

§ 440-1102. Permit required.

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

§ 440-1103. 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.

§ 440-1104. Definitions.

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

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).

HISTORIC STRUCTURE — 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; 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.

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.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after November 1, 1979, and includes any subsequent improvements thereto.

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.

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 a temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION — Includes substantial improvement and other proposed new development and means the date the permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. 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/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 dimension of the building.

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, the cost of which 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 either:

- A. 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

- B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

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.

§ 440-1105. Floodplain Administrator. [Amended 5-13-2019 by Ord. No. 841]

The Township Engineer within Peters Township is hereby appointed to administer and enforce this Part 11 and is referred to herein as the "Floodplain Administrator."

§ 440-1106. Identification of floodplain and flood-prone areas.

- A. The identified floodplain area shall be any areas of Peters Township classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated September 30, 2015, and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.
- B. The areas considered to be flood-prone within Peters Township are those areas identified as floodplain areas as well as any area adjacent or near to a watercourse having a drainage area of 100 acres or more.
- C. The above-referenced FIS and FIRMs and any subsequent revisions and amendments are hereby adopted by Peters Township and declared to be a part of this chapter.
- D. Current Flood Insurance Rate Maps (FIRMs) are available for inspection at the Township offices. For the purpose of these controls the following nomenclature is used in referring to the various kinds of flood-prone areas in the FIRM and FIS issued by the FEMA:
- (1) Zone A: the flood insurance rate zone that corresponds to the one-percent annual chance floodplains that are determined in the FIS report by approximate methods. Because detailed hydraulic analyses are not performed for such areas, no base (one-percent annual chance) flood elevations (BFEs) or depths are shown within this zone.
 - (2) Zone AE: the flood insurance rate zone that corresponds to the one-percent annual chance floodplains that are determined in the FIS report by detailed methods. Whole foot BFEs derived from the detailed hydraulic analyses are shown at selected intervals within this zone.

§ 440-1107. Determination of one-hundred-year flood elevation in Zone A.

- A. To determine the one-hundred-year flood elevation for these areas, the elevation at a given point on the boundary of the identified flood-prone area(s) which is nearest the construction site in question will be used. In helping to make this necessary elevation determination, other

sources of data where available shall be used, such as:

- (1) Corps of Engineers: floodplain information reports.
- (2) United States Geological Survey: flood-prone quadrangles.
- (3) United States Department of Agriculture Soil Conservation Service: county soil surveys.
- (4) Known high-water marks from past floods.
- (5) Other sources.

B. In lieu of the above, the Township shall require the applicant to determine the elevation with hydrologic 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 Township.

§ 440-1108. Changes in identification of flood-prone areas.

The identified floodplain area may be revised or modified by the Council of Peters Township where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the FEMA. Additionally, as soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data.

§ 440-1109. Disputes.

Should a dispute arise concerning the identification of any flood-prone area, an initial determination shall be made by the Building Inspector or Zoning Officer, and any aggrieved by such decision may appeal to the Zoning Hearing Board. The burden of proof shall be on the appellant.

§ 440-1110. Permitted land uses.

In the identified flood-prone area(s), the development and/or use of any land shall be permitted, provided that the development and/or use adheres to the restrictions and requirements of all other applicable codes and ordinances in force in Peters Township and shall be limited to the following (listed in general order of appropriateness):

- A. Wildlife sanctuary, woodland preserve, arboretum.
- B. Game farm, fish hatchery (excluding rearing structures), hunting and fishing reserves.
- C. Forestry, lumbering and reforestation excluding storage and mill structures. (See Chapter 402.)
- D. Harvesting of any wild crops, such as marsh hay, ferns, moss, berries or wild rice.

- E. Outdoor plant nursery; orchard.
- F. Pasture; grazing land.
- G. Recreation use, such as: park, day camp, picnic grove, golf course, hunting, fishing and boating club, excluding structures. The parking of recreational vehicles within the floodplain shall be allowed, provided that they are elevated and anchored or on the site for less than 180 consecutive days. All recreational vehicles parked within the floodplain must be fully licensed and highway ready.
- H. Outlet installations for sewage treatment plants, sealed public water supply wells.
- I. Utility transmission lines; storm and sanitary sewer lines.
- J. Paved parking lots.
- K. Accessory uses customarily incidental to any of the foregoing permitted uses, when approved by the Peters Township Planning Commission.

§ 440-1111. Prohibited land uses.

