

ORDINANCE NO. P25-2009

AN ORDINANCE OF THE TOWNSHIP OF HAVERFORD, COUNTY OF DELAWARE, COMMONWEALTH OF PENNSYLVANIA, AMENDING AND SUPPLEMENTING ORDINANCE NO. 1960, KNOWN AS THE "GENERAL LAWS OF THE TOWNSHIP OF HAVERFORD", ADOPTED JUNE 30, 1986, FURTHER REVISING CHAPTER 182 (ZONING), SECTION 604 (FLOOD PLAIN CONSERVATION DISTRICT) TO ENSURE COMPLIANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM AND THE PENNSYLVANIA ACT 166 REQUIREMENTS.

BE IT ENACTED AND ORDAINED by the Board of Commissioners of the Township of Haverford, County of Delaware, Commonwealth of Pennsylvania, and it is hereby enacted and ordained by the authority of the same that Ordinance No. 1960, Chapter 182, is hereby amended as follows:

ARTICLE I. INTENT

It is the intent of the Board to update the Flood Plain Conservation District standards to conform to the National Flood Insurance Program (NFIP) and Pennsylvania Act 166 requirements based on the recently revised Flood Insurance Study prepared by the Federal Emergency Management Agency.

ARTICLE II. AMENDMENTS TO §182-604

The provisions of §182-604 are hereby revised as indicated below:

A. Specific intent. It is the intent of this section to regulate development of lands in the Township which are subject to periodic flooding for the following purposes:

(1) To protect the ecology of the floodplain and promote the general health, safety and welfare of the community.

(2) To encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future or downstream bank erosion.

(3) To minimize danger to public health and safety by protecting water supply, sanitary sewage disposal and natural drainage.

(4) To reduce financial burdens imposed on the community, its governmental units and its residents by preventing the unwise design and construction of development in areas subject to flooding.

B. Applicability.

(1) The Flood Plain Conservation District shall be deemed an overlay on all zoning districts now or hereafter enacted to regulate the use of land in Haverford Township.

(2) It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, the construction, reconstruction, substantial improvement, enlargement, alteration or relocation of any structure (including ~~mobile~~ **manufactured** homes) or any other development of a structure or grounds within **an identified one hundred (100) year floodplain area or a flood-prone area as set forth in the Flood Insurance Study (FIS) and on its attached Flood Insurance Rate Map (FIRM) prepared and approved by the Federal Emergency Management Agency (FEMA), Community No. 420417, Map Panel Numbers 0008D, 0009D, 0010D, 0014D, 0015D, 0016D, 0023D and 0024D 42045C0038F, 42045C0039F, 42045C0043F, 42045C0101F, 42045C0102F, 42045C0104F, 42045C0106F, 42045C0107F and 42045C0108F, dated September 30, 1993 November 18, 2009**, or any revisions or amendments thereto, and made a part thereof by reference, **including any digital data developed as part of the Flood Study**, unless an approved building permit has been obtained from the Township Code Enforcement Office.

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

D. Liability. The degree of flood protection sought by the provisions of this section is considered reasonable for regulatory purposes in the identified floodplain area(s). Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris or upstream development. This section does not imply that areas outside any identified floodplain areas will be free from flooding or flood damages. This section shall not create liability upon the Township, its officers or employees for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

E. Administration.

(1) No encroachment, alteration, relocation 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 Haverford Township and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development.

~~(1)~~ **(2)** Building permit(s) shall be required before any proposed construction or development is undertaken within any identified floodplain or flood-prone area of Haverford Township. The Township Code Enforcement Officer shall issue a building

permit 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. No building permit shall be issued until all other required permits have been obtained from any other office or agency.

~~(2)~~ **(3)** Application procedures. Applications for such a building permit shall be made in writing to the Township Code Enforcement Officer on forms supplied by the Township. Such applications shall include the following minimum information:

- (a) Name and address of applicant.
- (b) Name and address of owner of land on which proposed construction is to occur.
- (c) Name and address of constructor.
- (d) Location of site.
- (e) **If the proposed development involves new construction or the horizontal expansion or addition to an existing structure within an identified flood plain area, the proposed lowest floor and basement elevations based upon North American Vertical Datum of 1988.** Proposed lowest floor and basement elevations in relation to mean sea level.
- (f) Brief description of proposed work and estimated cost.
- (g) A **topographic survey** plan of the site showing the exact size and location of the proposed construction, **the location of the flood plain or flood prone area**, as well as any existing buildings or structures.

