

ARTICLE 1400  
FLOODPLAIN (FP) DISTRICT

§ 208-1401. Purpose.

- A. It is the intent of this DISTRICT to promote the public health, safety and general welfare and to minimize losses in AREAS subject to periodic inundation. These losses include life and property, damage to STRUCTURES, injury to PERSONS, disruption of public and private activities and services, burdensome public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. It is the purpose of the provisions in this Article to:
1. Restrict or prohibit USES which are dangerous to health, safety or property in times of flood or which could cause increased flood heights or velocities and to permit USES of the floodplain compatible with the preservation of natural conditions and the maintenance of the STREAM flow throughout the year.
  2. Provide sufficient DRAINAGE courses to carry abnormal flows of stormwater in periods of heavy precipitation.
  3. Permit only those USES that are compatible with DEVELOPMENT of flood-prone AREAS, as herein defined, and which will not impede the flow or storage of floodwaters or otherwise cause danger to life and property at, above or below their locations along the floodplain.
  4. Protect the quality and quantity of surface and subsurface water supplies adjacent to and underlying floodplain AREAS.
  5. Provide AREAS for the deposition of flood-borne sediment.
  6. Require that USES vulnerable to floods, including public facilities, be constructed so as to be protected against flood damage.
  7. Preserve the integrity of STREAM banks and their immediate vicinity from erosion and degradation of natural vegetation.
  8. Regulate or prevent the erection of BUILDINGS and other STRUCTURES in AREAS unfit for DEVELOPMENT by reason of periodic flooding, unsanitary DRAINAGE conditions and related hazards.
  9. Prevent the increase in flood volume and rate of flow which results from covering the FLOODPLAINS with IMPERVIOUS SURFACES and from constricting natural DRAINAGE channels.
  10. Protect individuals and adjacent landowners and those both upstream and downstream from damages resulting from inappropriate floodplain DEVELOPMENT and the resultant obstruction or increase in flow of floodwaters.
  11. Minimize the financial burden imposed by flooding on the community, its governmental bodies and individuals.
  12. Comply with the purpose and requirements of the National Flood Insurance Program (42 U.S.C. § 4001-4128).

§ 208-1402.DISTRICT boundaries.

The Floodplain (FP) District is defined and established to include the following land AREAS:

- A. AREAS subject to inundation by waters of the ONE-HUNDRED-YEAR FLOOD (one-hundred-year-flood boundary and approximate one-hundred-year-flood boundary) as delineated on the Flood Boundary and Floodway Map, TOWNSHIP of Marshall, Allegheny County, Pennsylvania, Community Panel Number 421080-0010B, prepared by the Federal Emergency Management Agency, Federal Insurance Administration (FIA) and the Flood Insurance Study, on which said map is based. Said map and study are hereby adopted by reference and declared to be part of this chapter.
- B. The FLOODPLAIN (FP) DISTRICT shall be comprised of three (3) subdistricts as follows:
  1. Floodway (FW). That portion of the FLOODPLAIN (FP) DISTRICT including the watercourse itself and any adjacent land area that must be kept open in order to carry the water of a ONE-HUNDRED-YEAR FLOOD without causing an increase of more than one (1) foot in the elevation of that flood at any point. These AREAS are shown on the FIA maps.
  2. Floodway Fringe (FF). The remaining portion of the FLOODPLAIN (FP) DISTRICT lying beyond the Floodway in AREAS where detailed study data and profiles are available. These AREAS are shown on the FIA maps.
  3. General FLOODPLAIN (FA). Those AREAS of land within the FLOODPLAIN (FP) DISTRICT subject to inundation by the ONE-HUNDRED-YEAR FLOOD, where a detailed study has not been performed but where a one-hundred-year-flood boundary has been approximated. These AREAS are shown on the FIA maps. In determining the necessary elevations for the General FLOODPLAIN, other sources of data may be Used, such as:
    - (a) Corps of Engineers: FLOODPLAIN Information Reports.
    - (b) United States Geological Survey: Flood-Prone Quadrangles.
    - (c) United States Department of Agriculture, Soil Conservation Service: County Soil Survey (Alluvial Soils).
    - (d) Known high-water marks from past floods.
    - (e) Other sources.
- C. Where the specific one-hundred-year-flood elevation cannot be determined for this area using other sources of data as listed above, then the applicant for the proposed USE, DEVELOPMENT or activity shall determine this elevation in accordance 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. All studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the TOWNSHIP Engineer.
- D. Studies Used to establish boundaries shall be available to the public in the TOWNSHIP Municipal BUILDING for reference.