- A. Within any identified floodplain area, any new structures or substantial improvements shall be prohibited, including mobile homes, except for flood retention dams, culverts, and bridges as approved by the Department of Environmental Protection and Department of Community and Economic Development, Commonwealth of Pennsylvania, and the Council of Peters Township. (See § 440-1010). If application for a variance to allow new construction or substantial improvements in the identified floodplain area is made, the provisions of § 440-1116 must be met.
- B. The filling of floodplains or the removal of topsoil;
- C. Sanitary landfill, dump, junkyard, outdoor storage of vehicles and/or materials, and paved or all-weather parking lot; and
- D. On-site sewage disposal systems.
- E. In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any Identified Floodplain Area unless a special permit has been issued by the Peters Township:
 - (1) Hospitals.
 - (2) Nursing homes.
 - (3) Jails or prisons.
 - (4) A new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

§ 440-1112. Design and construction standards.

- A. Within any identified floodplain area, no new construction, development, use, activity, or encroachment of any kind shall be allowed, unless the minimum standards listed below are met.
- B. The following minimum standards shall apply for all construction proposed to be undertaken within any identified flood-prone area.
- (1) Grading. No grading or filling in the floodplain area shall be permitted which would cause a rise in the one-hundred-year flood height at any point on adjacent properties or cause a rise in the one-hundred-year flood height of more than one foot at any point on the subject property. Hydrologic and hydraulic analyses regarding flood height must be performed by a registered professional engineer and be performed in accordance with standard and accepted engineering practice. Following grading, any earth shall be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling, and the area promptly seeded.
 - (2) Stream encroachment. See § 440-1117.
 - (3) 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.
 - (4) Water facilities. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system, and be located and constructed to minimize or eliminate flood damages.
 - (5) Utilities. All utilities, such as gas lines, electrical and telephone systems, being placed in identified flood-prone areas should be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
 - (6) Outdoor storage. No materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal or plant life shall be stored below the regulatory flood elevation.
 - (7) Structures:
 - (a) Structures will be anchored to prevent floatation, collapse, or lateral movement;
 - (b) Building materials are flood-resistant;
 - (c) Appropriate practices that minimize flood damage have been used; and
 - (d) Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.

§ 440-1113. Existing structures.

After review by the Peters Township Planning Commission (for everything other than a single-

family residence) and other appropriate officials as may be deemed necessary by the Building Inspector and Zoning Officer, any building within the floodplain constructed prior to the original enactment of these controls (November 1, 1979) may be altered or extended provided that:

- A. Any construction within any floodplain, the lowest floor (including basement) of any new or improved structures shall be at least 1 1/2 feet above the one-hundred-year flood elevation, or if a nonresidential structure, be flood-proofed in accordance with § 440-1011. Following construction, documentation of the as-built floor elevation of any building alteration or extension shall be provided to the Peters Township Zoning Officer by way of a FEMA elevation certificate or other acceptable means.
- B. The alteration or extension conforms to all applicable regulations of this chapter.
- C. Any increase in volume or area shall not exceed an aggregate of more than 25% of such volume or area during the life of the structure; and
- D. No increase in any on-lot sewer system presently located either wholly or partially in the floodplain shall be required.

§ 440-1114. Plan review.

All plans for development or use within the floodplain, with the exception of expansion of existing single-family dwellings, shall be subject to the approval of the Peters Township Planning Commission.

§ 440-1115. Municipal liability.

- A. 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.
- B. The granting of a zoning permit of any kind in any floodplain district shall not constitute a representation, guaranty or warranty of any kind by the Township, or by an 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.

§ 440-1116. Variances.

In addition to the standards set forth in § 440.903 for the granting of variances, the following shall apply if a variance is requested in a flood-prone area:

- A. No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the one-hundred-year flood elevation.
- B. No variance shall be granted for any construction, development, use, or activity within any special flood hazard area that would, together with all other existing and anticipated

development, increase the base flood elevation more than one foot at any point on the subject property or cause a rise in the one-hundred-year flood height at any point on an adjacent property.

