

ARTICLE XIII

FP - FLOODPLAIN CONSERVATION DISTRICTS

SECTION 13.01 - GENERAL PROVISIONS

- A. Purpose. The purpose of these provisions is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:
1. Regulating uses, activities, and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies.
 2. Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
 3. Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage.
 4. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.
- B. Applicability. These provisions shall apply to all lands within the jurisdiction of Middlesex Township and shown on the Official Zoning Map as being within the boundaries of any flood plain area determined by the Federal Emergency Management Agency, and approved by the Board of Township Supervisors.
- C. Abrogation and Greater Restrictions. This Article supplements prior articles of this Zoning Ordinance. To the extent that this imposes greater requirements or more complete disclosures in any respect, or to the extent that the provisions of this Article are more restrictive, it shall be deemed and interpreted to control other provisions of the Zoning Ordinance.
- D. Compliance. No structure or land shall hereafter be developed or used, and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this Article and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this Ordinance.
- E. 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 acceptable engineering methods of study. Larger floods may occur on rare occasions. 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 the 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 Middlesex Township or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION 13.02 - AREA PROVISIONS

- A. General. All uses, activities, and development occurring within any Flood Plain area shall be undertaken, only, in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances of such as the Middlesex Township Subdivision Control Ordinance of 1968, as amended. In addition, all such uses, activities and development shall be undertaken only in compliance with Federal or State law including Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C.1334) and the Pennsylvania Water Obstructions Act of 1913. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

Prior to any proposed alteration or relocation of any stream or water course within the Township, any required permit shall be obtained from the Pennsylvania Department of Environmental Resources, Dams and Encroachment Division. Further, documentation shall be submitted substantiating notification of the proposal has been given to all affected adjacent municipalities. The Federal Insurance Administration and the Pennsylvania Department of Community Affairs shall also be notified in advance of any such alteration or relocation.

- B. Floodway Area (FW). In the Floodway Area (FW) no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and State Authorities as required above.

1. Permitted Uses

In the Floodway Area the following uses and activities are permitted provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill or storage of materials and equipment:

- (a) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- (b) Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat

launching and swimming areas, hiking, and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.

- (c) Accessory residential uses such as yard areas, gardens, play areas, and porous paving areas
- (d) Accessory industrial and commercial uses such as yard areas, porous paving and loading areas, airport landing strips, etc.

2. Uses Permitted by Special Exception

The following uses and activities may be permitted by Special Exception as allowed by the Zoning Hearing Board provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other provision of the Middlesex Township Zoning Ordinance:

- (a) Structures, except mobile homes, accessory to the uses and activities of Section 1. above.
- (b) Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipe lines, water and sewage treatment plants and other similar or related uses.
- (c) Water-related uses and activities such as marinas, docks, wharves, piers, etc.
- (d) Extraction of sand, gravel and other materials.
- (e) Temporary uses such as circuses, carnivals, and similar activities.
- (f) Storage of materials and equipment provided that they are not buoyant, flammable or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, or can be readily removed from the area within the time available after flood warning.
- (g) Other similar uses and activities provided they cause no increase in flood heights or velocities. All uses, activities, and structural developments shall be undertaken in strict compliance with the floodproofing provisions contained in all other applicable codes and ordinances.

- C. Flood-Fringe Area (FF). In the Flood Fringe Area (FF) the development and use of land shall be permitted in accordance with the regulations of the underlying district provided that all such uses, activities or development shall be undertaken in strict compliance with the floodproofing and related provisions contained

in all other applicable codes and ordinances, and further provided that mobile homes shall not be permitted in Flood-Fringe Areas.

- D. General Flood Plain Area (FA). In the General Flood Plain Area development or use of land shall be permitted in accordance with the regulations of the underlying zoning district provided that all such uses, activities, or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in all other applicable codes and ordinances, and further provided that mobile homes shall not be permitted in General Flood Plain Areas.

SECTION 13.03 - SPECIAL EXCEPTIONS AND VARIANCES - ADDITIONAL FACTORS TO BE CONSIDERED. In passing upon applications for Special Exceptions and Variances, the Zoning Hearing Board shall consider all relevant factors and procedures specified in other sections of the Zoning Ordinance and:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No special exceptions or variances shall be granted in any Floodway for any proposed use, development or activity that will cause any increase in flood levels during the one hundred (100) year flood.
- B. The danger that materials may be swept onto other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- J. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- K. The expected heights, velocities, duration, rate of rise and sediment transport of the flood waters expected at the site.
- L. The effect upon the Township Flood Insurance Program.

- M. Such other factors which are relevant to the purposes of this Ordinance.

The Zoning Hearing Board may refer any application and accompanying documentation pertaining to any request for a special exception or variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.

Special exceptions and/or variances shall only be issued after the Zoning Hearing Board has determined that the granting of such will not result in (1) unacceptable or prohibited increased flood heights, (2) additional threats to public safety, (3) extraordinary public expense, (4) create nuisances, (5) cause fraud or victimization of the public, (6) jeopardy to the Township Flood Insurance Program, or (7) conflict with local laws or ordinances.

SECTION 13.04 - DEVELOPMENT WHICH MAY ENDANGER HUMAN LIFE.

- A. In accordance with the Pennsylvania Floodplain Management Act, and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following material or substances, or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume, or any amount of radioactive substances) of any of the following materials or substances on the premises shall be subject to the provisions of this section, in addition to all other applicable provisions:

1. Acetone
2. Ammonia
3. Benzine
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, etc.)
13. Phosphorus
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 regulated.

- B. Within any Floodway Area (FW) any structure of the kind described in Section 13.04, A., above shall be prohibited.

