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Flood Plain Management Regulations

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Title 12 Commerce, Trade and Local Government

Chapter 113 Part V Community Affairs and Development

Section 113.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Act – The Pennsylvania Flood Plain Management Act (32 P.S. § § 679.101 679.601).

Department – The Department of Community and Economic Development of the Commonwealth.

Development – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

FEMA – The Federal Emergency Management Agency, successor to the United States Department of Housing and Urban Development, Federal Insurance Administration.

Flood – A general, but temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers, or other waters of this Commonwealth.

Flood-fringe area – That portion of the 100-year flood plain outside of the area.

Flood hazard area – The 100-year floodway and that maximum area of land that is likely to be flooded by a 100-year flood, as shown on the flood plain maps provided by FEMA.

Flood plain management – The operation of a program or activities which may consist of both corrective and preventive measures for reducing flood damage, including but not limited to such things as emergency preparedness plans, flood control works, and flood plain management regulations.

Flood plain management regulations – Zoning ordinances, subdivision and land development regulations, building codes, health regulations, special purpose ordinances, and other applications of the police power. The term describes such State or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing – Structural or other changes or adjustments to properties or obstructions for the reduction or elimination of flood damages to such properties and obstructions, or to the contents of any structure.

Floodway – The portion of the flood plain, including the watercourse itself and any adjacent land area, that must be kept open in order to carry the water of a 100-year flood. At a minimum, any floodway must be large enough to carry the water of the 100-year flood without causing an increase of more than one foot in the elevation of the existing 100-year flood.

Freeboard – A margin of safety, expressed in feet above the 100 year flood elevation.

Identified municipality – A municipality which has been formally notified by FEMA that it has been identified as having an area or areas subject to flooding.

Mobile home – A transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. The term does not include recreational vehicles or travel trailers.

Municipality – A city, borough, town, township, or any similar general purpose unit of government, or county or other governmental unit when acting as an agent thereof, or any combination thereof acting jointly.

New mobile home park or mobile home subdivision – A parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including at a minimum, the installation of utilities, either final site grading, or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of the flood plain management regulations adopted by a municipality.

Obstruction – Any structure or assembly of materials including fill above or below the surface of land or water, and an activity which might impede, retard or change flood flows. The planting, cultivation and harvesting of field and orchard crops or the grazing of livestock, including the maintenance of necessary appurtenant agricultural fencing, shall not be considered an “obstruction” under this definition and shall not be subject to regulation under this chapter.

100-year flood – The highest level of flooding that, on the average, is likely to occur every 100-years, that is, that has a 1% chance of occurring each year.

100-year flood plain or flood plain – The 100-year floodway and that maximum area of land that is likely to be flooded by a 100-year flood as shown on the flood plain maps provided by FEMA to the municipality.

Pollution – The contamination of any waters of the Commonwealth such as will create or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, municipal, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, including but not limited to such contamination by alteration of the physical, chemical or biological properties of such waters, or change in temperature, taste, color or odor thereof, or the discharge of any liquid, gaseous, radioactive, solid or other substances into such waters.

Program – The National Flood Insurance Program.

Special Permit – A special exception. For the purposes of this chapter, the term “special permit” is being substituted for the term “special exception” as used in section 301 of the act (32 P.S. §679.301). A special permit is required for the uses and activities listed in section 38.6 of this chapter (relating to regulation of particular obstructions).

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

Substantial additions to mobile home parks – Any repair, reconstruction or improvement of an existing mobile home park or mobile home subdivision, where such repair, reconstruction, or improvement of the streets, utilities, and pads will equal or exceed 50% of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement is started.

Substantial improvements – Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started, or, if the structure has been damaged and is being restored before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor,

or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration to a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

Watershed – The entire region or area drained by a river or other body of water, whether natural or artificial.

Section 113.2 Purpose and intent.

