

PART 9
FLOODPLAIN REGULATIONS (OVERLAY DISTRICT)

27-901 General Floodplain Provisions and Statutory Authorization. The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Floodplain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Borough has enacted the following regulations:

1. Purposes. This Part is intended to:
 - A. Promote the general health, welfare, and safety of the Borough, while carrying out the Pennsylvania Floodplain Management Act, as amended and meeting the requirements of the Federal Flood Insurance Program;
 - B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;
 - C. Minimize danger to public health by protecting water supply and natural drainage;
 - D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding;
 - E. Comply with federal and state floodplain management requirements;
 - F. Minimize the risks to rescue workers, and the need for rescue and relief efforts associated with flooding, which are often undertaken at public expense;
 - G. Minimize prolonged business interruptions;
 - H. Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
 - I. Minimize the impact of development on adjacent properties within or near flood-prone areas;
 - J. Provide that the flood storage and conveyance functions of floodplains are maintained;
 - K. Minimize the impact of development on the natural and beneficial functions of floodplains; and
 - L. Prevent floodplain uses that are either hazardous or environmentally incompatible.

2. Applicability.
 - A. It shall be unlawful for any person or entity to undertake, or cause to be undertaken, any construction or development or other activity regulated by this Part unless a Floodplain Permit has been obtained from the Floodplain Administrator if that activity would be within the Identified Floodplain Area.

3. Greater Restrictions. This Part supersedes any directly conflicting Borough ordinance provisions which may be in effect in identified floodplain areas. However, where a provision of this Part and a provision of another section of this Ordinance or another Borough Ordinance apply to similar matters but do not directly conflict, both provisions shall continue to be in effect. If there is any conflict between any of the provisions of this Part or this Ordinance, the more restrictive shall apply.

4. Warning and Disclaimer of Liability. The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the Myerstown or any officer or employee or consultant thereof for any flood damages that result from reliance on this Ordinance or any determination lawfully made under this Part.

5. Floodplain Definitions. See Section 27-908.

6. Severability. Section 3 in Part 1 shall apply.

27-902 Floodplain Administration.

1. Designation of the Floodplain Administrator. The Zoning Officer is hereby appointed to administer and enforce this Part and is referred to herein as the Floodplain Administrator. The Borough Council may in writing by resolution designate a different person or entity to serve as the Floodplain Administrator.
2. Administration of any part of these regulations by another entity shall not relieve the Borough of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program.
3. Responsibilities of the Floodplain Administrator.
 - A. The Floodplain Administrator shall issue a Floodplain Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Ordinance. A Construction Permit may also be needed.
 - B. Prior to the issuance of any permit under this Part, the Floodplain Administrator shall review the application to determine if other necessary government environmental permits required by state and federal laws have been obtained, such as those required under the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended), the Pennsylvania Clean Streams Act (Act 1937-394, as amended), and/or the U.S. Clean Water Act, Section 404, 33 U.S.C. 1344. A floodplain permit shall not be issued unless such approvals have been obtained or unless the permit is conditioned upon proof of compliance with such requirement.
 - C. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all

applicable Borough ordinances. Such official shall make as many inspections during and upon completion of the work as are necessary.

- D. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter the premises in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Ordinance, within the limitations and procedures of State law.
- E. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall follow the enforcement process of this Ordinance.
- F. The Floodplain Administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this Ordinance including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
- G. The Floodplain Administrator or his/her designee should submit a biennial report to FEMA concerning community participation in the National Flood Insurance Program.
- H. In specific instances or during specified time periods, the Floodplain Administrator may delegate certain responsibilities under this Part to another person, such as to the Construction Official, the Borough Engineer or an Assistant Zoning Officer. However, the ultimate responsibility for this Part lies with the Floodplain Administrator.
- I. The Floodplain Administrator shall consider the requirements of the 34 PA Code and involve the Construction Official in reviewing compliance with applicable construction codes, such as the International Building Code (IBC) and the International Residential Code (IRC).
- J. In case of existing structures, prior to the issuance of any Floodplain Permit, the Floodplain Administrator may review the history of repairs to the building, so that any cumulative substantial damage issues can be addressed before the permit is issued.

4. Application Procedures and Requirements.

- A. An application for a Floodplain Permit shall be made in writing to the Floodplain Administrator on forms supplied by the Borough. Such application shall contain the following:
 - (1) Name and address of applicant.

