

**LOWER SAUCON TOWNSHIP
NORTHAMPTON COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2014-01

AN ORDINANCE OF THE TOWNSHIP OF LOWER SAUCON, NORTHAMPTON COUNTY, PENNSYLVANIA, AMENDING AND REVISING THE CODE OF THE TOWNSHIP OF LOWER SAUCON BY REVISING AND REPLACING CHAPTER 90 (FLOODPLAIN MANAGEMENT), IN ITS ENTIRETY TO REQUIRE ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF SUCH PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF LOWER SAUCON TOWNSHIP WHICH ARE SUBJECT TO FLOODING; AND ESTABLISHING PENALTIES FOR ANY PERSONS WHO FAIL, OR REFUSE TO COMPLY WITH, THE REQUIREMENTS OR PROVISIONS OF CHAPTER 90, AND REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT WITH THE PROVISIONS CONTAINED HEREIN.

WHEREAS, Lower Saucon Township is a Township of the Second Class, Optional Plan, located in Northampton County, Commonwealth of Pennsylvania; and

WHEREAS, the Township of Lower Saucon adopted Ordinance #98-17 on May 20, 1998, enacting the Code of the Township of Lower Saucon (hereinafter referred to as the “Code”); and

WHEREAS, the Council of Lower Saucon Township desires to amend the Code of the Township of Lower Saucon to revise the Township Floodplain Management (Chapter 90) provisions to conform with Federal and State guidelines and regulations as further described herein; and

WHEREAS, the Council of Lower Saucon Township has determined that the adoption of this Ordinance containing the described amendments to the Floodplain Chapter of the Code is in the best interest of the public health, safety, and welfare of the citizens of Lower Saucon Township.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Council of the Township of Lower Saucon, Northampton County, Commonwealth of Pennsylvania, that the provisions of the Code of the Township of Lower Saucon are hereby amended as follows:

SECTION 1. Amendment to Chapter 90 (FLOODPLAIN MANAGEMENT)

Chapter 90 (FLOODPLAIN MANAGEMENT) of the Code is hereby deleted in its entirety and replaced as follows:

ARTICLE I. DEFINITIONS

§90-1 General

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

§90-2 Specific Definitions

A ZONE – The Flood Insurance Rate Zone that corresponds to the one-hundred-year floodplain where base flood elevations are not shown.

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.

AE ZONE – The Flood Insurance Rate Zone that corresponds to the one-hundred-year floodplain where base flood elevations are shown at selected intervals.

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

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

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

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

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.

CONSTRUCTION – The construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of mobile homes.

COST OF IMPROVEMENT – Cost that includes both the structural and finish or labor and materials, minus those required to meet floodproofing and flood elevation regulations and the cost of permits. This includes lighting fixtures, built-in appliances, interior moldings, paneling, tiling, wall-to-wall carpet over subflooring, built-in cabinets, etc. The cost to demolish undamaged building components must be established and included.

COST OF RECONSTRUCTION – Cost that includes both the structural and finish or labor and materials minus those required to meet floodproofing and flood elevation regulations and the cost of permits, to reproduce by new construction the exact form and detail of a structure or a part thereof, as it appeared at a specific period of time.

CRITICAL FACILITIES – Those facilities that are vital to the community in the event of a hazard event or disaster, that provide essential services to the general public, are necessary to preserve the welfare and quality of life in the region, that fulfill important public safety, emergency response or disaster recovery functions, or contain at-risk or special needs populations such as the elderly or children.

Examples include emergency shelters, emergency services, hospitals, public utilities, government buildings, schools, day cares, and elderly housing.

CURRENT COST – A basis of valuation, which values an asset at the amount which it would currently cost to obtain.

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.

ENCROACHMENT – Construction, placement of fill or similar alteration of topography in the floodplain that reduces the area available to convey floodwaters.

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).

FILL – Any clean soil or rock materials (sand or clay) used to raise the ground elevation.

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 hazards and the risk premium zones applicable to the community.

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

FLOOD, ONE-HUNDRED-YEAR – See 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.

FLOOD PROTECTION ELEVATION (FPE) – The base flood elevation plus 1.5 feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations or base flood elevations determined and/or approved by Lower Saucon Township plus 1.5 feet of freeboard. Also referred to as Regulatory Flood Elevation.