- (a) The basic purpose of the act, as set forth in section 103 of the act (32 P.S. § 679.103), and of this chapter, is to:
 - (1) Encourage planning and development in flood plains which are consistent with sound land use practices.
 - (2) Protect people and property in flood plains from the dangers and damage of floodwaters and from materials carried by such floodwaters.
 - (3) Prevent and eliminate urban and rural blight which results from the damages of flooding.
 - (4) Authorized a comprehensive and coordinated program of flood plain management, based upon the program, designed to preserve and restore the efficiency and carrying capacity of the streams and flood plains of the Commonwealth.
 - (5) Assist municipalities in qualifying for the program.
 - (6) Provide for and encourage local administration and management of flood plains.
 - (7) Minimize the expenditure of public and private funds for flood control projects and for relief, rescue and recovery efforts.
- (b) This chapter is intended to set forth procedures and requirements to be followed by the State and local municipalities in carrying out the various duties and responsibilities assigned to each by the act so as to avoid unnecessary expenditures of time, effort, and money, thereby making all flood plain management activities undertaken within this Commonwealth as effective and beneficial as possible.
- (c) The standards and requirements of the program and the act concerning flood plain management are minimal only. The act specifically states that it contains no provisions that limit the powers of any municipality from adopting more restrictive codes, ordinances, and regulations concerning the management of its flood-prone areas.
- (d) A good program of flood plain management involves more than simply meeting the minimum Federal and State requirements. The Department will be available to assist any interested municipality in developing a better management program.

Section 113.3. Municipal participation in the program.

- (a) Each identified municipality is required by the act to gain eligibility to participate in the program within six months of the effective date of the act, or six months from the date of notification by FEMA that it has been identified as having an area or areas subject to flooding, whichever is first. Such eligibility is gained by submitting an application to FEMA requesting acceptance into the program.
- (b) The Department will contact all identified municipalities not participating in the program, for the purpose of bringing to their attention the fact that participation is required by the act, and to offer technical assistance to help the municipality apply for eligibility to participate in the program.

- (c) Application forms, information, and assistance may be obtained from any regional office of the Department.
- (d) When the Department receives notification from FEMA that FEMA has approved an application for eligibility to participate in the program from a municipality, the Department will notify the appropriate county planning commission.

Section 113.4. Adoption of flood plain management regulations by identified municipalities.

- (a) Each identified municipality is required by the act to adopt flood plain management regulations which, at a minimum, comply with the requirements of the program, the act, and this chapter. The act requires adoption of the required regulations by a municipality within six months after the date of receipt from FEMA of a Flood Hazard Boundary Map or Flood Insurance Study.
- (b) All municipalities required to adopt flood plain management regulations will be notified by the Department and requested to forward a copy of the adopted regulations and any amendments thereto to FEMA for approval in accordance with the requirements of the program. Two copies of the regulations and any amendments thereto shall also be forwarded to the appropriate regional office of the Department, for its review and approval in accordance with the requirements of the act and this chapter.
- (c) The Department will, in consultation with the Department of Environmental Protection, review all such required flood plain management regulations, and will notify each municipality of its approval or disapproval of the regulations within 30 days of receipt of the regulations by the Department. If the regulations are not approved by the Department, the Department will explain in what ways they are deficient and what must be done in order to correct the deficiencies. A copy of such notification shall also be sent to the appropriate county planning commission. In addition, the Department will offer the technical assistance the municipality may need in order to correct the deficiency.
- (d) When the Department receives notification from FEMA that FEMA has approved the regulations for a municipality, the Department will notify the appropriate county planning commission.

Section 113.5. Municipal loss of eligibility to participate in the program.

- (a) If a municipality is suspended or loses its eligibility to participate in the program for any reason, it is required by the act to regain such eligibility from FEMA within 90 days of the date of suspension or loss of eligibility.
- (b) Whenever a municipality receives notice from FEMA that it is being suspended from the program, the Department will offer to provide whatever technical assistance the municipality may need in order to regain its program eligibility.
- (c) In regaining its eligibility, a municipality shall send the requested number of copies of all required information and documentation to FEMA, and two copies to the appropriate regional office of the Department for its information and review.
- (d) When the Department receives a notification from FEMA that a municipality has regained eligibility to participate in the program, the Department will notify the appropriate county planning commission.

Section 113.6. Regulation of particular obstructions.