- (2) Name and address of owner of land on which proposed construction is to occur.
 - (3) Name and address of contractor.
 - (4) Site location including address.
 - (5) Listing of other permits required.
 - (6) Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
 - (7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
- (1) all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
 - (2) all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
 - (3) adequate drainage is provided so as to reduce exposure to flood hazards;
 - (4) structures will be anchored to prevent floatation, collapse, or lateral movement;
 - (5) building materials are flood-resistant;
 - (6) appropriate practices that minimize flood damage have been used; and
 - (7) electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus other pertinent information that the Floodplain Administrator determines is necessary to determine compliance with this Part:
- (1) A completed Permit Application Form.
 - (2) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
 - (a) north arrow, scale, and date;
 - (b) topographic contour lines, if available;
 - (c) the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - (d) the location of all existing streets, drives, and other access ways; and
 - (e) the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the Floodway, and the flow of water including direction and velocities.

- D. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
- (1) the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - (2) the elevation of the base flood;
 - (3) supplemental information as may be necessary to meet 34 PA Code Chapters 401 to 405, as amended, and the IBC or the IRC.
- E. All of the following data and documentation shall be submitted by the applicant, unless it is not applicable:
- (1) Detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - (2) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood, to show that when the proposed activity will be combined with all other existing and anticipated development, it will not increase the base flood elevation at any point.
 - (3) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within the Floodway Area, when combined with all other existing and anticipated development, will not increase the base flood elevation at any point within the Borough.
 - (4) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area without Floodway (See Section 27-903.2), when combined with all other existing and anticipated development, will not increase the base flood elevation more than one foot at any point within the Borough.
 - (5) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.
 - (6) Detailed information needed to determine compliance with Sections 27-904.3 and 27-904.4, including:
 - (a) the amount, location and purpose of any materials or substances referred to in Sections 27-904.3. and .4 which are intended to be used, produced, stored or otherwise maintained on site; and
 - (b) a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 27-904.4. during a base flood.
 - (7) The appropriate component of the DEP's "Planning Module for Land Development," if required.

- (8) Where any excavation or grading is proposed, a plan meeting DEP regulations, to implement erosion and sedimentation control.
5. Applications for Permits shall be accompanied by a fee, payable to the Borough based upon a fee schedule that has been established by the Borough. In addition, the applicant is required to reimburse the Borough for the actual costs of any professional review that is needed of the application.
6. Review by County Conservation District. For earth disturbance, review and/or approval may also be needed by the County Conservation District under State regulations, or where determined to be necessary by the Floodplain Administrator.
7. Review of Application by Others. A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (such as the Borough Engineer or Construction Official) for review and comment.
8. Changes. After the issuance of a Permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to the Floodplain Administrator for consideration.
9. Placards. In addition to the Permit, the Floodplain Administrator shall issue a placard which shall be displayed on the premises during the time that construction is in progress. This placard shall show the number of the Permit, the date of its issuance, and be signed by the Floodplain Administrator.
10. Permit Expiration. If a permit expires and an application is not otherwise grandfathered under State law, then a new application shall be required that complies with the Floodplain regulations and maps that are currently in effect. The “start of construction” timeline commences when the floodplain development permit is issued, which is often later than when zoning approval is granted. Where a time limit is not established by this Part for a floodplain permit, the floodplain permit shall have the same time limit as a zoning permit.
11. Enforcement and Appeal. The provisions of Part 14 shall apply.
12. Elevation Certificate. The permittee shall have any FEMA-required Elevation Certificate prepared in a manner that meets FEMA standards and submitted to the Floodplain Administrator prior to the final Borough inspection and prior to the issuance of any required Certificate of Occupancy.
13. Enclosures Under the Regulatory Flood Level. If a building includes an enclosure under the lowest floor or a crawl/underfloor space that is more than 4 feet in vertical height, then the application shall be required to submit to the Floodplain Administrator a signed

Declaration of Land Restriction/Non-Conversion Agreement that restricts any new use of that space in a manner that would conflict with this Part. Such agreement shall be recorded on the property deed and be submitted to the Floodplain Administrator prior to the issuance of the Certificate of Occupancy.

27-903 Identification of Floodplain Areas.

1. Identification.

- A. The identified floodplain area shall be any areas of the Borough of Myerstown, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated July 8, 2020 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study, and
- B. The “500 Year Floodplain” shall be any areas of Myerstown that are designated as Zone X (“areas of 0.2% annual chance of flood”) in the FIRMs as effective June 5, 2012, as issued by FEMA or the most recent revision thereof, including all digital data developed as part of the FIS.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments issued by FEMA are hereby adopted by the Borough of Myerstown and declared to be a part of this ordinance.