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.

FREEBOARD – An additional amount of height above a flood elevation used as a factor of safety (e.g., 1.5 feet above the base flood elevation) in determining the level at which a structure's lowest floor, including basement, must be elevated or floodproofed.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURES – Any structure that is:

- A. Listed individually on the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic 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 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 Sections 90-19 and 90-20 for the specifics on what areas the community has included in the Identified Floodplain Area.

IMPROVEMENT

- A. The creation or addition of structural or functional capacity of a structure that adds to its value and useful life.

B. The term does not include either:

1. 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, or
2. Any improvement of an "historic structure," provided that the improvement will not preclude the structure's continued designation as an "historic structure."

INTACT STRUCTURE – A structure that is undamaged in any way; whole.

LAND DEVELOPMENT – Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 1. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 2. The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups, or other features.
- B. A subdivision of land.

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

MANURE – The animal excrement, including poultry litter, which is produced at an agricultural operation. It includes materials such as bedding and raw materials which are co-mingled with that excrement.

MANURE STOCKPILE – A storage pile of manure accumulated for future use that is not confined within a manure storage facility.

MANURE STORAGE FACILITY – A permanent structure or pond, a portion of a structure or pond, or a group of structures or ponds at one agricultural operation utilized for the purpose of containing manure or agricultural process wastewater. This includes concrete, metal, or other fabricated tanks and underground structures, as well as earthen and synthetically lined manure storage ponds.

MARKET VALUE – The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale; the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus.

MINIMIZE – To reduce to the smallest amount or extent possible. "Minimize" shall not mean complete elimination but shall require that the most substantial efforts possible under the circumstances have been taken to reduce the adverse effect(s) of the action required to be minimized. "Minimize" shall include but not be limited to the requirement that the placement of dwellings and other structures and the locations of roads, stormwater management facilities, and other land disturbance shall be planned and designed to reduce the adverse effect(s) of the activity in question to the smallest amount possible under the circumstances consistent with otherwise permitted development.

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.

MOBILE HOME – See Manufactured Home.

MOBILE HOME PARK – See Manufactured Home Park.

NEW CONSTRUCTION – Structures for which the start of construction commenced on or after the effective start date of this floodplain management Chapter and includes any subsequent improvements to such structures. Any construction started after the September 28, 1979 and before the effective start date of this floodplain management Chapter 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.

NONCONFORMING – A description for a use or structure, which use does not conform to the applicable regulations, either at the time of the enactment of an Ordinance or as a result of subsequent amendment of an Ordinance or as a result of subsequent amendments thereto, but which did not violate such regulations prior to the enactment of the Ordinance or amendments.

OBSTRUCTION – Any wall, dam, wharf, embankment, levee, dike, pile abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or flood-prone area, which may impede, retard or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or which is placed where the flow of the water might carry the same downstream to the damage of life and property.

PARTIALLY DAMAGED STRUCTURE – A structure that has sustained damage from any cause whereby the cost of restoring the structure to its before-damaged condition is less than 50% of the market value of the structure before the damage occurred.

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 – Is a structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map (FIRM) dated September 28, 1979, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

PRE-FIRM STRUCTURE – Is a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map (FIRM) dated September 28, 1979, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

RECONSTRUCTION – The act or process of reproducing by new construction the exact form and detail of a structure or a part thereof, as it appeared at a specific period of time.

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.

REDEVELOPMENT – The removal and replacement, rehabilitation, or adaptive reuse of an existing structure or structures, or of vacant but formerly developed land.

REPETITIVE LOSS – As determined by FEMA, structures for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling ten-year period, since 1978. At least two of the claims must be more than 10 days apart but within 10 years of each other.

RESIDENTIAL STRUCTURE – A structure regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business.

SEVERE REPETITIVE LOSS – As determined by FEMA, a residential structure that is covered under flood insurance by the NFIP and has incurred flood-related damage for which four or more separate claim payments have been paid since 1978 under flood insurance coverage with the amount of each claim payment exceeding \$5,000 and with cumulative amount of such claim payments exceeding \$20,000; or for which at least two separate claim payments have been made since 1978 with the cumulative amount of such claims exceeding the reported value of the property.

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

SPECIAL FLOOD HAZARD AREA (SFHA) – Means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.

