

Chapter 100

FLOODPLAIN MANAGEMENT

GENERAL REFERENCES

Construction codes — See Ch. 85.

Subdivision and land development — See Ch. 180.

Stormwater management — See Ch. 173.

Zoning — See Ch. 195.

ARTICLE I
Statutory Authorization

§ 100-1. Authority.

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978,¹ 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 Brighton Township does hereby order as follows.

1. Editor's Note: See 32 P.S. § 679.101 et seq.

ARTICLE II
General Provisions

§ 100-2. Intent.

The intent of this chapter 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.

§ 100-3. Applicability.

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within Brighton Township unless a permit has been obtained from the floodplain administrator.
- B. A permit shall not be required for minor repairs to existing buildings or structures.

§ 100-4. Abrogation and greater restrictions.

This chapter 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 chapter, the more restrictive shall apply.

§ 100-5. Severability.

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

§ 100-6. Warning and disclaimer of liability.

- A. The degree of flood protection sought by the provisions of this chapter 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 chapter does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas, will be free from flooding or flood damages.
- B. This chapter shall not create liability on the part of Brighton Township or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

ARTICLE III
Administration

§ 100-7. Designation of floodplain administrator.

- A. The Zoning Officer is hereby appointed to administer and enforce this chapter and is referred to herein as the "floodplain administrator." The floodplain administrator may:
- (1) Fulfill the duties and responsibilities set forth in these regulations;
 - (2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees; or
 - (3) Enter into a written agreement or written contract with another agency or private-sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 CFR 59.22.
- B. In the absence of a designated floodplain administrator, the floodplain administrator duties are to be fulfilled by the Chairman of the Supervisors.

§ 100-8. Permit required.

A permit shall be required before any construction or development is undertaken within any area of Brighton Township.

§ 100-9. Duties and responsibilities of 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 chapter 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);² the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended);³ the Pennsylvania Clean Streams Act (Act 1937-394, as amended);⁴ and the United States Clean Water Act, Section 404, 33 U.S.C. § 1344. No permit shall be issued until this determination has been made.
- C. During the construction period, the floodplain administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.

2. Editor's Note: See 35 P.S. § 750.1 et seq.

3. Editor's Note: See 32 P.S. § 693.1 et seq.

4. Editor's Note: See 35 P.S. § 691.1 et seq.

- D. In the discharge of his/her duties, the floodplain administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this chapter.
- 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 in perpetuity all records associated with the requirements of this chapter, including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
- G. The floodplain administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program.
- H. The responsibility, authority and means to implement the commitments of the floodplain administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in this chapter as the floodplain administrator/manager.
- I. The floodplain administrator shall consider the requirements of 34 Pa. Code and the 2009 IBC and the 2009 IRC, or latest revisions thereof.

§ 100-10. Application procedures and requirements.

- A. Application for such a permit shall be made, in writing, to the floodplain administrator on forms supplied by Brighton 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 is to occur.
 - (3) Name and address of contractor.
 - (4) Site location, including address.
 - (5) Listing of other permits required.
 - (6) Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred, where appropriate.
 - (7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for permits shall provide all the necessary information in sufficient detail and clarity to enable the floodplain administrator to determine that:

- (1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this chapter and all other applicable codes and ordinances;
 - (2) All utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage;
 - (3) Adequate drainage is provided so as to reduce exposure to flood hazards;
 - (4) Structures will be anchored to prevent flotation, collapse, or lateral movement;
 - (5) Building materials are flood-resistant;
 - (6) Appropriate practices that minimize flood damage have been used; and
 - (7) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities have been designed and located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the floodplain administrator to make the above determination:
- (1) A completed permit application form.
 - (2) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 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 accessways; and
 - (e) The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water, including direction and velocities.
 - (3) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale, showing the following:
 - (a) The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - (b) The elevation of the base flood;
 - (c) Supplemental information as may be necessary under 34 Pa. Code, the 2009 IBC or the 2009 IRC.
 - (4) The following data and documentation:

- (a) Detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - (b) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within any identified floodplain area (see § 100-17), when combined with all other existing and anticipated development, will not cause any increase in the base flood elevation.
 - (c) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
 - (d) Detailed information needed to determine compliance with § 100-24F, Storage, and § 100-25, Development which may endanger human life, including:
 - [1] The amount, location and purpose of any materials or substances referred to in §§ 100-24F and 100-25 which are intended to be used, produced, stored or otherwise maintained on site.
 - [2] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in § 100-25 during a base flood.
 - (e) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
 - (f) Where any excavation or grading is proposed, a plan, meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
- D. Applications for permits shall be accompanied by a fee, payable to the municipality, based upon the estimated cost of the proposed construction as determined by the floodplain administrator.