2. Description of and Special Requirements Within the Identified Floodplain Areas. The identified floodplain area shall consist of the following specific areas:

- A. The Floodway Area shall be those areas identified in the FIS and the FIRM as Floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one foot at any point. This term shall also include Floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no Floodway has been identified in the FIS and FIRM.

- (1) Within any Floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the Borough during the occurrence of the base flood discharge.
- (2) Within any Floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the DEP Regional Office.

- B. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
- (1) The AE Area adjacent to the Floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a Floodway has been delineated.
 - (2) AE Area without Floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no Floodway has been determined.
 - (a) No permit shall be granted for any construction, development, use, or activity within any AE Area/District without Floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the BFE more than one foot at any point.
 - (b) No new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the DEP Regional Office.
- C. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and Floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.
- D. The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.
- E. In lieu of the above, the Borough may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses and computations shall be submitted in sufficient detail to allow a thorough technical review by the Borough.
3. Changes in Identification of Area. The Identified Floodplain Area may be revised by the Borough Council in writing where studies or information provided by a qualified agency or person documents the need for such revision if, prior to any such change to the Special Flood Hazard Area, written approval has been obtained from FEMA. Additionally, as soon

as practicable, but not later than 6 months after the date such information becomes available, the Borough shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See also Section 27-904.1.A. for situations where FEMA notification is required.

4. Boundary Disputes. Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Floodplain Administrator and any party with standing who challenges that determination may appeal to the Zoning Hearing Board. The burden of proof shall be on the appellant.
5. Jurisdictional Boundary Changes. Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the Borough shall review flood hazard data affecting the lands subject to boundary changes. The Borough shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in Code of Federal Regulations (CFR) 44 60.3.

27-904 Floodplain Technical Provisions.

1. General.

A. Alteration or Relocation of Watercourse.

- (1) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Zoning Officer, and until all required permits or approvals have first been obtained from the DEP Regional Office.
- (2) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
- (3) In addition, FEMA and DCED shall be notified prior to any alteration or relocation of any watercourse.
- (4) An applicant for any proposed floodplain map change shall be required to pay all required review and administrative fees of outside agencies and to provide and pay all required studies and data.

B. FEMA Approval.

- (1) This subsection B. shall apply when the Borough proposes to permit the following encroachments:
 - (a) any development that causes a rise in the base flood elevations within the Floodway; or

- (b) any development occurring in Zones A1-30 and Zone AE without a designated Floodway, which will cause a rise of more than one foot in the base flood elevation; or
 - (c) alteration or relocation of a stream (including but not limited to installing culverts and bridges).
 - (2) Where an activity is proposed as listed in subsection 27-904.1.B(1) above, the applicant shall (as per 44 CFR Part 65.12), apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
 - (a) Upon receipt of the Administrator’s conditional approval of map change and prior to approving the proposed encroachments, the Borough shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and / or revised Floodway reflecting the post-project condition.
 - (b) Upon completion of the proposed encroachments, the Borough shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.
- C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.

2. Elevation and Floodproofing Requirements.

A. Residential Structures.

- (1) In AE, A1-30 and AH Zones, any new construction or substantial improvement shall have the lowest floor (including any basement) elevated up to, or above, the “regulatory flood elevation” (as defined in Section 27-908).
- (2) In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including any basement) elevated up to, or above, the regulatory flood elevation (as defined in Section 27-908), as determined in accordance with Section 27-903.2.C of this Ordinance.
- (3) In AO Zones, any new construction shall have the lowest floor (including any basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
- (4) The design and construction standards and specifications contained in the currently effective IBC and IRC or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

B. Non-residential Structures.

- (1) In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that

the space enclosed below the “regulatory flood elevation” (as defined in Section 27-908):

- (a) is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
 - (b) has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
- (2) In A Zones, where there are no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor elevated or completely floodproofed up to, or above, the regulatory flood elevation (as defined in Section 27-908), as determined in accordance with Section 27-902.3.C of this ordinance.
- (3) Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the WI or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.
- (4) In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
- (5) Any non-residential structure that will be floodproofed must submit the following to the Floodplain Administrator along with the non-residential Floodproofing Certificate and prior to the issuance of the Certificate of Occupancy:
- (a) An Inspection and Maintenance Plan detailing the annual maintenance of floodproofed components ensuring that all components will operate properly under flood conditions. Components that must be inspected include at a minimum:
 - 1. Mechanical equipment such as sump pumps and generators,
 - 2. Flood shields and closures,
 - 3. Walls and wall penetrations, and
 - 4. Levees and berms (as applicable)
 - (b) Flood Emergency Operation Plan detailing the procedures to be followed during a flooding event, and must include information pertaining to how all components will operate properly under all conditions, including power failures. The design professional must produce the plan. An adequate plan must include the following:
 - 1. An established chain of command and responsibility with leadership

responsibilities clearly defined for all aspects of the plan.