START OF CONSTRUCTION – Includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within eighteen (18) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" or "repetitive loss" 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 standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

VACANT BUT FORMERLY DEVELOPED LAND – Land from which previous improvements have been removed.

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

VIOLATION – Means 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.

WATERCOURSE – A channel or conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow. Man-made swales, constructed specifically for stormwater management purposes, are excluded from this definition.

ARTICLE II. STATUTORY AUTHORIZATION

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

ARTICLE III. GENERAL PROVISIONS

§90-3 Intent

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:

- A. Promoting the general health, welfare, and safety of the community.

- B. Regulating uses, activities and land development which, acting alone or in combination with other existing or future uses, activities and land development, will cause unacceptable increases in flood heights, velocities and frequencies.
- C. Restricting or prohibiting certain uses, activities and land development from locating within areas subject to flooding.
- D. Requiring all uses, activities and land development that do occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage.
- E. Minimizing the financial burden imposed on the community, its governmental bodies and individuals by floods.
- F. Maintaining, to the maximum extent possible, the floodplain in its natural state and minimizing the removal of vegetation and compaction of soil to maximize its flood-carrying capacity and water-filtering capabilities.
- G. Complying with the provisions of the National Flood Insurance Program and the Pennsylvania Flood Plain Management Act (Act 1978-166). Editor's Note: See 32 P.S. §679.101 et seq.

§90-4 Applicability

- A. These provisions shall apply to all lands within Lower Saucon Township and shown as being located within the boundaries of any identified Flood Hazard District, as defined in Article V, which are considered as a part of the official Zoning Map. Editor's Note: Said map is on file in the Township offices.
- B. The Flood Hazard District shall be an overlay to the existing zoning districts as shown on the Lower Saucon Township Zoning Map and, as such, the provisions of the Flood Hazard District shall be imposed in addition to the requirements of the underlying zoning districts. In the event that a conflict exists between the overlay and the underlying districts, the more restrictive provisions shall apply.
- C. No development shall be undertaken, no structure or land shall hereafter be used; no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered; and no area shall be developed, graded, filled or excavated in any Flood Hazard District except in full compliance with the terms and provisions of this Chapter and any other applicable Ordinances and regulations.
- D. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within Lower Saucon Township unless a Permit has been obtained from the Floodplain Administrator.
- E. A Permit shall not be required for minor repairs to existing buildings or structures.

§90-5 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

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those provisions are more restrictive. If there is any conflict between any of the provisions of this Chapter, the more restrictive shall apply.

§90-6 Severability

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

§90-7 Warning and Disclaimer of Liability

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.

This Chapter shall not create liability on the part of Lower Saucon 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 IV. ADMINISTRATION

§90-8 Designation of the Floodplain Administrator

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

In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Manager of Lower Saucon Township.

§90-9 Permits Required

A Permit shall be required before any construction or development is undertaken within any area of Lower Saucon Township.

§90-10 Duties and Responsibilities of the Floodplain Administrator

A. The Floodplain Administrator shall issue a Permit only after it has been determined that the

proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and Ordinances.

- B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss concerns can be addressed before the permit is issued.
- D. 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.
- E. 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.
- F. 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 Council for whatever action it considers necessary.
- G. 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.
- H. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program.
- I. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain Chapter as the floodplain administrator/manager.
- J. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or latest revisions thereof.

§90-11 Application Procedures and Requirements

- A. Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms

supplied by Lower Saucon 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 floatation, collapse, or lateral movement;
 5. building materials are flood-resistant;
 6. appropriate practices that minimize flood damage have been used; and
 7. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
1. A completed Permit Application Form.
 2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:

- a. north arrow, scale, and date;
 - b. topographic contour lines, if available;
 - c. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - d. the location of all existing streets, drives, and other access ways; and
 - e. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, 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 Article V) 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 flood proofing measures which have been incorporated into the design of the structure and/or the development.
 - d. detailed information needed to determine compliance with Section 90-26 F., Storage, and Section 90-27, Development Which May Endanger Human Life, including:

- i. the amount, location and purpose of any materials or substances referred to in Sections 90-26 F. and 90-27 which are intended to be used, produced, stored or otherwise maintained on site.
 - ii. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 90-27 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 Township. Such fee shall be in the amount specified by Township Council Resolution or Ordinance. Editor's Note: The current Fee Schedule is available at the Township offices.