- C. Where permitted within any Flood-Fringe Area (FF) or General Floodplain Area (FA) any structure of the kind described in Section 13.04, A., above shall be:
1. Elevated or designed and constructed to remain completely dry up to at least one and one-half (1.5) feet above the one-hundred year flood, and
 2. Designed to prevent pollution from the structure or activity during the course of a one-hundred (100) year flood. Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry flood-proofing contained in the publication "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.
- D. Within any General Floodplain Area (FA) any structure of the kind described in Section 13.04, A., above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- E. Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any other requirements of this Section.

SECTION 13.05 - ACTIVITIES REQUIRING SPECIAL PERMITS

- A. Identification of Activities requiring a Special Permit. In accordance with the Pennsylvania Flood Plain Management Act (Act 1978-166) and regulations adopted by the Department of Community Affairs as required by the Act, the following obstructions and activities are permitted only by Special Permit, if located partially or entirely within any identified floodplain area:
1. 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:
 - (a) Hospitals - public or private
 - (b) Nursing Homes - public or private
 - (c) Jails or Prisons
 2. The commencement of, or any construction of, a new mobile home park or mobile home subdivision, or substantial improvement to any existing mobile home park or mobile home subdivision.
- B. Application Requirements. Applicants for Special Permits shall provide five (5) copies of the following items:
1. A written request including a completed Building Permit Application Form.

2. A small scale map showing the vicinity in which the proposed site is located.
3. 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) Topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of two (2) feet;
 - (c) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
 - (d) The location of all existing streets, drives, other accessways, and parking areas, with information concerning widths, pavement types, construction, and elevations;
 - (e) 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 or manmade features affecting, or affected by, the proposed activity or development;
 - (f) The location of the floodplain boundary line, information and spot elevations concerning the one hundred (100) year flood elevations, and information concerning the flow of water including direction and velocities;
 - (g) The location of all proposed buildings, structures, utilities, and any other improvements; and
 - (h) Any other information which the municipality considers necessary for adequate review of the application.
4. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:
 - (a) Sufficiently detailed architectural or engineering drawings including floor plans, sections and exterior building elevations, as appropriate;
 - (b) For any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;
 - (c) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the one hundred (100) year flood;

- (d) Detailed information concerning any proposed flood-proofing measures;
 - (e) Cross-section drawings for all proposed streets, drives, other accessways, and parking areas showing all rights-of-way and pavement widths;
 - (f) Profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
 - (g) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems and any other utilities and facilities.
5. The following data and documentation:
- (a) Certification from the applicant that the site upon which the activity or development is proposed is an existing and single parcel, owned by the applicant or the client he represents.
 - (b) Certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the one hundred (100) year flood.
 - (c) 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 one hundred (100) year flood, including a statement concerning the effects such pollution may have on human life.
 - (d) 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 one hundred (100) year flood elevations and flows.
 - (e) 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 one hundred (100) year flood elevation and the effects such materials and debris may have on one hundred (100) year flood elevation and flows.
 - (f) The appropriate component of the Department of Environmental Resources' "Planning Module for Land Development".

- (g) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources to implement and maintain erosion and sedimentation control.
- (h) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a one hundred (100) year flood.
- (i) Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Resources under Section 302 of Act 1978-66.

C. Application Review Procedures. - Upon receipt of an application for a Special Permit by the Township Secretary, the following procedures shall apply in addition to all other applicable permit procedures which are already established:

1. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the Cumberland County Planning Commission by registered or certified mail for its review and recommendations.

Copies of the application shall also be forwarded to the Township Planning Commission and Township Engineer for review and comment.

2. If an application is received that is incomplete, the Township Secretary shall notify the applicant in writing, stating in what respects the application is deficient.
3. If the Township decides to disapprove an application, it shall notify the applicant in writing of the reasons for the disapproval.
4. If the Township approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community Affairs by registered mail, within five (5) working days after the date of approval.
5. Before issuing the Special Permit, the Township shall allow the Department of Community Affairs thirty (30) days, after receipt of the notification by the Department, to review the application and the decision made by the Township.
6. If the Township does not receive any communication from the Department of Community Affairs during the thirty (30) day period, it may issue a Special Permit to the applicant.
7. If the Department of Community Affairs should decide to disapprove an application, it shall notify the Township and applicant, in writing, of the reasons for disapproval and the Township shall not issue the Special Permit.

D. Technical Requirements for Development Requiring a Special Permit.
In addition to any other applicable requirements, the following provisions shall also apply to the activities requiring a Special Permit. If there is any conflict between any of the following requirements and any otherwise applicable provision, the more restrictive provision shall apply.

1. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:

(a) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:

(1) The structure will survive inundation by waters of the one hundred (100) year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the one hundred (100) year flood elevation.

(2) The lowest floor elevation (including basement) will be at least one and one-half (1 1/2) feet above the one hundred (100) year flood elevation.

(3) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the one hundred (100) year flood.

(b) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

E. Within any floodplain area any structure of the kind described in Section 13.05, A., above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

F. Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any other requirements of this Section.

SECTION 13.06 - EXISTING STRUCTURES IN FLOOD PLAIN AREAS

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

A. Existing structures or uses located in any floodway area shall not be expanded or enlarged unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.

- B. Any modification, alteration, repair, reconstruction or improvement of any kind to a structure or use located in any flood plain area to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or flood-proofed to the greatest extent possible regardless of its location in the flood plain area.
- C. The modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use, regardless of its location in a flood plain area, to an extent or amount of fifty (50) percent or more of its market value, shall be undertaken only in full compliance with the provisions of this ordinance and any other applicable ordinances.