- (a) The Department is required by section 301 of the act (32 P.S. § 679.301) to publish a list of certain obstructions which present a special hazard to the health and safety of the public or occupants, or may result in significant pollution, increased flood levels or flows, or debris endangering life and property, when such obstructions are located in all or a designated portion of a flood plain. The construction, enlargement, or expansion of any structure, or commencement of any activity listed as a special hazard shall be prohibited in a flood plain, unless a special permit has been issued for the proposed construction or activity.
- (b) In accordance with section 301 of the act (32 P.S. § 679.301), the following list of obstructions and activities which present special hazards in flood plains is included in this chapter:
 - (1) Hospitals - public or private;
 - (2) Nursing homes - public or private;
 - (3) Jails; and
 - (4) New mobile home parks and mobile home subdivisions, and substantial improvements to such existing parks and subdivisions.
- (c) No construction, enlargement, or expansion of any of the obstructions, or commencement of any of the activities listed in subsection (b) of this section shall be undertaken unless a special permit has been issued to the applicant either by the municipality within which the use or activity is proposed, or by the Department, whichever is applicable.
- (d) Municipalities which administer flood plain management regulations, and which are in compliance with the requirements of the act and this chapter, may issue special permits.
- (e) If a municipality has been notified by the Department that it is in violation of the act or this chapter, it shall not issue special permits. A municipality that has been notified by the Department that it is in violation of this chapter and therefore not authorized to issue special permits may forward applications for special permits to the Department for review and approval.
- (f) Application procedures for special permits shall be as follows:
 - (1) In municipalities issuing special permits, the following procedures shall apply:
 - (i) Applications shall be submitted to the municipality for review and processing in accordance with all the applicable procedures and requirements of the municipality and of subsection (g) of this section.
 - (ii) If a municipality receives an application which is incomplete it shall notify the applicant in writing, stating in what respects the application is deficient.
 - (iii) Upon receipt of a completed application, the municipality shall forward a complete copy of the application to the county planning commission for its information, review, and comment, by registered or certified mail, within three working days following receipt of the complete application. The county may send any comments it may have concerning the application to the municipality and Department.
 - (iv) When a municipality approves an application for a special permit it shall file written notice of such approval, together with the application and all pertinent information, with the Department within five working days after approval, by registered or certified mail.

- (v) The special permit shall not become effective until 30 days after the notice has been received by the Department, unless the Department disapproves the special permit.
 - (vi) The Department shall review the application and communicate its decision or any comments to the municipality and county planning commission within 30 days after it has received the notice, or the Department will forfeit its right to do so.
 - (vii) Review by the Department will be limited to checking for compliance with the requirements of the act and this chapter.
 - (viii) If the special permit is disapproved by the Department, it will notify the municipality and applicant in writing, by registered or certified mail, of its reasons for the disapproval.
- (2) When a municipality is not authorized to issue special permits and it forwards an application to the Department for review and approval, the following procedures shall apply:
- (i) Applications shall be forwarded to the Governor’s Center for Local Government Services, Department of Community and Economic Development, Harrisburg, Pennsylvania 17120. A completed application shall consist of all the items specified in subsection (g) of this section.
 - (ii) Upon receipt of a completed application, the Department will forward a copy of the application and all pertinent information to the county planning commission for its review and comment, by registered or certified mail, within three working days following receipt of the completed application. The county planning commission shall have 30 days from the date of receipt of the application to submit any comments to the Department.
 - (iii) The Department will either approve or disapprove the application and send written notification of its decision to the applicant within 45 days following receipt of the application. The Department will also send written notification to the municipality and county planning commission, within five days, of the determination the Department makes concerning all applications it receives for special permits.
 - (iv) If the Department receives an application which is incomplete, it will send written notification to the applicant, within five working days after the Department receives the incomplete application, stating in what respects the application is deficient.
- (g) Applications for special permits shall consist of five copies of the following items:
- (1) A written request including a completed application form.
 - (2) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
 - (i) north arrow, scale and date;
 - (ii) a map, which may be drawn at a smaller scale, of the general area of the municipality, which provides enough information to enable a person who is unfamiliar with the municipality to accurately determine the location of the site or property involved;
 - (iii) topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of two feet;
 - (iv) all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;