~~(3)~~ **(4)** Building permits. A copy of all applications and plans for new construction in any **flood plain or** flood-prone area to be considered for approval shall be submitted by the Township Code Enforcement Officer to the following offices or agencies for recommendations and/or comments:

- (a) Delaware County Soil Conservation Service.
- (b) Township Engineer.
- (c) Township Planning Commission.
- (d) Township Environmental Committee.

~~(4)~~ **(5)** Other permit issuance requirements. Prior to the issuance of any building permit, the Code Enforcement Officer shall review the application for a 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, **Title 25, Chapter 102.105 and 106 of the Pennsylvania Code**, the Water Obstruction Act of 1913 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.

~~(5)~~ **(6)** Changes/as-builts. After the issuance of a building permit by the Code Enforcement Officer, 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 Code Enforcement Officer. **An as-built** certificate by **a registered professional** engineer or surveyor must be filed with the

Code Enforcement Office in accordance with Ordinance 1960, Chapter 58, Building Construction.

~~(6)~~ **(7)** Placards. In addition to the building permit, the Code Enforcement Officer shall issue a placard which shall be conspicuously displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit and the date of its issuance and shall be signed by the Code Enforcement Officer.

~~(7)~~ **(8)** Provisions involving time limitations for the validity of a permit, inspection requirements, revocation procedures and required permit fees shall be governed under Chapter 58, Building Construction, of the General Laws of Haverford Township, and are hereby incorporated as if fully set forth herein.

~~(8)~~ **(9)** Notices; hearings; orders; appeals.

(a) Notices. Whenever the Code Enforcement Officer or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provision of this section, or of any regulation adopted pursuant thereto, such authority 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 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 with such notice by any other method authorized or required by the laws of this state.

[5] Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter, or any part thereof, and with the regulations adopted pursuant thereto.

(b) Hearings. Any person affected by any notice which has been issued in connection with the enforcement of any provisions of this section, or of any regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Township Zoning Hearing Board, provided that such person files with the Township Zoning Officer a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within 30 days after the notice was served. The filing of the request for a hearing shall operate as a stay of the notice and the suspension. Upon receipt of such petition, the Township Zoning Officer shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice shall be modified or withdrawn. The hearing shall be commenced not later than 60 days following the date on which the petition was filed, provided that, upon application of the petitioner, the Township Zoning Officer may postpone the date of the hearing for a reasonable time

beyond such sixty-day period when, in his judgment, the petitioner has submitted good and sufficient reasons for such postponement.

- (c) Findings and order. After such hearing, the Township Zoning Officer and Township Zoning Hearing Board shall make findings as to compliance with the provisions of this chapter and regulations issued thereunder and shall issue an order, in writing, sustaining, modifying or withdrawing the notice which shall be served as provided in §182-604.E(8)(a).
- (d) Record and appeals. The proceedings at such a hearing, including the finding and decision of the Zoning Hearing Board, together with a copy of every notice and order related thereto, shall be entered as a matter of public record in the Township of Haverford. Any person aggrieved by a decision of the Zoning Hearing Board may seek relief there from in any court of competent jurisdiction, as provided by the laws of this commonwealth.

~~(9)~~ **(10)** Penalties. Any person who fails to comply with any or all of the requirements or provisions of this section or who fails or refuses to comply with any notice, order or direction of the Code Enforcement Office, the Haverford Township Zoning Hearing Board or any other authorized employee of the municipality shall be guilty of an offense and shall be subject to the enforcement remedies and penalty provisions contained in §182-901.G and H of this chapter. In default of any fine or penalty imposed by a court of competent jurisdiction, such person shall be imprisoned in county prison for a period not to exceed 10 days.

F. Floodplain provisions/variances.

- (1) No construction or development.
 - (a) No construction, development, fill or other placement of an obstruction shall take place within any identified floodplain or flood-prone area of the Township of Haverford.
 - (b) Repairs, improvements or modifications to an existing structure which amount to less than 50% of the market value are permitted, provided that such work does not result in the horizontal expansion or enlargement of the structure.
- (2) Identification.
 - (a) Definitions. As used in this section, the following terms shall have the meanings indicated:

[1] FW (FLOODWAY AREA) – the areas identified as “Floodway” in the AE Zone in the Flood Insurance Study (FIS) prepared by the FEMA. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the FIS.