- E. All subsequent changes made in the boundaries shall be indicated on the FLOODPLAIN DISTRICT Map (a part of the ZONING MAP of Marshall TOWNSHIP).

§ 208-1403. Overlay concept.

- A. The FLOODPLAIN (FP) DISTRICT shall be an overlay on any underlying ZONING DISTRICT now or hereafter applicable to any property.
- B. The occurrence of the FLOODPLAIN (FP) DISTRICT on any underlying zone shall mean that only those USES, standards and requirements of the FLOODPLAIN (FP) DISTRICT shall apply to that portion of the underlying zone.
- C. A change in the underlying ZONING DISTRICT shall have no effect on the FLOODPLAIN (FP) DISTRICT.

§ 208-1404. Interpretation of boundaries.

- A. Initial interpretations of the boundaries of the FLOODPLAIN (FP) DISTRICT shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of the FLOODPLAIN (FP) DISTRICT, the ZONING HEARING BOARD shall, on appeal to it, make the necessary determination. The PERSON contesting the location of the DISTRICT shall have the burden of establishing that land does not lie within the FLOODPLAIN (FP) DISTRICT.
- B. Should the FLOODPLAIN (FP) DISTRICT be declared inapplicable to any TRACT, the zoning applicable to such TRACT shall be deemed to be the DISTRICT in which it is located without consideration of this Article.

§ 208-1405. DISTRICT boundary changes.

- A. The delineation of the FLOODPLAIN (FP) DISTRICT may be revised by the TOWNSHIP of Marshall where natural or man-made changes have occurred and/or more detailed studies have been conducted or undertaken by the United States Army Corps of Engineers, the Soil Conservation Service or other qualified agency or individual which document the necessity for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency (successor to the Federal Insurance Administration).

§ 208-1406. Permitted USES in Floodway (FW).

- A. The Floodway (FW) is delineated for the purposes of this chapter using the criteria that a certain area within the FLOODPLAIN must be capable of carrying the waters of the ONE-HUNDRED-YEAR FLOOD more than one (1) foot at any point. The AREAS included in this area are defined in the Floodway Data Table contained in the Flood Insurance Study (FIS) as prepared by the FEMA and shown on the Flood Insurance Rate Map. Where no floodway has been delineated in the FIS, such information contained in any other available federal, state or other acceptable source should be Used. In the floodway subdistrict, the following USES and activities having a low flood damage potential and not obstructing flood flows shall be permitted, provided that they are in compliance with the provision of the underlying DISTRICT and are not prohibited by any other ordinance and do not require STRUCTURES, fill or storage of materials and equipment:

- B. Agricultural USES such as general FARMING, pasture, grazing, outdoor, plant nurseries, HORTICULTURE, truck FARMING, FORESTRY, sod FARMING and wild crop harvesting.
- C. PUBLIC and private recreational USES and activities such as PARKS, day camps, picnic grounds, golf courses, boat launching and swimming AREAS, hiking and horseback riding trails, wildlife and nature preserves, game FARMS, fish hatcheries, trap and skeet game ranges, hunting and fishing.
- D. Accessory RESIDENTIAL USES such as YARD AREAS, gardens and play AREAS.

§ 208-1407. Permitted USES in Floodway Fringe (FF).

- A. The Floodway Fringe (FF) shall be that area of the ONE-HUNDRED-YEAR FLOODPLAIN not included in the floodway. The basis for the outermost boundary of this area shall be one-hundred-year-flood elevations contained in the flood profiles provided in the FIS. Where elevation information is not provided in the FIS, such information provided in any other available federal, state or other acceptable source should be Used. The same USES as in the Floodway (FW) shall be permitted in the Floodway Fringe (FF).

§ 208-1408. Permitted USES in General FLOODPLAIN (FA).