- (v) the location of all existing streets, drives, other accessways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
 - (vi) 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;
 - (vii) the location of the flood plain boundary line, information and spot elevations concerning the 100-year flood elevations, and information concerning the flow of water including direction and velocities;
 - (viii) a general plan of the entire site accurately showing the location of all proposed buildings, structures, utilities, and any other improvements; and
 - (ix) any other information which the municipality considers necessary for adequate review of the application.
- (3) Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:
- (i) sufficiently detailed architectural or engineering drawings including floor plans, sections, and exterior building elevations, as appropriate;
 - (ii) the proposed finished floor elevations of any proposed building;
 - (iii) complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the 100-year flood;
 - (iv) detailed information concerning any proposed floodproofing measures;
 - (v) cross-section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
 - (vi) profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
 - (vii) plans and profiles of all proposed sanitary and storm sewer systems water supply systems, and any other utilities and facilities.
- (4) The following data and documentation:
- (i) certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
 - (ii) certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the 100-year flood;
 - (iii) 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 100-year flood, including a statement concerning the effects such pollution may have on human life;
 - (iv) 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 100-year flood elevations and flows;

- (v) 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 100-year flood elevation and the effects such materials and debris may have on 100-year flood elevations and flows;
 - (vi) the appropriate component of the Department of Environmental Protection “Planning Module for Land Development”;
 - (vii) 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;
 - (viii) any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under section 302 of the act (32 P.S. §679.302); and
 - (ix) an evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a 100-year flood.
- (h) No application for a special permit will be approved by either a municipality or the Department unless it can be determined that the structure or activity will be located, constructed, and maintained in a fashion which will:
- (1) Protect the health and safety of the public and occupants. At a minimum, all new structures shall be designed, located, and constructed so that:
 - (i) the structure will survive inundation by waters of the 100-year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the 100-year flood level;
 - (ii) the first-floor elevation will be at least 1½ feet above the 100-year flood elevation; and
 - (iii) the occupants of the structure can be safely evacuated at any time during a 100-year flood.
 - (2) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.
 - (3) Comply with the requirements of the program.
- (i) A municipality issuing Special Permits may, upon request from an applicant, consider the possibility of modifying the free board requirement of subsection (h) (1) (ii) of this section, provided that the applicant can demonstrate, and the municipality can determine:
- (1) That there are unique physical circumstances, including such as exceptional topographical, or other existing natural or man-made conditions peculiar to the property.
 - (2) That because of such physical circumstances and conditions, the proposed substantial improvement cannot be reasonably designed and constructed in compliance with the provisions of the applicable requirements, and that a reduction is therefore necessary.
 - (3) That failure to grant the request will result in exceptional hardship to the applicant.
 - (4) That approval of the request will not result in increased flood heights within any designated floodway.
 - (5) That approval of the request will not result in any additional threat to public health and safety, or result in any extraordinary public expense, or create any nuisance.

- (6) That approval of the request will not result in any conflict with any other applicable laws or regulations.
- (j) In approving a request for a reduction in the required freeboard, a municipality shall:
 - (1) Authorize the least reduction necessary to provide relief.
 - (2) Notify the applicant in writing that approval of the request will; (result in increased premium rates for flood insurance; and (ii) increase risks to the structure, its contents, and occupants. Such notification shall be included with the municipal records, as required in paragraph (3) of this section.
 - (3) Maintain a complete record of all requests which have been approved authorizing reductions in freeboard.
 - (4) Report all such requests which have been approved in its annual report to the Department.

Section 113.7. Development which may endanger human life.

- (a) Section 207 of the act (32 P.S. § 679.207) requires the Department to prohibit the construction or substantial improvement of structures which may endanger human life within any area which has been determined to be a flood hazard area by the Environmental Quality Board.
- (b) The flood plain management regulations adopted by municipalities shall include provisions regulating the construction or substantial improvement of any structure located within a flood hazard area, which will be used for the production or storage of any material or substance listed in subsection (c) of this section, or which will be used for any activity requiring the maintenance of a supply - more than 550 gallons or other comparable volume - of any such materials or substances on the premises, or which will involve the production, storage, or use of any amount of radioactive substances. Such regulations adopted by municipalities shall require at a minimum the following:
 - (1) That within any flood hazard area as determined by the Environmental Quality Board, except for any delineated area, such construction or substantial improvement shall be prohibited unless it is elevated, or floodproofed to remain dry, up to at least 1½ feet above the 100-year flood elevation.
 - (2) That within any delineated floodway area, such construction or substantial improvement shall be prohibited.
- (c) The following list of materials and substances shall be considered dangerous to human life:
 - (1) Acetone
 - (2) Ammonia
 - (3) Benzene
 - (4) Calcium carbide
 - (5) Carbon disulfide
 - (6) Celluloid
 - (7) Chlorine
 - (8) Hydrochloric acid
 - (9) Hydrocyanic acid