§90-12 Review by County Conservation District

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Floodplain Administrator to the County Conservation District for review and comment prior to the issuance of a Permit. The recommendations of the Conservation District shall be considered by the Floodplain Administrator for possible incorporation into the proposed plan.

§90-13 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.

§90-14 Changes

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

§90-15 Placards

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

§90-16 Start of Construction

Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within eighteen (18) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator.

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

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 & FIRM/FIS in effect at the time the extension is granted.

§90-17 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 thirty (30) days for the performance of any act it requires;
4. be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
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 of 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 Lower Saucon Township, of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$600.00) plus costs of prosecution. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this 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 Council to be a public nuisance and abatable as such.

§90-18 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 Lower Saucon Township Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.
- B. Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with the Pennsylvania Municipalities Planning Code and any other applicable 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.

ARTICLE V. IDENTIFICATION OF FLOODPLAIN AREAS

§90-19 Identification

The identified floodplain area shall be:

- A. any areas of Lower Saucon Township, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated July 16, 2014 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study and,
- B. any Community Identified Flood Hazard Areas.

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

§90-20 Description and Special Requirements of Identified Floodplain Areas

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

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

- B. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
 - 1. The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.

 - 2. AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
 - i. 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.

 - ii. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

- C. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be

used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.

In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality.

- D. The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.
- E. Community Identified Flood Hazard Areas shall be those areas where Lower Saucon Township has identified local flood hazard or ponding areas, as delineated and adopted on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high water marks, soils or approximate study methodologies.

§90-21 Changes in Identification of Area

The Identified Floodplain Area may be revised or modified by the Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See 90-24 (B) for situations where FEMA notification is required.

§90-22 Boundary Disputes

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

§90-23 Jurisdictional Boundary Changes

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

ARTICLE VI. TECHNICAL PROVISIONS

§90-24 General

A. Alteration or Relocation of Watercourse

1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.
2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
3. In addition, FEMA and the Pennsylvania 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)

the applicant shall (as per 44 CFR Part 65.12):

1. apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
2. Upon receipt of the 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.

§90-25 Permitted Uses and Development

In the Flood Hazard District, the following uses and activities are permitted in the AE Area/District outside of the floodway or A Area/District areas provided they are in compliance with the provisions of the underlying district and are not prohibited by any other Ordinance:

- A. Agriculture, horticulture and forestry that:
 - 1. Do not include any structures.
 - 2. Do not require grading which would cause any increase in flood heights or frequency.
 - 3. Are conducted in accord with recognized soil conservation and water quality practices.
- B. Public and private recreational uses and activities, limited to parks, day camps, picnic grounds, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, and hunting and fishing areas.
- C. Uses accessory to those permitted in the underlying zoning district, including yard areas, gardens, play areas and parking areas, provided that no structures are erected, and no impervious surfaces are created.
- D. Redevelopment projects that:
 - 1. Do not include residential structures or critical facilities.
 - 2. Do not include prohibited uses listed in Section 90-26.
 - 3. Are consistent with the goals and objectives of the Lower Saucon Township Comprehensive Plan. Editor's Note: Said plan is on file in the Township offices.
 - 4. Are permitted in the applicable underlying zoning district.
 - 5. Are elevated to flood protection elevation (FPE) and in full compliance with the floodproofing requirements in the Lower Saucon Township Building Code, as amended. Editor's Note: See Ch. 65, Building Construction.
- E. The repair or expansion of riparian buffers.
- F. Floodproofing of non-residential structures to protect only lawfully existing nonconforming structures and lawfully existing nonconforming uses within structures.
- G. Fences and temporary protective fencing that do not impede floodwaters.
- H. Dams, culverts, bridges and altered or relocated watercourses with permits and/or approvals from the PA Department of Environmental Protection, PA Public Utility Commission, and/or U.S. Army Corps of Engineers. Furthermore, notification of such actions shall be provided to all affected adjoining municipalities, FEMA and the Pennsylvania DCED. The approval of a permit by any of the preceding state or federal agencies for one of the uses allowed in the Flood Hazard District shall in no way affect or conflict with the requirements imposed upon the use under the regulations of the Flood Hazard District.
- I. Public utility facilities under the exclusive jurisdiction of the Pennsylvania Public Utility Commission.