- A. The General FLOODPLAIN (FA) shall be that FLOODPLAIN area for which no detailed flood elevations or floodway information is provided. Such AREAS are shown as Zone A on the maps accompanying the Flood Insurance Study prepared by the FEMA. For these AREAS, elevation and floodway information from other federal, state or other acceptable information shall be Used when available. When such other acceptable information is not available, the elevation shall be determined by using the area which is nearest the CONSTRUCTION SITE. In the General FLOODPLAIN (FA), the DEVELOPMENT and/or USE of land shall be permitted in accordance with the regulations of the underlying DISTRICT, provided that all such USES, activities and/or DEVELOPMENT shall be undertaken in strict compliance with the FLOODPROOFING and related provisions contained in all other applicable codes and ordinances.

§ 208-1409. Permitted ACCESSORY USES.

ACCESSORY USES authorized in this DISTRICT shall include the following, and USES of the same general character:

- A. Only those ACCESSORY USES customarily incidental to any of the foregoing USES permitted by right.
- B. If contemplated within the floodway, no ACCESSORY USE shall be permitted which will increase the water surface elevation of the ONE-HUNDRED-YEAR FLOOD.

§ 208-1410. CONDITIONAL USES.

- A. The following USES shall be permitted by CONDITIONAL USE when authorized by the BOARD OF SUPERVISORS, subject to the standards set forth below, and if contemplated within the Floodway, do not cause an increase in the water surface of the ONE-HUNDRED-YEAR FLOOD:
1. Water lines and sealed public water supply wells with the approval of the TOWNSHIP Engineer and the Pennsylvania Department of Environmental protection.
  2. Utility transmission lines.
  3. Front, side and REAR YARDS and required LOT AREAS in any DISTRICT, provided that such YARDS and AREAS are not to be Used for on-SITE sewage disposal systems, and provided that no FENCES, retaining walls or other STRUCTURES be installed that could effectively collect floating debris during periods of flooding.
  4. Storm sewer outlet and sanitary sewer treatment plant outlet, with the approval of the TOWNSHIP Engineer, appropriate sewer authorities and other appropriate governmental authorities, provided that the CONSTRUCTION is FLOODPROOFED.
  5. Dams and impoundment basins, where approved by appropriate public agencies.
  6. Water-related USES and activities such as marinas, docks, wharves, piers, etc.
  7. Temporary USES such as circuses, carnivals and similar activities.
  8. Storage of materials and equipment, provided that they are not buoyant, flammable or explosive and are not subject to major damage by flooding or subject to the provisions in § 208-1412 of this chapter.
  9. Extraction of sand, gravel and other materials.
  10. Expansion of existing BUILDINGS or STRUCTURES. When permitted as a CONDITIONAL USE by the BOARD OF SUPERVISORS, any BUILDING or STRUCTURE within the FLOODPLAIN (FP) DISTRICT at the time of enactment of this chapter may be altered or extended, provided that:
    - (a) Existing STRUCTURES located in a Designated Floodway subdistrict or area shall not be expanded or enlarged, unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.
    - (b) Any modification, alteration, reconstruction or improvement of any kind to an existing STRUCTURE to an extent or amount of less than fifty percent (50%) of its market value shall be elevated and/or FLOODPROOFED to the greatest extent possible.
    - (c) Any modification, alteration, reconstruction or improvement of any kind to an existing STRUCTURE to an extent or amount of less than fifty percent (50%) or more of its market value shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this chapter.
    - (d) Notwithstanding any of the above, any increase in volume or area shall not exceed an aggregate of more than twenty-five percent (25%) of such volume or area during the life of the STRUCTURE.

- (e) No increase of any on-lot sewer system presently located either wholly or partially in the FLOODPLAIN (FP) DISTRICT shall be permitted.

§ 208-1411. CONDITIONAL USE hearing requirements.

- A. In addition to the standards for review of CONDITIONAL USES (§ 208-2603), the BOARD OF SUPERVISORS shall also consider the following factors:
  - 1. The degree of danger to life and property due to increased flood heights or velocities caused by the desired encroachments.
  - 2. The degree of danger that materials may be swept on to other lands or downstream to the injury of others.
  - 3. The susceptibility of the proposed USE to flood damage and the effect of such damage to the OWNER.
  - 4. The importance of the proposed USE to the community.
  - 5. The availability of alternative locations not subject to flooding for the proposed USE.
  - 6. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the SITE.
  - 7. Such other factors which are relevant to the purposes of this chapter.