- (10) Magnesium
 - (11) Nitric acid and oxides of nitrogen
 - (12) Petroleum products—gasoline, fuel oil, and the like
 - (13) Phosphorous
 - (14) Potassium
 - (15) Sodium
 - (16) Sulphur and sulphur products
 - (17) Pesticides (including insecticides, fungicides, and rodenticides)
 - (18) Radioactive substances insofar as such substances are not otherwise subject to regulation
- (d) A municipality which is in compliance with the act and this chapter, may, upon request from an applicant, consider the possibility of modifying the freeboard requirement for the kind of development regulated by this section, provided that the applicant can demonstrate, and municipality can determine:
- (1) That there are unique physical circumstances, including such things as exceptional topographical, or other existing natural or man-made conditions peculiar to the property.
 - (2) That because of such physical circumstances and conditions, the proposed development cannot be reasonably designed and constructed in compliance with the applicable requirements, and that a modification is therefore necessary.
 - (3) That failure to grant the requested modification will result in exceptional hardship to the applicant.
 - (4) That approval of the request will not result in any increased flood heights within any designated floodway.
 - (5) That approval of the request will not result in any additional threat to public health and safety, or result in any extraordinary public expense, or create any nuisance.
 - (6) That approval of the request will not result in any conflict with any other applicable laws or regulations.
- (e) In approving a request for a reduction in the required freeboard, a municipality shall:
- (1) Authorize the least reduction necessary to provide relief.
 - (2) Notify the applicant in writing that approval of the request will: (i) result in increased premium rates for flood insurance; and (ii) increase risks to the structure, its contents, or occupants. Such notification shall be included with the municipal records, as required below.
 - (3) Maintain a complete record of all requests which have been approved, authorizing reductions in freeboard.
 - (4) Report all such requests which have been approved in its annual report to the Department.

Section 113.8. Coordination and uniform enforcement of municipal flood plain management regulations.

- (a) Section 205 of the act (32 P.S. § 679.205) requires the Department to adopt regulations establishing certain criteria and standards for the coordination and uniform enforcement of municipal flood plain management regulations. In order to carry out this responsibility, the following criteria, standards, and requirements are established:
- (1) As municipalities develop their individual flood plain management plans, programs and regulations, consideration shall be given to the comprehensive planning and land use activities being undertaken by other municipalities within the watershed.
 - (2) The flood plain management plans, programs, and activities undertaken by individual municipalities within a watershed shall be coordinated and compatible with the needs and circumstances of the watershed generally, and with any flood plain management or storm water management plan which has been adopted by any group of municipalities, county, or river basin commission.
 - (3) The technical aspects and requirements of the flood plain management regulations enacted by individual municipalities within a particular watershed shall be coordinated and compatible with those of other municipalities within the watershed.
 - (4) Flood plain delineations shall be continuous from one adjacent municipality to another and coordinated throughout the watershed.
 - (5) At a minimum, the flood plain management regulations of municipalities shall apply to the following kinds of construction and development activities within areas subject to the 100-year flood:
 - (i) completely new buildings or structures;
 - (ii) substantial improvements to existing buildings or structures; and
 - (iii) any man-made change to improved or unimproved real estate, including but not limited to such things as filling, grading, paving, excavation, mining, dredging, or drilling operations.
 - (6) The flood plain management regulations enacted by municipalities shall be thoroughly and equitably administered by each municipality or combination of municipalities.
 - (7) All identified municipalities shall forward a complete set of their up-to-date flood plain management regulations to the Department and county planning commission and shall also notify the Department and county planning commission of any future changes or amendments to those regulations within 30 days following the date any change or amendment is enacted.
 - (8) All identified municipalities shall forward an annual report to the appropriate regional office of the Department. The report shall be on forms provided by the Department. In addition, the Department may require other pertinent information that it considers necessary in order to satisfactorily carry out its responsibilities.
- (b) Where the flood plain management regulations or activities of a municipality are uncoordinated or inconsistent with those of another municipality, the Department will be available to assist with the resolution of the situation. Where two or more municipalities are unable to reconcile any such problems or differences, the Department will make a final determination which will be based upon the needs and circumstances of the municipalities involved and of the watershed generally. In those

instances when the Department must assist with the resolution of any problems or differences, it shall notify the appropriate county planning commission(s) for any information and assistance it may be able to provide.