- C. All applications for a variance shall include plans of all proposed buildings, structures and other improvements, drawn at suitable scale, showing the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988 and the elevation of the base flood.
- D. In reviewing any request for a variance, the Zoning Hearing Board shall consider that the granting of the variance will not result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimization of the public, or conflict with any other applicable local or state ordinance and regulations.
- E. Whenever a variance is granted for any construction within any floodplain, the lowest floor (including basement) of any new or improved structures shall be at least 1 1/2 feet above the one-hundred-year flood elevation, or, if a nonresidential structure, be flood-proofed in accordance with this chapter. Following construction, documentation of the as-built floor elevation of any building alteration or extension shall be provided to the Peters Township Zoning Officer by way of a FEMA elevation certificate or other acceptable means.
- F. Structures involving production or storage of dangerous materials and substances. In accordance with the Pennsylvania Flood Plain Management Act and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances; or will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or will involve the production, storage, or use of any amount of radioactive substances; shall be subject to the provisions of Subsection F in addition to all other applicable provisions. The following 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.
- G. Within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection F above shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
- H. Within any floodway area, any structure of the kind described in Subsection F above, shall be prohibited. Where granted by variance within any identified floodplain area, any new or substantially improved residential structure of the kind described in Subsection F above, shall be elevated to remain completely dry up to at least 1 1/2 feet above base flood elevation.
- I. Where granted by variance within any identified floodplain area, any new or substantially improved nonresidential structure of the kind described in Subsection F above, shall be:
- (1) Elevated, or designed and constructed to remain completely dry up to at least 1 1/2 feet above base flood elevation; and
 - (2) Designed to prevent pollution from the structure or activity during the course of a base flood.
- J. 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, as amended March 1992), or with some other equivalent watertight standard.
- K. Whenever a variance is granted, that the Zoning Hearing Board shall notify the applicant in writing that the granting of the variance may result in increased premium rates for flood insurance and that such variances may increase the risks to life and property.

§ 440-1117. Storm drainage.

- A. Purpose. Each lot in all zoning districts shall provide safe management of stormwater runoff consistent with the standards and criteria of the Peters Township Stormwater Management Ordinance¹ and the requirements contained in this section.

B. Stream encroachment of natural watercourses.

- (1) Any stopping up, filling up, confining, paving, filling next to, changing of embankments or any other interference with or change of the course of any drain, ditch, stream, or watercourse must be preceded by application for plan review and a permit from the Zoning Officer and conducted in accordance with this chapter and applicable state and federal statutes.
- (2) Any encroachment into a regulatory floodway which would cause any increase in the base flood elevation is prohibited. Hydrologic and hydraulic analyses performed in accordance with standard and accepted engineering practice must be submitted by the applicant to demonstrate that the proposed encroachment will not increase base flood elevations during the base flood discharge.
- (3) 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 Township, and until all required permits or approvals have been first obtained from the Department of Environmental Protection.
- (4) The Township Engineer shall be notified 48 hours in advance of the commencement of the work in order that provision may be made for proper inspection thereof. Samples of materials and every reasonable facility for ascertaining whether the work is in conformity with this chapter shall be furnished to the employees of the Township in the same manner as is required of contractors under the terms of the state highway specifications.
- (5) In addition, the Federal Insurance Administrator and Pennsylvania Department of Community and Economic Development shall be notified by the Township prior to any alteration or relocation of any watercourse.

C. Stormwater management requirements.

- (1) All uses or lots in all zoning districts shall comply with the standards of the Peters Township Stormwater Management Ordinance.
- (2) It shall be unlawful for a property owner to divert and/or concentrate stormwater drainage from the surface, roof drains, French drains or impervious area (driveways, sidewalks, tennis courts, sport court, etc.) onto an adjacent property other than into a natural watercourse, channel, storm drainage easement or public storm sewer system. If it is not possible to discharge or direct stormwater runoff to a natural watercourse, channel, storm drainage easement or public storm sewer system, the property owner shall manage stormwater runoff so as not to create a concentrated flow or create erosion or water damage on an adjacent property.
- (3) All sites, lots, or properties shall be graded to provide positive drainage away from structures. All sites, lots or properties shall provide drainage facilities including swales to adequately handle surface runoff and convey it to the nearest suitable outlet, such as curbed street, natural watercourse, channel or storm sewer system. Where drainage

1. Editor's Note: See Ch. 371, Stormwater Management.

swales are used to divert surface runoff, the swale shall be stabilized with appropriate lining to ensure than no accelerated erosion occurs. If it is not possible to discharge or direct stormwater runoff to a natural watercourse, channel, storm drainage easement or public storm sewer system, the property owner shall manage stormwater runoff so as not to create a concentrated flow or create erosion or water damage on an adjacent property.