§ 100-11. 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.

§ 100-12. Changes.

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

§ 100-13. Placards.

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

§ 100-14. Start of construction.

- A. Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within 12 months after the date of issuance of the permit or the permit shall expire, unless a time extension is granted, in writing, by the floodplain administrator. The issuance of a development permit does not refer to the zoning approval.
- B. The "actual start of construction" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- C. Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the floodplain administrator to approve such a request, and the original permit is compliant with this chapter and the FIRM/FIS in effect at the time the extension is granted.

§ 100-15. 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 chapter, 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 30 days, for the performance of any act it requires;
 - (4) Be served upon the property owner or his agent, as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this state;

- (5) Contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this chapter.
- B. Penalties. Any person who fails to comply with any or all of the requirements or provisions of this chapter or who fails or refuses to comply with any notice, order or direction of the floodplain administrator or any other authorized employee of the municipality shall be guilty of a summary offense and, upon conviction, shall pay a fine to Brighton Township of not less than \$25 nor more than \$600, plus costs of prosecution. In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of, or noncompliance with, this chapter shall not excuse the violation or noncompliance or permit it to continue. All such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this chapter may be declared by the Board of Supervisors to be a public nuisance and abatable as such.

§ 100-16. Appeals.

- A. Any person aggrieved by any action or decision of the floodplain administrator concerning the administration of the provisions of this chapter may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within 30 days after the decision, determination or action of the floodplain administrator.
- B. Upon receipt of such appeal, the Zoning Hearing Board shall consider the appeal in accordance with the Municipalities Planning Code⁵ and any other local ordinance.
- C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of this state, including the Pennsylvania Flood Plain Management Act.

5. Editor's Note: See 53 P.S. § 10101 et seq.

ARTICLE IV
Identification of Floodplain Areas

§ 100-17. Identification.

- A. The identified floodplain area shall be:
- (1) Any areas of Brighton Township classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs), dated August 17, 2015, 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.
- B. The above-referenced FIS and FIRMs, and any subsequent revisions and amendments, are hereby adopted by Brighton Township and declared to be a part of this chapter.

§ 100-18. Description and special requirements of identified floodplain areas.

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

[1] No permit shall be granted for any construction, development, use, or activity within any AE Area/District without floodway unless it is

demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the BFE at any point.

- [2] No new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection's regional office.
- (3) The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other federal, state, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.
- B. In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality.

§ 100-19. Changes in identification of area.

The identified floodplain area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the special flood hazard area, approval must be obtained from FEMA. Additionally, soon as practicable, but not later than six months after the date such information becomes available, a community shall notify FEMA of the changes to the special flood hazard area by submitting technical or scientific data. See § 100-22B for situations where FEMA notification is required.

§ 100-20. Boundary disputes.

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

§ 100-21. 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 44 CFR 60.3.

ARTICLE V
Technical Provisions

§ 100-22. General provisions.

- A. Alteration or relocation of watercourse.
- (1) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality and until all required permits or approvals have first been obtained from the Department of Environmental Protection's regional office.
 - (2) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood-carrying capacity of the watercourse in any way.
 - (3) In addition, FEMA and the Pennsylvania Department of Community and Economic Development shall be notified prior to any alteration or relocation of any watercourse.
- B. When a community proposes to permit the following encroachments: any development that causes a rise in the base flood elevations within the floodway; or any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or alteration or relocation of a stream (including but not limited to installing culverts and bridges):
- (1) The applicant shall (as per 44 CFR Part 65.12), apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
 - (2) Upon receipt of the Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and/or revised floodway reflecting the post-project condition.
 - (3) Upon completion of the proposed encroachments, a community shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.
- C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this chapter and any other applicable codes, ordinances and regulations.

§ 100-23. Elevation and floodproofing requirements.

- A. Residential structures.
- (1) In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.
 - (2) In A Zones, where there are no base flood elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including

basement) elevated up to, or above, the regulatory flood elevation determined in accordance with § 100-18A(3) of this chapter.

- (3) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC), or the most-recent revisions thereof, and ASCE 24 and 34 Pa. Code (Chapters 401-405, as amended) shall be utilized where they are more restrictive.