- J. Lower Saucon Township or Lower Saucon Township Authority uses, facilities, or structures deemed necessary by Lower Saucon Township to be located within the Flood Hazard District.
- K. Sewage facilities necessary to abate existing public nuisances or malfunctions only when elevated to flood protection elevation (FPE) and deemed by Lower Saucon Township Council to be the only reasonable means of correction a public health hazard.

§90-26 Prohibited Uses and Development

Within any Identified Floodplain Area any new construction or substantial improvements except permitted uses listed above shall be prohibited. In addition the following uses are strictly prohibited:

- A. All uses prohibited in the underlying zoning district.
- B. New construction, development or redevelopment in the Floodway area.
- C. All structures, with the exception of those specifically allowed in Section 90-25.
- D. The production, storage or use of any amount of radioactive substances.
- E. The production, storage or use of a substance or material, underground or aboveground, that is buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life including but not limited to the following:
 - 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. Mercury.
 - 12. Nitric acid and oxides of nitrogen.
 - 13. Petroleum products (gasoline, fuel oil, etc.).
 - 14. Phosphorus.
 - 15. Polychlorinated Biphenyls (PCBs).

16. Potassium.
 17. Sodium.
 18. Sulfur and sulfur products.
 19. Pesticides (including insecticides, fungicides and rodenticides).
 20. Radioactive substances, insofar as such substances are not otherwise regulated.
- F. The production, storage or use of explosives.
- G. The storage or disposal of materials used for snow and ice control including sand, salt and other deicing chemicals.
- H. Sanitary landfills, dumps, junk- and salvage yards, and outdoor storage of vehicles and/or materials.
- I. The storage or disposal of any soil, loam, peat, sand, gravel, rock or other mineral substance, refuse, trash, rubbish, debris or dredged/excavated spoil.
- J. Draining, excavation, or dredging, or removal or relocation of loam, peat, sand, gravel, soil, rock, or other mineral substance, except as accessory to work permitted as of right or by special permit.
- K. Manure storage facilities and manure stockpiles.
- L. 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.
- M. Hospitals
- N. Nursing Homes
- O. Jails or prisons
- P. Sewage disposal facilities except as provided for in Section 90-25.
- Q. Other than required to meet the requirements of Section 90-24 .C and Section 90-25, fill is prohibited in the Flood Hazard District.

§90-27 Elevation and Floodproofing Requirements

Within any Identified Floodplain Area any new construction or substantial improvements shall be prohibited. If a variance is obtained for new construction or substantial improvements in the Identified Floodplain Area in accordance with the criteria in Article VIII, then the following provisions apply:

- A. Residential Structures

1. In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.
2. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation determined in accordance with Section 90-20 C. of this Chapter.
3. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
4. The design and construction standards and specifications contained in the 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. Non-residential Structures

1. In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:
 - a. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
 - b. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
2. In A Zones, where no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with Section 90-20 C. of this Chapter.
3. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
4. Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended 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.

5. 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 flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
2. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - b. the bottom of all openings shall be no higher than one (1) foot above grade.
 - c. openings may be equipped with screens, louvers, 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 Chapter requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific Chapter 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 this Chapter's requirements will be the minimum necessary to preserve the historic character and design of the structure.

§90-28 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. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply:

If fill is used, it shall:

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

B. Drainage Facilities

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

C. Water and Sanitary Sewer Facilities and Systems

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

D. Other Utilities

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

E. Streets

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

F. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 90-26, Prohibited Uses and Development, shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.

G. Placement of Buildings and Structures

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

H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
2. Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
3. Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
4. Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other "water-resistant" material.

J. Paints and Adhesives

1. Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" quality.

2. Adhesives used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
3. All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

K. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment

Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.