Section 113.9. Inspections.

- (a) Sections 402 and 403 of the act (32 P.S. § § 679.402 and 679.403) give municipalities and the Department the authority to investigate complaints, enter upon land for the purpose of surveying floodplains, enter any land in a flood plain for the purpose of ascertaining the location and condition of obstructions, and to enter land or, while under construction, any structure located in a flood plain, for the purpose of ascertaining the compliance or noncompliance with any applicable flood plain management regulations.
- (b) No employe or agent of the Department will undertake any of the activities listed in subsection (a) of this section except in accordance with the following:
 - (1) The municipality within which the activity is to occur shall be given prior notification of the activity, at least 24 hours in advance.
 - (2) The owner or occupant, or both, of a premises shall be given prior notice of the activity at least 24 hours in advance.
 - (3) The activities shall take place only during normal weekday business hours unless other suitable arrangements are made.
 - (4) The individual conducting the inspection shall present his Department employe identification card prior to the inspection, and upon request during the inspection.
- (c) Whenever an agent or employe of the Department or a municipality has been refused access to property for the purposes of conducting a survey or inspection, or reasonably requires access to such property without prior notice to the owner, such agent or employe may apply for an inspection warrant to any Commonwealth official authorized by law to issue a search or inspection warrant, to enable him to have access and inspect such property. It shall be sufficient probable cause to issue an inspection warrant that the inspection is necessary to properly enforce the provisions of the act and this chapter.

Section 113.10. Enforcement by the Department and appeals.

- (a) When the Department finds that a municipality has failed to comply with any of the requirements of the act or any regulations adopted by the Department pursuant thereto, the following procedures shall apply:
 - (1) The Department shall send a written notice of violation to the municipality by registered or certified mail. The notice shall state the nature of the violation and what the municipality must do in order to correct the violation.
 - (2) Within 60 days of receipt of the notice of violation, the municipality shall report to the Department the action which the municipality is taking to comply with the requirement or regulations.
 - (3) If the municipality has failed to comply with such requirement or regulation within 180 days of the receipt of the notice of violation, the Department will notify the State Treasurer, who shall hold in escrow all funds payable to the municipality from the General Fund, or any other fund.
 - (4) When a municipality achieves or regains compliance, the Department will notify the State Treasurer accordingly, within three working days after the Department has been notified or has determined that such compliance has occurred.

- (b) The Department may also enforce any violation of the act or this chapter by instituting a civil action to restrain, prevent, or abate such violation.
- (c) Any person aggrieved by any action of the Department shall have the right to appeal such action and request a hearing in accordance with 2 Pa. C.S. § § 501- 508 and 701 - 704. Such appeal and request for a hearing shall be taken within 30 days of receipt of the notice of such action taken by the Department.

Section 113.11. Reimbursements and grants to municipalities.