§ 208-1412. DEVELOPMENT which may endanger human life.

- A. In accordance with the Pennsylvania Flood Plain Management Act and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved STRUCTURE which will be Used for the production or storage of any of the following materials or substances or which will be Used for any activity requiring the maintenance of a supply [more than five hundred fifty (550) gallons or other comparable volume or any amount of radioactive substances] of any of the following materials or substances on the premises shall be subject to the provisions of this section, in addition to all other applicable provisions: **[Amended 9-29-2008 by Ord. No. 393]**
  - 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.
- B. Within the Floodway Fringe (FF) or General FLOODPLAIN (FA), any STRUCTURE of the kind described in Subsection A shall be:
1. Elevated or Designed and constructed to remain completely dry up to at least one and one-half (1 1/2) feet above the ONE-HUNDRED-YEAR FLOOD; and
- C. Designed to prevent pollution from the STRUCTURE of activity during the course of a ONE-HUNDRED-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 (United States Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

§ 208-1413. Prohibited USES and activities.

- A. The following USES and activities are specifically prohibited in the FLOODPLAIN (FP) DISTRICT:
1. On-SITE sewage disposal systems.
  2. Sanitary landfills, dumps, JUNKYARDS, OUTDOOR STORAGE of vehicles and materials.
  3. Unsealed water supply wells.
  4. The relocation or alteration of any watercourse except with the approval of the BOARD OF SUPERVISORS of Marshall TOWNSHIP and the Department of Environmental Protection and the notification, by the DEVELOPER, of all adjacent communities, the Pennsylvania Department of Community and Economic Development and the Federal Emergency Management Agency.

5. No storage of any material that can float or that is explosive or that may be hazardous to the health and welfare of the surrounding population or which is in violation of the Clean STREAMS Act or regulations of the Department of Environmental Protection shall be permitted within a FLOODPLAIN (FP) DISTRICT.
6. In accordance with the Department of Community and Economic Development administrative regulations implementing the Pennsylvania Flood Plain Management Act (Act 1978-166) the following OBSTRUCTIONS and activities are prohibited if located entirely or partially within an identified FLOODPLAIN:
  - (a) HOSPITALS (public or private).
  - (b) Nursing HOMES (public or private).
  - (c) Jails or prisons.
  - (d) New MOBILE HOME PARKS and MOBILE HOME SUBDIVISIONS, and substantial improvements to such existing PARKS and SUBDIVISIONS.

§ 208-1414. Special provisions applying in Designated FLOODPLAIN DISTRICTS.

In order to prevent excessive damage to BUILDINGS and STRUCTURES due to flooding conditions, the following provisions shall apply to all proposed CONSTRUCTION or DEVELOPMENT occurring in any of the FLOODPLAIN subdistricts Designated in § 208-1402.

A. General.

1. Residential STRUCTURES. Within any Designated Floodway (FW), Flood-Fringe (FF) or General FLOODPLAIN (FA), the lowest floor (including BASEMENT) of any new or improved residential STRUCTURE shall be at least one and one-half (1 1/2) feet above the one-hundred-year-flood elevation.
2. Nonresidential STRUCTURES.
  - (a) Any nonresidential STRUCTURE or part thereof, having a lowest floor which is not elevated to at least a one-hundred-year-flood elevation, shall be FLOODPROOFED in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled "FLOOD-PROOFING Regulations," published by the United States Army Corps of Engineers (June 1972) 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.
  - (b) Within the identified FLOODPLAIN (FP) DISTRICT, fully enclosed SPACES below the lowest floor of any new or substantially improved STRUCTURE shall be prohibited.
3. MANUFACTURED HOMES. Within the Floodway (FW), MANUFACTURED HOMES shall be prohibited.

