

CHAPTER 8
FLOODPLAINS

PART 1

STATUTORY AUTHORIZATION

§8-101. Statutory Authorization

PART 2

GENERAL PROVISIONS

§8-201. Intent
§8-202. Applicability
§8-203. Abrogation and Greater Restrictions
§8-204. Warning and Disclaimer of Liability
§8-205. Lands to Which this Chapter Applies
§8-206. Basis for Establishing Flood-Prone Areas
§8-207. Compliance
§8-208. Interpretation

PART 3

ADMINISTRATION

§8-301. Establishment of Development Permit
§8-302. Designation of Floodplain Administrator
§8-303. Duties and Responsibilities of Floodplain Administrator

PART 4

PROVISIONS FOR FLOOD HAZARD REDUCTION

§8-401. Standards for Construction
§8-402. Standards for Subdivision or Other Proposed New Development
§8-403. Standards for Utilities
§8-404. Development Which May Endanger Human Life

PART 5

HIGH RISK LAND USES

§8-501. General

PART 6

DEFINITIONS

§8-601. General

§8-602. Specific Definitions

PART 7

ENACTMENT

§8-701. Adoption

PART 1

STATUTORY AUTHORIZATION

§8-101. 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 government units to adopt floodplain management regulations to promote public health, safety and the general welfare of its citizenry. Therefore, the Council of the Borough of East McKeesport, Allegheny County, does hereby order as follows:

(Ord. 902, 9/13/2012, §1.00)

PART 2
GENERAL PROVISIONS

§8-201. 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.

(Ord. 902, 9/13/2012, §2.01)

§8-202. Applicability.

- 1. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the East McKeesport Borough unless a permit has been obtained from the Floodplain Administrator.
- 2. A permit shall not be required for minor repairs to existing buildings or structures.

(Ord. 902, 9/13/2012, §2.02)

§8-203. 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.

(Ord. 902, 9/13/2012, §2.03)

FLOODPLAINS

§8-204. Warning and Disclaimer of Liability.

1. The degree of flood protection sought by the provisions of this Chapter is considered reasonable for regulatory purposes and is based on acceptable 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.
2. This Chapter shall not create liability on the part of the East McKeesport Borough or any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

(Ord. 902, 9/13/2012, §2.05)

§8-205. Lands to Which this Chapter Applies.

This Chapter shall apply to all areas identified as flood-prone within the jurisdiction of East McKeesport Borough.

(Ord. 902, 9/13/2012, §2.06)

§8-206. Basis for Establishing Flood-Prone Areas.

The Floodplain Administrator shall obtain, review and reasonably utilize any base flood data available from other Federal or State agencies or other source to identify flood-prone areas within the jurisdiction of East McKeesport Borough. This data will be on file at 907 Florence Avenue, East McKeesport Municipal Building, East McKeesport, Pennsylvania 15035.

(Ord. 902, 9/13/2012, §2.07)

§8-207. Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the term of this Chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the East McKeesport Borough from taking such lawful action as is necessary to prevent or remedy any violation.

(Ord. 902, 9/13/2012, §2.08)

§8-208. Interpretation.

In the interpretation and application of this Chapter, all provisions shall be:

- A. Considered as minimum requirements.
- B. Liberally construed in favor of the governing body.
- C. Deemed neither to limit nor repeal any other powers granted under State.

(Ord. 902, 9/13/2012, §2.09)

PART 3
ADMINISTRATION

§8-301. Establishment of Development Permit.

A development permit shall be obtained for all proposed construction or other development in the community, including the placement of manufactured homes, so that it may be determined whether such construction or other development is within flood-prone areas.

(Ord. 902, 9/13/2012, §3.01)

§8-302. Designation of Floodplain Administrator.

The Building Inspector is hereby appointed to administer, implement and enforce this Chapter by granting or denying development permits in accordance with its provisions.

(Ord. 902, 9/13/2012, §3.02)

§8-303. Duties and Responsibilities of Floodplain Administrator.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- A. **Permit Review.** Review of all development permit applications to determine:
 - (1) Permit requirements of this Chapter have been satisfied.
 - (2) All other required State and Federal permits have been obtained.
 - (3) The site is reasonably safe from flooding.