[2] FF (FLOOD-FRINGE AREA) – the remaining portions of the 100 year floodplain in those areas identified as an AE Zone in the FIS, where a floodway has been delineated.

The basis for the outermost boundary of this area shall be the one-hundred (100) year flood elevations as shown in the flood profiles contained in the FIS.

[3] FA (GENERAL FLOODPLAIN AREA) - those areas of the Township of Haverford which have been identified as Zone A in the FIS for which the one-hundred (100) year flood elevations have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the one hundred (100) year elevation, as well as a floodway area, if possible. When no other information is available, the one hundred (100) year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question. In lieu of the above, the applicant may be required 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 Township of Haverford. .being subject to flooding by the one-hundred-year flood. These areas are shown in the Flood Insurance Study (FIS) and the most current Flood Hazard or Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency (FEMA) for the Township of Haverford.

[4] FLOOD-PRONE AREA - Those areas denoted as having alluvial soils on the most recent soil survey of the Soil Conservation Service, United States Department of Agriculture, or any area measured 50 feet landward from the top-of-bank of any watercourse.

- (b) The **100- year** floodplain area may be revised or modified by the Township where studies or information, provided by a qualified agency or person, documents the need for such revision or modification. However, prior to any change, approval must be obtained from the Federal Emergency Management Agency and the **PA** Department of Community **and Economic Development.** Affairs.
- (c) Should a dispute concerning any identified floodplain boundary arise, any party aggrieved by such determination may appeal from any decision by the Township Code Enforcement Officer or any other authorized employee of the municipality. The burden of proof shall be on the appellant.

(3) Variances.

(a) All of the information required in §182-1005 as well as:

[1] A **topographic survey** plan which accurately delineates the **flood plain or flood prone** area, ~~which is subject to flooding~~, the location of the proposed construction, the location of any other ~~flood-prone~~ development or structures **within the flood plain or flood prone areas** and the location of any ~~existing or~~ proposed stream improvements or protective works. Included shall be all plans for proposed subdivision and land development in order to assure that:

[a] All such proposals are consistent with the need to minimize flood damage.

[b] **The proposed lowest floor and basement elevations based upon North American Vertical Datum of 1988.**

[~~b~~c] All utilities and facilities, such as sewer, gas, electrical and water systems, are located, elevated and constructed to minimize or eliminate flood damage.

[~~e~~d] Adequate drainage is provided so as to reduce exposure to flood hazards.

[2] Such plan shall also include existing and proposed contours; ~~information concerning flood elevation,~~ **a plotting of the flood plain based upon the elevation of the one hundred (100) year flood,** velocities and other applicable information such as pressures and impact and uplift forces associated with the one-hundred-year flood; size of structures; location and elevations of streets; water supply and sanitary sewage facilities; soil types; and flood-proofing measures.

[3] A document, certified by a registered professional engineer or architect, which states that the proposed construction has been adequately designed to withstand the one-hundred-year flood elevations, pressures, velocities, impact and uplift forces and other hydrodynamic and buoyancy factors associated with the one-hundred-year flood. Such statement shall include a **detailed** description of the type and extent of floodproofing measures which have been incorporated into the design of the structure. **The statement should also provide supplemental information as may be necessary under 34 PA Code, Chapter 401-405 as amended, and any applicable provisions of the International Building Code or International Residential Code in effect at the time of permit application.**

[4] **In the event that the flood plain has been established by one of the definitions or methods cited in subparagraph F. (2) (a) or [4] above, it shall take precedence over the definition cited in subparagraph F. (2) (a) [5].**

(b) Notwithstanding the provisions of this section, no variance shall be granted for:

[1] 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:

- [a] Hospitals.
- [b] Nursing homes.
- [c] Jails or prisons.

[2] The commencement of, or any construction of, a new ~~mobile~~ **manufactured** home park or ~~mobile~~ **manufactured** home **park**, subdivision or substantial improvement to an existing ~~mobile~~ **manufactured** home park or ~~mobile~~ **manufactured** home subdivision.

[3] 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 which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume of any amount of radioactive substances) of any of the following dangerous materials or substances on the premises:

- [a] Acetone.
- [b] Ammonia.
- [c] Benzene.
- [d] Calcium carbide.
- [e] Carbon disulfide.
- [f] Celluloid.
- [g] Chlorine.
- [h] Hydrochloric acid.
- [i] Hydrocyanic acid.
- [j] Magnesium.
- [k] Nitric acid and oxides of nitrogen.
- [l] Petroleum products (gasoline, fuel oil, etc.).
- [m] Phosphorus.
- [n] Potassium.
- [o] Sodium.
- [p] Sulphur and sulphur products.
- [q] Pesticides (including insecticides, fungicides and rodenticides).
- [r] Radioactive substances, insofar as such substances are not otherwise regulated.