B. Design and CONSTRUCTION standards.

1. DRAINAGE facilities. Storm DRAINAGE facilities shall be Designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure DRAINAGE at all points 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.
2. Sanitary sewer facilities. All new or replacement sanitary sewer facilities and private package SEWAGE TREATMENT PLANTS (including all pumping stations and collector systems) shall be Designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.
3. Water facilities. All new or replacement water facilities shall be Designed to minimize or eliminate infiltration or floodwaters into the system and be located and constructed to minimize or eliminate flood damage.
4. STREETS. The finished elevation of proposed new STREETS shall be no more than one (1) foot below the REGULATORY FLOOD ELEVATION.
5. Utilities. All utilities such as gas lines and electrical and telephone systems being placed in flood-prone AREAS should be located, elevated (where possible) constructed to minimize the chance of impairment during a flood.
6. Fill. 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, unless substantiated data, justifying steeper slopes, are submitted to and approved by the BUILDING official.
  - (e) Be Used to the extent to which it does not adversely affect adjacent properties.
7. Placement of BUILDINGS and STRUCTURES. All BUILDINGS and STRUCTURES shall be constructed and placed on the LOT so as to offer the minimum obstruction to the flow of water. In doing so, consideration shall be given to their effect upon the flow and height of floodwaters.
8. Anchoring.
  - (a) All BUILDINGS and STRUCTURES shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse or other movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.

- (b) All air ducts, large pipes and storage tanks located at or below the REGULATORY FLOOD ELEVATION shall be firmly anchored in accordance with accepted engineering practices to prevent flotation.

9. Floor, walls and ceilings. Where located at or below the REGULATORY FLOOD ELEVATION:

- (a) Wood flooring shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain, without incurring structural damage to the BUILDINGS.
- (b) Plywood shall be of any exterior or marine grade and of a water-resistant or waterproof variety.
- (c) Walls and ceilings in nonresidential STRUCTURES shall have sufficient wet strength and be so installed as to survive inundation.
- (d) Window frames, door frames, door jambs and other components shall be made of metal or other water-resistant material.

10. Electrical systems.

- (a) All electric water heaters, electric furnaces, electric air-conditioning and ventilating systems and other electrical equipment or apparatus shall be permitted only at elevations above the REGULATORY FLOOD ELEVATION.
- (b) No electrical distribution panels shall be allowed at an elevation less than three (3) feet above the level of the one-hundred-year-flood elevation.
- (c) Separate electrical circuits shall serve lower levels and shall be dropped from above.

11. Plumbing.

- (a) Water heaters, furnaces and other mechanical equipment or apparatus shall be permitted only at elevations above the regulatory flood.
- (b) No part of any on-SITE sewage disposal system shall be constructed within the Designated FLOODPLAIN (FP) DISTRICT.
- (c) Water supply systems and sanitary sewage systems shall be Designed to preclude infiltration of floodwaters into the systems and discharges from the system into floodwaters.
- (d) All gas and oil supply systems shall be Designed to preclude the infiltration of floodwaters into the systems and discharges from the systems into floodwaters. Additional provisions shall be made for the DRAINAGE of these systems in the event that floodwater infiltration occurs.

12. Paints and adhesives. Where located at or below the REGULATORY FLOOD ELEVATION:

- (a) Adhesives shall have a bonding strength that is unaffected by inundation (i.e., marine or water-resistant quality).
- (b) All wooden components (doors, trim, cabinets, etc.) shall be sealed with a marine or water-resistant quality or similar product.
- (c) Paints or other finishes shall be capable of surviving inundation (i.e., marine or water-resistant quality).

13. Storage. No materials that are buoyant, flammable, explosive or that in time of flooding could be injurious to human, animal or plant life shall be stored below the REGULATORY FLOOD ELEVATION.

C. Special flood damage control provisions for MOBILE HOMES and MOBILE HOME PARKS in the Designated FLOODPLAIN (FP) DISTRICT.

1. All MOBILE HOMES and any ADDITIONS thereto shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with American National Standards Institute and National Fire Protection Association Standards as specified in the Standard for the Installation of MOBILE HOMES Including MOBILE HOME PARK Requirements [NFPA No. 501A-1974 (ANSI A119.3-1975)], as amended, for MOBILE HOMES in hurricane ZONES or other appropriate standards such as the following:

- (a) Over-the-top ties shall be provided at each of the four (4) corners of the MOBILE HOME, with two (2) additional ties per side at intermediate locations for UNITS fifty (50) feet or more in length and one (1) additional tie per side for UNITS less than fifty (50) feet in length.
- (b) Frame ties shall be provided at each corner of the MOBILE HOME, with five (5) additional ties per side at intermediate locations for UNITS fifty (50) feet or more in length and four (4) additional ties per side for UNITS less than fifty (50) feet in length.
- (c) All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds per square inch.