- B. **Review and Use of Any Other Base Flood Data.** The Floodplain Administrator shall obtain, review and reasonably utilize any base flood data available from other Federal or State agency or other source.

(Ord. 902, 9/13/2012, §3.03)

PART 4

PROVISIONS FOR FLOOD HAZARD REDUCTION

§8-401. Standards for Construction.

If a proposed building site is in a flood-prone area, all new construction and substantial improvements, including manufactured homes, shall:

- A. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. Be constructed:
 - (1) With materials and utility equipment resistant to flood damage.
 - (2) Using methods and practices that minimize flood damage.
 - (3) With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Ord. 902, 9/13/2012, §4.01)

§8-402. Standards for Subdivision or Other Proposed New Development.

If a subdivision proposal or other proposed new development, including manufactured home parks or subdivisions, is in a flood-prone area, any such proposals shall be reviewed to assure that:

- A. All such proposals are consistent with the need to minimize flood damage within the flood-prone area.
- B. All public utilities and facilities such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage.
- C. Adequate drainage is provided to reduce exposure to flood hazards.

(Ord. 902, 9/13/2012, §4.02)

§8-403. Standards for Utilities.

- 1. All new and replacement water supply and sanitary sewage systems shall be

FLOODPLAINS

designed to minimize or eliminate:

- A. Infiltration of flood waters into the systems.
 - B. Discharge from the systems into flood waters.
2. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(*Ord. 902, 9/13/2012, §4.03*)

§8-404. Development Which May Endanger Human Life.

1. 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:
 - A. Will be used for the production or storage of any of the following dangerous materials or substances.
 - B. 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.
 - C. Will involve the production, storage, or use of any amount of radioactive substances.
 - D. Shall be subject to the provisions of this Section, in addition to all other applicable provisions. 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.
2. Within any identified flood-prone area, any new or substantially improved structure of the kind described in subsection (1), above, shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
3. Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in subsection (1), above, shall be designated to prevent pollution from the structure or activity during the course of a 100-year flood.

Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972, as amended March 1992), or with some other equivalent watertight standard.

(Ord. 902, 9/13/2012, §4.04)

PART 5

HIGH RISK LAND USES

§8-501. General.

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 flood-prone area.

- A. The commencement of any of the following activities, or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
 - (1) Hospitals.
 - (2) Nursing homes.
 - (3) Jails or prisons.
- B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

(Ord. 902, 9/13/2012, §5.01)

PART 6

DEFINITIONS

§8-601. General.

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

(Ord. 902, 9/13/2012, §6.01)

§8-602. Specific Definitions.

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 1% chance of being equaled or exceeded in any given year (also called the "100-year flood" or 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% 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 alternation 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.

FLOODPLAINS

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 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.

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 1 foot.

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 in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic 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.
- 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.
- (2) Directly by the Secretary of the Interior in states without approved programs.

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 designated 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.

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, alternation 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 March 4, 2013, and includes any subsequent improvements to such structures. Any construction started after October 4, 1994, and before March 4, 2013, 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 sit 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

FLOODPLAINS

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 1/1/1950, 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 1/1/1950, 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 1½ feet.

REPETITIVE LOSS - flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure before the damages occurred.

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

SPECIAL FLOOD HAZARD AREA (SFHA) - an area in the floodplain subject to a 1% 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 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” (or “repetitive loss” when a repetitive loss provision is used) regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement, as defined in this Chapter, must comply with all ordinance requirements that do not preclude the structure’s continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

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

FLOODPLAINS

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.

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.

(Ord. 902, 9/13/2012, §6.02)

PART 7
ENACTMENT

§8-701. Adoption.

This Chapter shall be effective on March 4, 2013, and shall remain in force until modified, amended or rescinded by East McKeesport Borough, Allegheny County, Pennsylvania.

(Ord. 902, 9/13/2012, Art. VII)