2. A procedure for notification of necessary parties when flooding threatens and flood warnings are issued. Personnel required to be at the building should have a planned and safe means of ingress and should have no other emergency response duties during a flood event. Alternates should be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.
 3. A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.
 4. An evacuation plan for all personnel or occupants; those without duties for the flood emergency as well as those with duties for implementing the plan. All possible ingress and egress routes must be identified.
 5. A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials.
- (6) The design and construction standards and specifications contained in the IBC and the IRC or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

C. Space Below the Lowest Floor.

- (1) Basements are prohibited.
- (2) Any fully enclosed space below the lowest floor (not including a basement) shall be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement. Such fully enclosed space shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. Any new building including such fully enclosed space shall be constructed using flood damage-resistant materials (see NFIP Technical Bulletin No. 1). The term "fully enclosed space" also includes crawl spaces.
- (3) Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - (a) a minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
 - (b) the bottom of all openings shall be no higher than one foot above grade.

- (c) openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Historic Structures.

- (1) Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this ordinance must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure.
- (2) Documentation that a specific requirement of this Part will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from requirements of this Part 9 will be the minimum necessary to preserve the historic character and design of the structure.

E. Accessory Structures. Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

- (1) the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity;
- (2) floor area shall not exceed 200 square feet;
- (3) The structure will have a low damage potential;
- (4) the structure will be located on the site so as to cause the least obstruction to the flow of flood waters;
- (5) power lines, wiring, and outlets will be elevated to the regulatory flood elevation;
- (6) permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited;
- (7) sanitary facilities are prohibited;
- (8) the structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - (a) a minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space;
 - (b) the bottom of all openings shall be no higher than one foot above grade; and
 - (c) openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- (9) For accessory structures that are between 200 and 600 square feet in area (footprint) and that are below the base flood elevation, a variance is required as

set forth in Article VIII. If a variance is granted, a signed Declaration of Land Restriction (Nonconversion Agreement) shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.

3. Design and Construction Standards. The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:
 - A. Fill. If fill is used, it shall:
 - (1) extend laterally at least 15 feet beyond the building line from all points;
 - (2) consist of soil or small rock materials only, and shall not permit a Sanitary Landfill;
 - (3) be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
 - (4) be no steeper than one vertical to two horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator;
 - (5) be used to the extent to which it does not adversely affect adjacent properties; and
 - (6) include adequate measures to avoid erosion associated with the expected velocities during the base flood.
 - B. Drainage Facilities. Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
 - C. Water and Sanitary Sewer Facilities and Systems.
 - (1) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
 - (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
 - (3) No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
 - (4) The design and construction provisions of the Uniform Construction Codes in effect in the Borough and FEMA Publication #348, "Protecting Building Utilities From Flood Damages."
 - D. Other Utilities. All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

- E. Streets. The finished elevation of all new streets shall be no more than one foot below the Regulatory Flood Elevation.
- F. Storage. All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life (other than activities regulated in a more restrictive manner by Section 27-904.4.) shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.
- G. Placement of Buildings and Structures. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.
- H. Anchoring.
- (1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
 - (2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.
- I. Floors, Walls and Ceilings.
- (1) Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
 - (2) Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
 - (3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
 - (4) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other "water-resistant" material.
- J. Paints and Adhesives.
- (1) Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" quality.
 - (2) Adhesives used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
 - (3) All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.
- K. Electrical Components.
- (1) Electrical distribution panels shall be at least 3 feet above the base flood elevation.

- (2) Separate electrical circuits shall serve lower levels and shall be dropped from above.
- L. Equipment. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.
- M. Fuel Supply Systems. All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.
- N. Uniform Construction Code Coordination. The Standards and Specifications contained 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the extent that they are more restrictive and supplement the requirements of this Ordinance.

International Building Code (IBC):

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

International Residential Building Code (IRC):

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

Note: The above section numbers are based upon the 2009 editions. If a newer version is in effect, any successor section number shall apply.