(c) If granted, a variance shall involve only the least modification necessary to provide relief. If it should become necessary to grant any variance, the applicant shall be required to comply with all applicable requirements of the National Flood Insurance Program Regulations (60.3), including the requirements for elevation, floodproofing and anchoring and no increase in the one-hundred-year flood elevations within the ~~floodway~~. Within any identified floodplain area, the lowest floor (including basement) of any new **construction structure**, or any substantial improvement to an existing structure, shall be at least one and one-half (1 1/2) feet above the one-hundred-year flood elevation. Fully enclosed spaces below the lowest floor shall be prohibited. The applicant must also comply with any other requirements considered necessary by the Zoning Hearing Board.

(d) In granting any variance, the Township shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety and welfare and to achieve the objectives of this subsection.

(e) Whenever a variance is granted, the Township 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.

[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 Haverford Township and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office. In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development, shall be notified by Haverford Township prior to any alteration or relocation of any watercourse.

(f) In reviewing any request for a variance, the 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.

G. Definitions. Unless specifically defined below or as defined in §182-106.B of this chapter, words and phrases used in this section shall be interpreted so as to give them the same meanings as they have in common usage and so as to give this section its most reasonable application.

BASEMENT - Any area of the building having its **lowest** floor subgrade **level** below **or partially below** ground level on all **three (3) or more** sides.

BUILDING - See "structure."

DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

FLOOD - A general and temporary inundation of normally dry land areas.

FLOODPLAIN

(1) A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation.

(2) An area subject to the unusual and rapid accumulation or runoff 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 area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one foot at any point.

HISTORIC STRUCTURE – Any structure that is:

- (i) **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;**
- (ii) **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;**
- (iii) **individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or**
- (iv) **individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:**
 - (1) **by an approved state program as determined by the Secretary of the interior or**
 - (2) **directly by the Secretary of the Interior in states without approved programs.**

LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MINOR REPAIR - The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including any addition, change or modification in construction, exit facilities or permanent fixtures or equipment.

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 equipment trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

MANUFACTURE HOME PARK – A parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for non-transient use.

NEW CONSTRUCTION – Structures for which the start of construction commenced on or after July 5, 1977, and includes any subsequent improvements thereto. New construction shall also include the The construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building, structure and/or improvements, such as streets, utilities, etc. Also, for the purposes of this section, all proposed subdivisions and/or land development shall be considered to be "new construction."

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, corroding such water, or is a place where the flow of water might carry the same downstream to the damage of life or property.

ONE-HUNDRED YEAR FLOOD OR BASE FLOOD - The flood having a one-percent chance of being equaled or exceeded in any given year.

RECREATIONAL VEHICLE – A vehicle which is (i) built on a single chassis; (ii) not more than 400 square feet, measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by another vehicle; (iv) not designed for use as a permanent dwelling but as a temporary living quarters for recreational, travel, or seasonal use.

STRUCTURE (FOR FLOODPLAIN MANAGEMENT PURPOSES) - A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile **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, transfer of ownership or building, or lot development; provided, however, that the division of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access, 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 repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:~~

~~(1) — Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or~~

~~(2) — Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.~~

SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which 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” regardless of the actual repair work performed. The term does not, however, include:

(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 Code Enforcement Official and which are the minimum necessary to assure safe living conditions, or;

(2) Any alteration of a “historic structure”, provided that the alternation will not preclude the structure’s continued designation as a “historic structure.”

H. Abrogation and greater restrictions. The provisions of this section shall supersede any ordinances, codes or portions thereof currently in effect regulating flood-prone areas. However, any ordinance, code or portion thereof shall remain in full force and effect to the extent that its provisions are more restrictive.

ARTICLE III. SEVERABILITY

Should any section, sentence, word or provision of this ordinance be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole.

ARTICLE IV. REPEALER

Any ordinance or part of ordinance to the extent that it is inconsistent herewith is hereby repealed.

ADOPTED this day of , A.D., 2009

TOWNSHIP OF HAVERFORD

BY: WILLIAM WECHSLER
 President
 Board of Commissioners

ATTEST: Lawrence Gentile
 Township Manager