.

Relief for this subsection of this Ordinance shall be in accordance with the procedures provided by the Rockland Township Subdivision and Land Development Ordinance.

Section 306 Special Requirements for Manufactured Homes

- A. Within identified floodplain areas, manufactured homes shall be prohibited.

- B. Should relief from subsection A above be granted, as required by this Ordinance and/or the Zoning Ordinance, 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 feet (1 ½) above the Base Flood Elevation, and
 3. anchored to resist flotation, collapse, or lateral movement.
 4. 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 the latest adopted Pennsylvania version of the 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 shall apply and 34 PA Code Chapter 401-405.
 5. Consideration shall be given to the Standards and Specifications of the latest adopted Pennsylvania versions of the International Building Code and International Residential Code, as amended where appropriate and applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the units(s) proposed installation.

Section 307 Special Requirements for Recreational Vehicles

- A. Recreational vehicles are prohibited in Identified Floodplain Areas.
- B. Should relief from subsection A above be granted, as required by this Ordinance and/or the Zoning Ordinance, recreational vehicles in Identified Floodplain Areas must either:
1. be on the site for fewer than 180 consecutive days,
 2. be fully licensed and ready for highway use, or
 3. meet the permit requirements for manufactured homes in Section 306.

ARTICLE IV – PROHIBITED ACTIVITIES

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any identified floodplain area:

- 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.

ARTICLE V – EXISTING STRUCTURES IN FLOODPLAIN AREAS

Section 501 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 Section 502 shall apply.

Section 502 Improvements

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

- A. No expansion or enlargement of an existing structure shall be allowed within any Identified Floodplain Area that would, together with all other existing and anticipated development, increase the BFE at any point.
- B. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
- C. The above activity shall also address the requirements of the latest adopted Pennsylvania version of the International Building Code and International Residential Code as amended.
- D. Alteration, construction or improvement of any kind to an existing structure, to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

ARTICLE VI – ADMINISTRATION

Section 601 Designation of the Floodplain Administrator

The Zoning Officer is hereby appointed to administer and enforce this Ordinance and is referred to herein as the Floodplain Administrator.

Section 602 Permit Required

A permit (building and/or zoning) shall be required before any construction or development is undertaken within any Identified Floodplain Areas of the Township.

Section 603 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, the Zoning 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 U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. If a permit is issued, 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. The Floodplain Administrator or other authorized official shall make as many inspections during and upon completion of the work as are necessary.
- D. In the discharge of their 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.
- E. 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.
- F. The Floodplain Administrator shall maintain all records associated with the requirements of this ordinance including, but not limited to, permitting, inspection and enforcement. Permanent copies of all records shall be maintained by Rockland Township.
- G. The Floodplain Administrator shall consider the standards and specifications of the latest adopted Pennsylvania versions of the International Building Code and the International Residential Code as amended.

Section 604 Application Procedures and Requirements

- A. Application for a permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Township. Such application shall contain the following:
1. Name and address of applicant.
 2. Name and address of owner of land on which proposed construction or development is to occur.
 3. Name and address of contractor.
 4. Site location including address.
 5. Listing of other permits required.
 6. Statement of proposed use.
 7. Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building, if any, before the flood damage occurred where appropriate.
 8. A plan of the site showing the exact size and location of the proposed construction or development 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 applicable and necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
1. The use is an allowed use per this Ordinance and per the Rockland Township Zoning Ordinance, Floodplain Overlay District.
 2. All proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
 3. All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
 4. Adequate drainage is provided so as to reduce exposure to flood hazards.
 5. Structures will be anchored to prevent floatation, collapse, or lateral movement.
 6. Building materials are flood-resistant.
 7. Appropriate practices that minimize flood damage have been used.

8. 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 as applicable, 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, drives, 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.
 3. Plans, as may be applicable, 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 Base Flood Elevation;
 - c. supplemental information as may be necessary under the standards and specifications of the latest adopted Pennsylvania versions of the International Building Code and the International Residential Code as amended.
 4. The following data and documentation as may be applicable:
 - a. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a Base Flood;
 - b. detailed information concerning any proposed floodproofing measures and corresponding elevations:
 - c. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Zone without a designated floodway (identified per Section 202.A.1) when combined with all other existing and anticipated development, will not increase the Base Flood Elevation at any point;

- d. 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;

- e. detailed information needed to determine compliance with Section 303.F., Storage, and Section 304, Development Which May Endanger Human Life, including:
 - i. the amount, location and purpose of any materials or substances referred to in Sections 303.F and 304 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 304 during a Base Flood;
- f. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development.";
- g. 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 as established by Resolution from time to time.

Section 605 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.

Section 606 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, the date of its issuance, and be signed by the Floodplain Administrator.