4. Development Which May Endanger Human Life.

- A. Any new or substantially improved structure which:
 - (1) will be used for the production or storage of any of the following “dangerous materials or substances”; or,
 - (2) 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,
 - (3) will involve the production, storage, or use of any amount of radioactive substances;

shall be subject to the provisions of this section, in addition to all other applicable provisions.

- B. The following list of materials and substances are considered “dangerous materials or substances” under this Section.
 - (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 (including but not limited to gasoline and fuel oil)
 - (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.
- C. Prohibition Along Waterways. Within any Identified Floodplain Area, any new or substantially improved structure of the kind described in these subsections 4.A. and B. shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
- D. Within any Floodway Area, any structure of the kind described in this subsections 4.A. and B. shall be prohibited. Within any Identified Floodplain Area, a residential structure shall not be allowed to include storage as provided in subsections 4.A. and B. above.
- E. Where permitted within any Identified Floodplain Area (outside of the Floodway Area), any new or substantially improved non-residential structure of the kind described in subsections 4.A. and B. above shall be built in accordance with the following:
- (1) elevated, or designed and constructed to remain completely dry up to at least 2.5 feet above base flood elevation, and
 - (2) designed to prevent pollution from the structure or activity during the course of a base flood.
- F. Any such structure, or part thereof, where allowed, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or an equivalent watertight standard.
5. Special Requirements for Large Subdivisions and Development. All subdivision and land development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and Floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map

Revision and Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant. Such subdivision proposals and development proposals shall:

- A. be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
- B. have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- C. be laid out such that proposed building pads are located outside of the identified floodplain area and any portion of platted lots that include land areas that are below the base flood elevation shall be used for other purposes, deed restricted, or other protected to preserve it as open space; and
- D. have access roads with the driving surface at or above the base flood elevation.

6. Special Requirements for Manufactured Homes.

- A. Within any Identified Floodplain Area, newly placed manufactured homes and any new manufactured home park or subdivision shall be prohibited. If a variance is obtained in accordance with the criteria of this Part, then the following additional provisions shall apply for all manufactured homes:
 - (1) the home shall be placed on a permanent reinforced foundation;
 - (2) the home shall be elevated so that the lowest floor of the manufactured home is at least 2.5 feet above the base flood elevation;
 - (3) the home shall be anchored to resist flotation, collapse, or lateral movement;
 - (4) the home shall have all ductwork and utilities including HVAC/heat pump elevated to the Regulatory Flood Elevation; and
 - (5) requirements of this Part shall apply regarding enclosures under the Regulatory Flood Elevation.

(Note - See also the FEMA Publication “Protecting Manufacturing Homes from Floods or Other Hazards.”)

- B. Installation of manufactured homes shall be done in accordance with the manufacturers’ installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 “International Residential Building Code” (IBC) (or State-adopted successor section) or the “U.S. Department of Housing and Urban Development’s Permanent Foundations for Manufactured Housing,” 1984 Edition, draft or latest revision thereto shall apply, as well as 34 PA Code Chapter 401-405.
- C. Consideration shall be given to the installation requirements of the IBC, and the IRC or the most recent revisions thereto and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers’ standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

7. Special Requirements for Recreational Vehicles. Within any Identified Floodplain Area, the use of a recreational vehicle shall be prohibited. If a variance is obtained in accordance

with the criteria in this Part, then any recreational vehicle in Zones A, A1-30, AH and AE must meet all of the following requirements:

- A. it shall be on the site for fewer than 180 consecutive days,
- B. it must fully licensed and ready for highway use, and
- C. it must be removed from the Identified Floodplain Area when a flood warning has been issued.

27-905 Prohibited Activities in Floodplain.

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 shall be prohibited within any Identified Floodplain Area:
 - A. Hospitals,
 - B. Nursing homes, and
 - C. Jails, prisons or similar facilities that involve locked indoor physical confinement of persons.
2. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision shall be prohibited within any Identified Floodplain Area.
3. New ‘Critical Facilities’ shall not be located in an Identified Floodplain Area.

27-906 Existing Structures in Identified Floodplain Areas.

1. Existing Structures. The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 27-906.2 shall apply.
2. Improvements. The following provisions shall apply whenever any improvement is made to an existing structure located within any Identified Floodplain Area:
 - A. No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.
 - B. No expansion or enlargement of an existing structure shall be allowed within AE Area/District without Floodway that would, together with all other existing and anticipated development, increase the BFE more than one foot at any point.
 - C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of 50 percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.