B. Nonresidential structures.

- (1) In AE, A1-30 and AH Zones, any new construction or substantial improvement of a nonresidential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation or be designed and constructed so that the space enclosed below the regulatory flood elevation:
 - (a) Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water; and
 - (b) Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (2) In A Zones, where no base flood elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with § 100-18A(3) of this chapter.
- (3) Any nonresidential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations," published by the United States Army Corps of Engineers (June 1972, as amended 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 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC), or the most-recent revisions thereof, and ASCE 24 and 34 Pa. Code (Chapters 401-405, as amended) shall be utilized where they are more restrictive.

C. Space below the lowest floor.

- (1) Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
- (2) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space shall be provided.

- (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- D. Historic structures. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement, as defined in this chapter, must comply with all ordinance requirements that do not preclude the structure's continued designation as an historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.
- E. Accessory structures. Structures accessory to a principal building need not be elevated or floodproofed to remain dry but shall comply, at a minimum, with the following requirements:
 - (1) The structure shall not be designed or used for human habitation but shall be limited to the parking of vehicles or to the storage of tools, material, and equipment related to the principal use or activity.
 - (2) Floor area shall not exceed 200 square feet.
 - (3) The structure will have a low damage potential.
 - (4) The structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.
 - (5) Power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
 - (6) Permanently affixed utility equipment and appliances, such as furnaces, heaters, washers, dryers, etc., are prohibited.
 - (7) Sanitary facilities are prohibited.
 - (8) The structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwaters 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 square inch for every square foot of enclosed space shall be provided.
 - (b) The bottom of all openings shall be no higher than one 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.

§ 100-24. Design and construction standards.

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

- A. Fill.
- (1) Within any identified floodplain area, the use of fill shall be prohibited. No variance shall be granted.
- B. Drainage facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- C. Water and sanitary sewer facilities and systems.
- (1) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
 - (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
 - (3) No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all state and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
 - (4) The design and construction provisions of the UCC and FEMA No. 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 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 § 100-25, Development which may endanger human life, shall be stored at or above the regulatory flood elevation or floodproofed to the maximum extent possible.
- G. Placement of buildings and structures. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwaters.
- 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 a 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 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 floodwaters into the system and discharges from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.
- N. Uniform Construction Code coordination. The standards and specifications contained in 34 Pa. Code (Chapters 401-405), as amended, and not limited to the following provisions shall apply to the above and other sections and subsections of this chapter to the extent that they are more restrictive and supplement the requirements of this chapter:
- (1) International Building Code (IBC) 2009, or the latest edition thereof: Sections 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
 - (2) International Residential Building Code (IRC) 2009, or the latest edition thereof: Sections R104, R105, R109, R322, Appendix E, and Appendix J.

§ 100-25. Development which may endanger human life.

Within any identified floodplain area, any structure of the kind described in Subsection A below shall be prohibited. No variance shall be granted.

A. 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: will be used for the production or storage of any of the following dangerous materials or substances; or 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 will involve the production, storage, or use of any amount of radioactive substances; shall be prohibited. The following list of materials and substances are 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, 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.

§ 100-26. Special requirements for subdivisions and development.

All subdivision proposals and development proposals containing at least 10 lots or at least five acres, whichever is the lesser, in identified floodplain areas where base flood elevation data are not available shall be supported by hydrologic and hydraulic engineering analyses that determine

base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a conditional letter of map revision and letter of map revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

§ 100-27. Special requirements for manufactured homes.

- A. Within any identified floodplain area, manufactured homes shall be prohibited. No variance shall be granted.

§ 100-28. Special requirements for recreational vehicles.

- A. Within any identified floodplain area, recreational vehicles shall be prohibited. No variance shall be granted.

ARTICLE VI
Prohibited Uses

§ 100-29. 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.
 - (4) Nightclubs.
 - (5) Oil and gas wells.
 - (6) Public stables.
 - (7) Public dog kennels.
 - (8) Sanitary landfills.
 - (9) Automotive recycling.
 - (10) Automotive service stations/washing facilities.
 - (11) Mineral extraction.
 - (12) Campgrounds.
 - (13) Personal service establishments.
 - (14) Indoor theaters and commercial recreation uses.
 - (15) Fraternal clubs, lodges and social/recreational clubs.
 - (16) Cemeteries.
 - (17) Schools.
 - (18) 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 VII

Existing Structures in Identified Floodplain Areas**§ 100-30. Existing structures.**

The provisions of this chapter 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 § 100-31 shall apply.