- (a) Section 404 of the act (32 P.S. § 679.404) authorizes the Department to administer reimbursements and grants to municipalities to assist or reimburse them for costs incurred in complying with the requirements of the act. Grants and reimbursements shall be available from the Department in accordance with the provisions of this section, provided that money is appropriated by the General Assembly for such purposes.
- (b) Grants shall be available from the Department to municipalities to reimburse them for allowable costs incurred in complying with the requirements of the act. Reimbursements will be for the following activities:
 - (1) Fifty percent of the allowable costs set forth in subsection (d) of this section incurred for the preparation and enactment, including any required revisions, of the flood plain management regulations necessary to comply with the requirements of the act and this chapter.
 - (2) Fifty percent of the allowable costs set forth in subsection (d) of this section for the administration, enforcement, and implementation activities undertaken as required by the act.
- (c) Grants will also be available from the Department to municipalities to reimburse them for allowable costs incurred in complying with either section 1910.3(c) or (d) (now section 60.3(c) or (d)) of the program regulations prior to October 4, 1978, the effective date of the act. Such reimbursements will be for the following activities:
 - (1) Fifty percent of allowable costs set forth in subsection (d) of this section incurred for the preparation and enactment, including any required revisions, of the flood plain management regulations necessary to comply with the requirements of the program.
 - (2) Fifty percent of the allowable costs set forth in subsection (d) of this section incurred for the administration, enforcement, and implementation activities undertaken as necessitated by the requirements of the program.
- (d) Allowable costs shall be those expenses incurred by a municipality in order to comply with the requirements of the act and this chapter. Allowable costs shall not include those costs which are offset by permit fees imposed by the municipality. Costs incurred for the following items and activities shall be considered allowable costs for the purposes of this chapter.
 - (1) Preparation and enactment of flood plain management regulations, including the following:
 - (i) costs of technical and legal services necessary to prepare regulations, administrative forms, maps and the like required by the act;
 - (ii) costs of technical and legal services necessary for required public hearings; and
 - (iii) costs of technical and legal services necessary for enactment of the required regulations.
 - (2) Administrative, enforcement, and implementation activities, including the following:

- (i) costs of review and processing of applications for required permits, including clerical activities;
 - (ii) fees of special consultants necessary for technical consultation or plan review and permit processing matters;
 - (iii) costs of monitoring and inspection activities, including fees for special consultants for technical consultation on specific matters;
 - (iv) costs of technical and legal services incurred in enforcing the regulations, including the restraining of violations, prosecutions, and defending against appeals; and
 - (v) mileage expenses incurred by the permit officer in undertaking any of the administrative activities set forth in subparagraphs (i) - (iv) of this paragraph.
- (e) The Department will not reimburse municipalities for legal fees resulting from an appeal or suit against the Commonwealth, for the purchase of any clothing, or clothing allowance, the printing or reproduction of regulations, forms, or maps, or for any other activity or expense not directly related to the requirements of the act of this chapter.
- (f) Requests for all requirements shall be submitted to the appropriate regional office of the Department and shall be made in accordance with the following:
- (1) Requests shall be submitted annually, within three months after the end of the fiscal year for which reimbursement is being requested using an application form provided by the Department.
 - (2) An itemized statement shall accompany the application which statement provides the following information:
 - (i) the total expenses incurred and paid by the municipality in performing the duties necessitated by the requirements of the act;
 - (ii) the total amount of fees and other money earned—including uncollected fees—by the municipality in performing its duties;
 - (iii) the difference between expenses incurred and income, and the amount of reimbursement being requested; and
 - (iv) certification as to the accuracy of the information being submitted by the chief executive officer of the municipality and the individual who prepared the statement.
- (g) If, in any fiscal year, appropriations are insufficient to cover the reimbursements and grants to municipalities for compliance with the requirements of the act and this chapter, the Department will report this fact to the General Assembly and will request the appropriation of additional funds. If such a deficiency appropriation is not enacted, any municipality which has not received its reimbursement because of lack of funds will be given first priority when funds become available.
- (h) Grants may also be made by the Department to municipalities for certain other activities such as surveys, studies, investigations, research, and analyses related to the specific purposes and requirements of the act. Such grants will be made at the sole discretion of the Department and will not be awarded unless there is a thoroughly documented need or value to such undertaking. Requests for any such grant shall be submitted to the Governor's Center for Local Government Services, Department of Community and Economic Development, Harrisburg, Pennsylvania 17120, for consideration. Any such request shall be in the form of a written proposal consisting of a narrative which clearly and thoroughly describes the work proposed to be undertaken and the itemized cost estimate, including a complete list of the people to be involved and their specific responsibilities

regarding the work to be undertaken. In addition, the Department may require any other reasonable information it deems necessary in order to satisfactorily evaluate any proposal or to satisfactorily monitor any work being undertaken or both.

- (i) Grants from the Commonwealth shall be in addition to grants for similar purposes made to any municipality by the Federal government, provided that all such grants shall be limited so that the total of all State and Federal grants does not exceed 50% of the allowable costs incurred by the municipality.
- (j) Application forms and related information concerning reimbursements may be obtained from any Department regional office.
- (k) Municipalities shall keep accurate records and accounts of all allowable costs incurred for a period of three years following the submission of an application to the Department for reimbursement. During this time the Department will, upon request, have access to all such records and accounts for monitoring and auditing purposes.