M. Fuel Supply Systems

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

N. Uniform Construction Code Coordination

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

International Building Code (IBC) 2009 or the latest edition thereof:

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

International Residential Building Code (IRC) 2009 or the latest edition thereof:

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

§90-29 Special Requirements for Subdivisions and Development

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

§90-30 Special Requirements for Manufactured Homes

- A. Within any Identified Floodplain Area manufactured homes shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply:
1. Where permitted within any Identified Floodplain Area, all manufactured homes, and any improvements thereto, shall be:
 - i. placed on a permanent foundation;
 - ii. elevated so that the lowest floor of the manufactured home is at least one and one half (1.5) feet above base flood elevation ;
 - iii. and anchored to resist flotation, collapse, or lateral movement.
 - iv. and have all ductwork and utilities including HVAC/heat pump elevated to the Regulatory Flood Elevation.
 2. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 "International Residential Building Code" or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 PA Code Chapter 401-405 shall apply.
 3. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the most recent revisions thereto and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

§90-31 Special Requirements for Recreational Vehicles

Within any Identified Floodplain Area recreational vehicles shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply:

- A. Recreational vehicles in Zones A, A1-30, AH and AE must either:
1. be on the site for fewer than 180 consecutive days, and
 2. be fully licensed and ready for highway use,
- or
3. meet the permit requirements for manufactured homes in Section 90-30.

ARTICLE VII. EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

§90-32 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 Section 90-33 shall apply.

§90-33 Improvements

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

- A. No improvement or reconstruction of an existing structure shall be allowed within any FW area as identified by the Flood Insurance Study prepared by FEMA or other available studies or sources of information found acceptable by Lower Saucon Township and approved by FEMA.
- B. 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 Section 90-20 C.
- C. The improvement or reconstruction of existing structures that store materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be prohibited in the Flood Hazard District.
- D. Existing structures in the AE Area/Districts and A Area/Districts are defined and regulated as follows:
 - 1. Intact structures. If any improvement to an existing intact structure is proposed to the extent of 10% or more of its market value, it shall only be undertaken only in full compliance with the floodproofing requirements in the Lower Saucon Township Building Code, as amended.
 - 2. Partially damaged structures. Any improvement or reconstruction to an existing partially damaged structure shall be undertaken only in full compliance with the floodproofing requirements in the Lower Saucon Township Building Code, as amended.
 - 3. Substantially damaged structures. Any improvement or reconstruction to a substantially damaged structure shall be in full compliance with the floodproofing requirements in the Lower Saucon Township Building Code, as amended, and shall have the lowest floor, including basement, elevated to flood protection elevation.
 - 4. Repetitive loss structures.
 - a. An improvement to a repetitive loss structure to an extent 10% or more of its market value of the intact structure shall be prohibited. Any permitted improvement to a repetitive loss structure shall be in full compliance with the floodproofing

requirements of the Lower Saucon Township Building Code, as amended, Editor's Note: See Ch. 65, Building Construction. and shall have the lowest floor, including basement, elevated to flood protection elevation.

- b. The reconstruction of a repetitive loss structure shall be in full compliance with the Lower Saucon Township Building Code, as amended, and shall have the lowest floor, including basement, elevated to flood protection elevation.

5. Severe repetitive loss structures

- a. An improvement to a severe repetitive loss structure to an extent 5% or more of its market value as an intact structure shall be prohibited. Any permitted improvement to a severe repetitive loss structure shall be in full compliance with the floodproofing requirements of the Lower Saucon Township Building Code, as amended, (Editor's Note: See Ch. 65, Building Construction) and shall have the lowest floor, including basement, elevated to flood protection elevation.
- b. The reconstruction of a severe repetitive loss structure shall be a) in full compliance with the Lower Saucon Township Building Code, as amended; shall b) have the lowest floor, including basement, elevated to flood protection elevation and c) the applicant shall provide documentation from Lower Saucon Township, the Commonwealth of Pennsylvania and the Federal Emergency Management Agency that states Lower Saucon Township, the Commonwealth of Pennsylvania or FEMA will not acquire the property for the purposes of flood mitigation prior to the reconstruction of the structure.

E. The cost of improvements or reconstruction commenced since the adoption of this Chapter must be calculated at today's current cost.

F. It is the responsibility of the applicant to supply the information necessary (e.g., appraisals, construction costs, estimates, etc.) to make the determination that the market value is reasonably accurate and that the cost estimate reasonably reflects the actual costs of the improvements to the structure.

G. Acceptable estimates of market value shall be determined from one of the following methods:

- 1. Independent appraisals by a state licensed real estate appraiser.
- 2. The value of the building taken from NFIP claims data.
- 3. Acceptable estimates of cost of improvement shall be determined from one of the following methods:
 - a. Itemized estimates made by contractors licensed to work in Lower Saucon Township.
 - b. Building code valuation tables.