§ 100-31. 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 cause any increase in BFE. In A Area/District(s), BFEs are determined using the methodology in § 100-18A(3).
- B. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of 50% or more of its market value shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this chapter.
- C. The above activity shall also address the requirements of 34 Pa. Code, as amended, and the 2009 IBC and the 2009 IRC.
- D. Within any Floodway Area/District [see § 100-18A(1)], no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection's regional office.
- E. Within any AE Area/District without floodway [see § 100-18A(2)], no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection's regional office.

ARTICLE VIII
Variances

§ 100-32. General provisions.

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

§ 100-33. Variance procedures and conditions.

A. Requests for variances shall be considered by Brighton Township in accordance with the procedures contained in § 100-16 and the following:

- (1) No variance shall be granted within any identified floodplain area that would cause any increase in BFE. In A Area/Districts, BFEs are determined using the methodology in § 100-18A(3).
- (2) No variance shall be granted for development regulated by prohibited uses (Article VI), manufactured homes (§ 100-27), recreational vehicles (§ 100-28), or to development which may endanger human life (§ 100-25).
- (3) If granted, a variance shall involve only the least modification necessary to provide relief.
- (4) In granting any variance, Brighton Township 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 chapter.
- (5) Whenever a variance is granted, Brighton Township shall notify the applicant, in writing, that:
 - (a) The granting of the variance may result in increased premium rates for flood insurance.
 - (b) Such variances may increase the risks to life and property.
- (6) In reviewing any request for a variance, Brighton Township shall consider, at a minimum, the following:
 - (a) That there is good and sufficient cause.
 - (b) That failure to grant the variance would result in exceptional hardship to the applicant.
 - (c) That the granting of the variance will:
 - [1] Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense;
 - [2] Nor create nuisances, cause fraud on, or victimize the public or conflict with any other applicable state or local ordinances and regulations.

- (7) A complete record of all variance requests and related actions shall be maintained by Brighton Township. In addition, a report of all variances granted during the year shall be included in the annual report to FEMA.
- B. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent annual chance flood.

ARTICLE IX
Definitions

§ 100-34. Interpretation.

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

§ 100-35. Specific definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY USE OR STRUCTURE — A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

BASE FLOOD — A flood which has a one-percent chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood" or "one-percent annual chance flood").

BASE FLOOD DISCHARGE — The volume of water resulting from a base flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

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

BASEMENT — Any area of the building having its floor below ground level on all sides.

BUILDING — A combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

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

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

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

FLOOD — A temporary inundation of normally dry land areas.

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

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

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

FLOODPROOFING — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

HISTORIC STRUCTURES — Any structure that is:

- A. Listed individually on the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

IDENTIFIED FLOODPLAIN AREA — This term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the special flood hazard area on the Flood Insurance Rate Maps and Flood Insurance Study but may include additional areas identified by the community. See §§ 100-17 and 100-18 for the specifics on what areas the community has included in the identified floodplain area.

LOWEST FLOOR — The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood-resistant, partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable nonelevation design requirements of this chapter.

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

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

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 exitway 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, mechanical or other work affecting public health or general safety.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after August 17, 2015, and includes any subsequent improvements to such structures. Any construction started after September 1, 1986, and before August 17, 2015, is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

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

PERSON — An individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

POST-FIRM STRUCTURE — A structure for which construction or substantial improvement occurred after December 31, 1974, or on or after the community's initial Flood Insurance Rate Map (FIRM), dated September 1, 1986, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

PRE-FIRM STRUCTURE — A structure for which construction or substantial improvement occurred on or before December 31, 1974, or before the community's initial Flood Insurance Rate Map (FIRM), dated September 1, 1986, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

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.

REGULATORY FLOOD ELEVATION — The base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of 1 1/2 feet.

SPECIAL FLOOD HAZARD AREA (SFHA) — An area in the floodplain subject to a one-percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or AH.

START OF CONSTRUCTION — Includes substantial improvement and other proposed new development and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within 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 manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE — A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SUBDIVISION — The division or redivision of a lot, tract, or parcel of land by any means into two 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 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

SUBSTANTIAL DAMAGE — Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% or more of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," 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.

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 standards 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.

VARIANCE — A grant of relief by a community from the terms of a floodplain management regulation.

VIOLATION — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

ARTICLE X
Enactment

§ 100-36. Adoption; effective date.

This chapter shall be effective on August 17, 2015, and shall remain in force until modified, amended or rescinded by Brighton Township, Beaver County, Pennsylvania.