-SUGGESTED-

Special Permit Application

Note: This form to be used when application is being made
for a special permit as required by the Pennsylvania
Flood Plain Management Act

I. Identification

	Name	Mailing address - Number, street, city, state, and ZIP Code	Telephone
1. Applicant			
2. Owner of Land			
3. Contractor			

I hereby certify that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his agent.

Signature of Applicant	Address	Application Date
------------------------	---------	------------------

II. Purpose of Proposed Development

- | | |
|---------------------------------------|--------------------------------------------------------------|
| <input type="checkbox"/> Hospital | <input type="checkbox"/> New Mobile Home Park or Subdivision |
| <input type="checkbox"/> Nursing Home | <input type="checkbox"/> Other (Indicate) _____ |
| <input type="checkbox"/> Jail | |

III. Site Location

Municipality: _____ County: _____

At (Location): _____
(No.) (Street or Road)

First Floor Elevation: _____

Basement Elevation (If Applicable): _____

100 Year Flood Elevation: _____

IV. Selected Characteristics of Improvements

Type of Sewage Disposal

- Public or Private Company
- Private (septic tank, etc.)

Type of Water Supply

- Public or Private Company
- Private (well, etc.)

V. Description of Proposed Project

Estimated Starting Date: _____
Estimated Completion Date: _____
Estimated Total Cost: _____

VI. Proposed Floodproofing Methods and Materials

Describe the methods and materials that will be used to minimize flood damage. Attach plans and elevations in sufficient detail to enable the reviewer to determine that the proposed work will meet all applicable Local and State Requirements.

VII. Fees

Estimated Total Cost (from Item V): \$ _____

Permit Fees

Up to \$200.00 : No Charge \$ NO CHARGE
\$201.00 to \$1,000.00 : \$5.00 \$
Each additional \$1,000.00 : \$1.00 \$
(Or part thereof TOTAL \$

Note: The fees listed above are suggested amounts; actual charges are decided locally.

-DO NOT WRITE BELOW THIS LINE-

VIII. Action Taken by Department

- Approved
- Disapproved
- Other

Date: _____

Reviewed By: _____

Appendix II

Recommendations and suggestions to municipalities.

While not required by the act, the National Flood Insurance Program, or these regulations, the following recommendations and suggestions are offered to municipalities for their consideration as they undertake their various floodplain management activities:

- (a) Municipalities are encouraged to contact any regional office of the Department for any information or assistance they may need concerning the act, the National Flood Insurance Program, and floodplain management generally.
- (b) There are numerous other excellent sources of information and assistance such as county and regional planning commissions, the U.S. Army Corps of Engineers, the U.S. Soil Conservation Service, the U.S. Geological Survey, the Federal Insurance Administration, and the various river basin commissions.
- (c) Floodplain management should involve more than the adoption of codes and ordinances which regulate development in areas subject to flooding. Among other things, floodplain management can and should include many other activities such as the establishment of flood warning systems, evacuation and recovery plans, relocation and redevelopment efforts to reduce or eliminate problems, and the promotion of flood insurance.
- (d) Despite its obvious importance as an individual issue, floodplain management is nevertheless, only one of numerous other community planning and development considerations. Thus, any floodplain management activities undertaken by a municipality must be coordinated and integrated with other planning and related efforts underway locally and at other levels.
- (e) Municipalities are encouraged to adopt regulations which more adequately control the use and development of areas which are subject to flooding. For example, a municipality could more closely regulate the kinds of uses and activities locating within its flood-prone areas. It could also require new buildings and other structures to be elevated or flood-proofed up to an elevation (preferably 1 1/2 feet) above the existing 100-year flood elevation. Numerous other possibilities also exist.
- (f) Before adopting any regulations, municipalities are encouraged to send a copy of the proposed regulations to the Department for review and comment. This should avoid the need for a municipality to go back and amend a recently enacted ordinance or code because something was deficient or omitted.

Pennsylvania Department of Community & Economic Development
Governor's Center for Local Government Services
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

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DEPARTMENT OF COMMUNITY
& ECONOMIC DEVELOPMENT