- 4. The Zoning Hearing Board shall have the right to waive or modify, as a special exception, any of the requirements of this Section for any structure listed on a National, State, or Local Register of Historic Places; provided, however, that the provisions of Article VIII shall be applied in such a case.
- H. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009 IBC and the 2009 IRC.
- I. Within any Floodway Area/District (See Section 90-20 A), no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office
- J. Within any AE Area/District without Floodway (See Section 90-20 B), no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- K. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.
- L. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “repetitive loss” shall be undertaken only in full compliance with the provisions of this Chapter.

ARTICLE VIII VARIANCES

§90-34 General

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

§90-35 Variance Procedures and Conditions

General. If compliance with any of the requirements of this Chapter would result in an exceptional hardship for a prospective builder, developer, or landowner, the Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.

Requests for variances shall be considered by the Lower Saucon Township Zoning Hearing Board in accordance with this Chapter and the procedures contained in Section 90-18 and the following:

- A. No variance shall be granted within any Identified Floodplain Area that would cause any increase in BFE. In A Area/District, BFEs are determined using the methodology in Section 90-20 C.
- B. No variance shall be granted for any of the prohibited uses or activities in Section 90-26 to locate in the Flood Hazard District.

- C. If granted, a variance shall involve only the least modification necessary to provide relief.
- D. In granting any variance, the Lower Saucon Township Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Chapter.
- E. Whenever a variance is granted, the Lower Saucon Township Zoning Hearing Board shall notify the applicant in writing that:
 - 1. The granting of the variance may result in increased premium rates for flood insurance.
 - 2. Such variances may increase the risks to life and property.
- F. In reviewing any request for a variance, the Lower Saucon Township Zoning Hearing Board shall consider, at a minimum, the following:
 - 1. That there is good and sufficient cause.
 - 2. That failure to grant the variance would result in exceptional hardship to the applicant.
 - 3. That the granting of the variance will:
 - a. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
 - b. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local Ordinances and regulations.
- G. A complete record of all variance requests and related actions shall be maintained by the Lower Saucon Township Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.
- H. Review factors. In reviewing applications for a variance, the Boards shall consider all relevant factors and procedures specified in other articles of this Chapter and:
 - 1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - 2. The danger that materials may be swept on to other lands or downstream to the injury of others.
 - 3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
 - 4. The susceptibility of the proposed use and its contents to flood damage and the effect of such damage on the individual owners.

5. The importance of the services provided by the proposed use to the community.
 6. The requirements of the use for a waterfront location.
 7. The availability of alternative locations not subject to flooding for the proposed use.
 8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 9. The relationship of the proposed use to the Lower Saucon Township Comprehensive Plan and the Lower Saucon Township stormwater management objectives and regulations. Editor's Note: See Ch. 137, Stormwater Management.
 10. The safety of access to the property in times of flood of ordinary and emergency vehicles.
 11. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
 12. The requirements of the National Flood Insurance Program Regulations, Part 59: General Provisions, and Part 60: Criteria for Land Management and Use.
 13. Such other factors which are relevant to the purposes of this Chapter.
- I. Supplemental technical review. The Boards may refer any application and accompanying documentation pertaining to any request for a variance to the Township Engineer or other qualified person or agency for:
1. 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.
 2. All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by Lower Saucon Township and the Pennsylvania Department of Community and Economic Development.
- J. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of withstanding the one-percent (1%) annual chance flood.

SECTION 2. Violations and Penalties

The Violation and Penalty provisions of the Code, where not revised herein, shall remain unchanged.

05/15/14 Draft
05/21/14 Rev. Draft
05/30/14 Rev. L. Rhoads
06/18/14 Final

SECTION 3. Severability

The provisions of this Ordinance are severable. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, illegal, or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Council of Lower Saucon Township hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional, illegal, or otherwise invalid.

SECTION 4. Repealer

All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 5. Effective Date

The provisions of this Ordinance shall become effective five (5) days after adoption.

ENACTED and **ORDAINED** this 18th day of June, 2014.

ATTEST:

Lower Saucon Township

Jack Cahalan
Secretary

Ronald W. Horiszny
Council President