2. All MOBILE HOMES and any ADDITIONS thereto shall also be elevated in accordance with the following requirements:

- (a) The stands or LOTS shall be elevated on compacted fill or on pilings so that the lowest floor of the MOBILE HOME will be at or above the elevation of the regulatory flood.
- (b) Adequate surface DRAINAGE is provided.
- (c) Adequate access for a hauler is provided.

- (d) Where pilings are Used for elevation, the LOTS shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than ten (10) feet apart; reinforcements shall be provided for pilings that will extend for six (6) feet or more above the ground level.
- 3. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the appropriate TOWNSHIP officials for MOBILE HOME PARKS and MOBILE HOME SUBDIVISIONS where appropriate.
- 4. No MOBILE HOMES shall be placed in any Designated Floodway subdistrict or area.

§ 208-1415. Supplementary administrative provisions for activities.

A. Plan requirements. In addition to the permit application requirements normally required under this chapter, a ZONING PERMIT shall be required prior to any proposed DEVELOPMENT within the FLOODPLAIN (FP) DISTRICT. The following specific information is to be included as part of the application for the ZONING PERMIT:

- 1. A plan which details the:
    - (a) Existing and proposed contours and/or elevation (in relation to mean sea level, i.e., the National Geodetic Vertical Datum of 1929) of the ground and the lowest floor of proposed CONSTRUCTION.
    - (b) One-hundred-year-flood elevation.
    - (c) Other associated factors such as pressures and impact forces.
    - (d) Storage elevations.
    - (e) Size of the STRUCTURES.
    - (f) Location and elevations of STREETS, water supply, sanitary facilities.
    - (g) Soil types.
    - (h) FLOODPROOFING measures including specific reference to the level of the FLOODPROOFING in relation to the ONE-HUNDRED-YEAR FLOOD.
  - 2. A document, certified by a registered professional engineer or architect, which states that the proposed CONSTRUCTION has been adequately Designed to withstand the flood depths, pressures, velocities, impact and uplift forces and other hydrostatic, hydrodynamic and buoyancy factors associated with the ONE-HUNDRED-YEAR FLOOD. Such statement shall include a description of the type and extent of FLOODPROOFING measures which have been incorporated into the Design of the STRUCTURE.
- B. Review by County Conservation DISTRICT. A copy of all applications and PLANS for CONSTRUCTION or DEVELOPMENT in the Designated FLOODPLAIN (FP) DISTRICT to be considered for approval shall be submitted to the County Conservation DISTRICT for review and

comment prior to the issuance of a BUILDING PERMIT. The recommendations of the County Conservation DISTRICT shall be considered for possible incorporation into the proposed plan.

- C. Other permit issuance requirements. Prior to the issuance of any BUILDING PERMIT, the TOWNSHIP Building Official shall review the application for permit to determine if all other necessary governmental PERMITS, such as those required by state and federal laws, have been obtained, including those required by Act 537, the Pennsylvania Sewage Facilities Act, the Dam Safety and Encroachments Act (32 P.S. § 693.1 et seq.) and the Federal Water Pollution Control Act Amendments of 1972, Section 404, 33 U.S.C. § 1334. No permit shall be issued until this determination has been made.
  
- A. Start of CONSTRUCTION. For purposes of implementation of these provisions, CONSTRUCTION shall be considered to have started with the first placement of permanent CONSTRUCTION of the SITE, such as the pouring of slabs or footings or any work beyond the stage of excavation. For a STRUCTURE without a BASEMENT or poured footings, the start of CONSTRUCTION includes the first permanent framing or assembly of the STRUCTURE or any part thereof on its pilings or foundation or the affixing of any prefabricated STRUCTURES or MOBILE HOME to its permanent SITE. Permanent CONSTRUCTION does not include land preparation, land clearing, grading, filling, excavation for BASEMENT, footings, piers or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings or the installation of sewer, gas and water pipes or electric or other service lines from the STREET.