Section 607 Start of Construction

Work on the proposed construction and/or development shall begin within 180 days after the date of issuance and shall 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 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, which sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request.

Section 608 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.

Section 609 Enforcement

A. Notices

Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. be in writing;
2. include a statement of the reasons for its issuance;
3. allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;

4. be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State; and
5. contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this Ordinance.

B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of a misdemeanor and upon conviction shall pay a fine to Rockland Township of not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1000.00) 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 and 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 Board of Supervisors to be a public nuisance and abatable as such.

Section 610 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 Rockland Township Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.
- B. Upon receipt of such appeal the Zoning Hearing Board shall set a time and place, within not less than ten (10) and not more than thirty (30) days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.
- C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief there from by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

ARTICLE VII – VARIANCES

Section 701 General

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

Section 702 Variance Procedures and Conditions

Requests for variances shall be considered by the Rockland Township Zoning Hearing Board in accordance with the procedures contained in Section 604 and the following:

- A. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the BFE.
- B. No variance shall be granted for any construction, development, use, or activity within any Identified Floodplain Area that would, together with all other existing and anticipated development, increase the BFE 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 (Article IV – Prohibited Activities) or to Development Which May Endanger Human Life (Section 304).
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any variance, Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.
- F. 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 exceptional hardship to the applicant.
 3. That the granting of the variance will
 - a. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
 - b. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- G. 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.

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.

ARTICLE VIII – DEFINITIONS

Section 801 General

1. Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its most reasonable application.
2. Definitions of specific terms contained in other Ordinances of Rockland Township are hereby incorporated.

Section 802 Specific Definitions

1. 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 1% annual chance flood).
2. 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).
3. 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.
4. Basement - any area of the building having its floor below ground level on all sides. (This definition applies to this Ordinance rather than the definition contained in the Zoning Ordinance.)
5. 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.

6. 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.
7. Existing structure - means a structure for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. “Existing structure” may also be referred to as “existing construction.”
8. 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).
9. Flood - a temporary inundation of normally dry land areas.
10. 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.
11. 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.
12. 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.
13. 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.
14. Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the Base Flood without cumulatively increasing the water surface elevation more than one foot.
15. Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
16. Historic structures - any structure that is:
 - a. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- b. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic Rockland or a Rockland preliminarily determined by the Secretary to qualify as a registered historic Rockland;
 - c. individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
 - d. individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
 - i. by an approved state program as determined by the Secretary of the Interior, or
 - ii. directly by the Secretary of the Interior in states without approved programs.
17. Identified Floodplain Area - see Section 201
18. Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this ordinance.
19. Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days. (This definition applies to this Ordinance rather than the definition contained in the Zoning Ordinance.)
20. Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
21. Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exit way requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.
22. New construction - structures for which the start of construction commenced on or after July 3, 2012 adopted by the community and includes any subsequent improvements to such structures. Any construction started after September 2, 1988 and before July 3, 2012 is subject to the ordinance in effect at the time the permit is issued, provided the start of construction is within 180 days of permit issuance.

23. New manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
24. Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.
25. Post-FIRM Structure - is a structure for which construction or substantial improvement occurred on or after the community's initial Flood Insurance Rate Map (FIRM) dated September 2, 1988 and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.
26. Pre-FIRM Structure - is a structure for which construction or substantial improvement occurred on or before the community's initial Flood Insurance Rate Map (FIRM) dated September 2, 1988 and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.
27. Recreational vehicle - a vehicle which is:
 - a. built on a single chassis;
 - b. not more than 400 square feet, measured at the largest horizontal projections;
 - c. designed to be self-propelled or permanently towable by a light-duty truck,
 - d. not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
28. Regulatory Flood Elevation - the Base Flood Elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1 ½) feet.
29. Special permit - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.
30. 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.

31. 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 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 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/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.
32. Structure - a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. (This definition applies to this Ordinance rather than the definition contained in the Zoning Ordinance.)
33. Subdivision - the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.
34. 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.
35. Substantial improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which 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" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this ordinance, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation.

36. Township – Township of Rockland, Berks County, Pennsylvania
37. Uniform Construction Code (UCC) – the statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
38. Violation - means the failure of a structure or other development to be fully compliant with the community's flood plain 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 IX – ENACTMENT

Section 901 Adoption

This Ordinance shall be effective on July 3, 2012 and shall remain in force until modified, amended or rescinded by Rockland Township, Berks County, Pennsylvania.

ENACTED AND ADOPTED by the Board of Supervisors of Rockland Township, Berks County, Pennsylvania this 12th day of June, 2012.

ATTEST:

BOARD OF SUPERVISORS
TOWNSHIP OF ROCKLAND

Karen K. Krall
Rockland Township Secretary

Russell W. Coffin, Chairman

Harold K. Meadway, Vice Chairman

Terry L. Fegley, Member