#### § 208-1416.Appeals.

- A. Appeals to the ZONING HEARING BOARD with respect to provisions of this Article shall be governed by Article 2700 of this chapter.
  
- B. In addition, upon receiving an application for a hearing, the Board shall, prior to rendering a decision thereon, require the applicant to furnish such of the following material as is deemed necessary by the Board, as well as such other information as the Board may desire:
  - 1. PLANS in Triplicate drawn to a scale showing the nature, location, dimensions and elevation of the LOT and existing and proposed USES; photographs showing existing USES and vegetation; soil types and other pertinent information.
  - 2. A series of cross sections at twenty-five-foot intervals along the STREAM channel or pond bottom, and elevation of adjoining land AREAS of the LOT to be occupied by the proposed USES and high-water information.
  - 3. Profile(s) showing the slope of the bottom of the STREAM channel or pond.
  - 4. Specifications for BUILDING materials and CONSTRUCTION, FLOODPROOFING, filling, dredging, grading, storage, water supply and sanitary facilities.
  - 5. Computation of the increase, if any, in the height of flood stages which would be attributable to any proposed USES.
  
- B. The PLANS, cross sections, profiles and computations required under this section shall be prepared by a hydrologist, registered engineer or other PERSON deemed qualified by the ZONING HEARING BOARD.

§ 208-1417. Consideration of application.

- A. In considering any application for a hearing, the ZONING HEARING BOARD shall request reports from the TOWNSHIP BOARD OF SUPERVISORS, PLANNING COMMISSION, TOWNSHIP Engineer, County Soil and Water Conservation DISTRICT and other technical experts, prior to the hearing, to determine the extent to which the proposed USE would:
  - 1. Diminish the capacity of the FLOODPLAIN to store and absorb floodwaters, to moderate flood velocities and to accommodate sediment.
  - 2. Be subject to flood damage.
  - 3. Cause erosion and impair the amenity of the flood hazard area.

§ 208-1418. Criteria for decisions.

- A. An affirmative decision shall not be issued by the ZONING HEARING BOARD within the Floodway subdistrict if any increase in the one-hundred-year-flood level would result.
- B. Affirmative decisions shall only be issued by the ZONING HEARING BOARD upon a determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- C. Affirmative decisions shall only be issued upon determination that it is the minimum necessary, considering the flood hazard, to afford relief.

§ 208-1419. Notification to applicant.

The ZONING HEARING BOARD shall notify the applicant in writing over the Signature of the community officials that:

- A. The issuance of a decision to allow CONSTRUCTION of a STRUCTURE below the one-hundred-year-flood elevation will result in increased premium rates for flood insurance.
- B. Such CONSTRUCTION below the one-hundred-year-flood elevation increases risks to life and property. Such notification shall be maintained with a record of all decisions.

§ 208-1420. ZONING HEARING BOARD requirements.

- A. Furthermore, the ZONING HEARING BOARD shall:
  - 1. Maintain a record of all decisions, including justification for their issuance.
  - 2. Report such decisions issued in its annual report submitted to the Federal Insurance Administration.

- B. Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any of the other requirements pertaining specifically to DEVELOPMENT which may endanger human life (§ 208-1412). No variance shall be granted for activity regulated by Act 166, listed in § 208-1413, Prohibited USES and activities.

§ 208-1421. Burden of proof.

- A. In all proceedings before the ZONING HEARING BOARD, including applications for special exception from the provisions of this DISTRICT, the burden of proof shall be on the applicant.

§ 208-1422. Warning and disclaimer of liability.

- A. The degree of flood protection required by this Article is considered reasonable for regulatory purposes. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes. In such instances, AREAS outside the FLOODPLAIN (FP) DISTRICT or land USES permitted within the DISTRICT may be subject to flooding or flood damages. The granting of a ZONING PERMIT or approval of a plan in the FLOODPLAIN (FP) DISTRICT shall not constitute a representation, guaranty or warranty of any kind by Marshall TOWNSHIP or by any official or employee thereof of the practicability or safety of any STRUCTURE, USE or other plan proposed and shall create no liability upon or a cause of action against such public body, official or employee for any damage that may result pursuant thereto. Nor shall this Article create any liability on the part of the TOWNSHIP or any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.