- D. The above activity shall also address the requirements of the 34 PA Code, as amended and the IBC and the IRC.
- E. Within any Floodway Area/District (See Section 27-903.2), no new construction or development shall be allowed, unless the appropriate permit is obtained from the DEP Regional Office.
- F. Any modification, alteration, reconstruction, or improvement of any kind occurring as a result of “cumulative substantial damage,” as defined in this Ordinance, shall be undertaken only in full compliance with the provisions of this ordinance.
- G. See also Section 27-903.2.B.(2)(b).

27-907 Floodplain Variances.

- 1. General. A request for a variance shall need to be submitted to the Zoning Hearing Board. The applicant must meet the requirements of this Part, in addition to Section 27-1411.
- 2. Variance Procedures and Conditions. Requests for variances shall be considered by the Borough in accordance with the procedures contained in Section 27-902.1. and the following:
 - A. In A Area/District, BFEs are determined using the methodology in Section 27-902.3.
 - B. No variance shall be granted for any construction, development, use, or activity within any Floodway Area/District that would cause any increase in the BFE.
 - C. No variance shall be granted for any construction, development, use, or activity within any AE Area/District without a defined Floodway that would, together with all other existing and anticipated development, increase the BFE more than one foot at any point.
 - D. Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements of this Part pertaining specifically to “Development Which May Endanger Human Life.”
 - E. No variance shall be granted for Prohibited Activities (Section 27-905).
 - F. If granted, a variance shall involve only the least modification necessary to provide relief, and shall also comply with MPC requirements for a variance.
 - G. In granting any variance, the Zoning Hearing Board shall attach such reasonable conditions as it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.

- H. In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:
 - (1) That there is good and sufficient cause.
 - (2) That failure to grant the variance would result in exceptional hardship to the applicant.
 - (3) That the granting of the variance will:
 - (a) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
 - (b) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- I. A complete record of all variance requests and related actions shall be maintained by the Borough. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.
- J. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent annual chance (100-Year) flood.
- K. When a variance is granted, the Borough 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.

27-908 Floodplain Definitions.

- 1. General. The following definitions shall apply to this Part 9. Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted according to the term's plain and ordinary meaning within the context of the provision.
- 2. Specific Definitions
 - A. 100-Year Flood – the flood having a one percent chance of being equaled or exceeded in any given year.
 - B. 500-Year Flood – the flood having a two-tenths percent chance of being equaled or exceeded in any given year.
 - C. Base Flood – a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent annual chance flood).
 - D. Base Flood Discharge – the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).
 - E. Base Flood Elevation (BFE) – the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting

from a flood that has a one-percent or greater chance of being equaled or exceeded in any given year.

- F. Basement – any area of the building having its floor below ground level on all sides.
- G. Building – a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
- H. Critical Facilities – A use that involves one or more of the following:
 - (1) Structures or facilities that produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.
 - (2) Hospitals, nursing homes and housing that is likely to contain certain occupants who may not be sufficiently mobile to avoid death or injury during a flood.
 - (3) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during and after a flood.
 - (4) Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during and after a flood.
- I. Cumulative substantial damage – flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.
- J. DCED – the Pennsylvania Department of Community and Economic Development.
- K. Declaration of Land Restriction (Non-conversion Agreement) – a form signed by the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions.
- L. Development – any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.
- M. Elevation Certificate – A FEMA form that is required by FEMA to be completed in compliance with FEMA instructions, and which documents the elevation of a structure in relation to the base flood elevation for the property. These certificates are used by insurance agents to rate flood policies and illustrate compliance with minimum standards of the National Flood Insurance Program. (Note: As of 2016, see FEMA Form 81-31 and instructions online).

- N. 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.
- O. 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).
- P. FEMA – the U. S. Federal Emergency Management Agency.
- Q. Flood – a temporary inundation of normally dry land areas.
- R. Flood Insurance Rate Map (FIRM) – the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the Borough.
- S. Flood Insurance Study (FIS) – the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
- U. Flood Zone(s) – A designation for areas that are shown on Flood Insurance Rate Maps:
- (1) Zone A: Special flood hazard areas subject to inundation by the 1-percent annual chance (100-year) flood; base flood elevations are not determined.
 - (2) Zone AE and Zone A1-30: Special flood hazard areas subject to inundation by the 1-percent annual chance (100-year) flood; base flood elevations are determined; Floodways may or may not be determined.
 - (3) Zone AH and Zone AO: Areas of shallow flooding, with flood depths of 1 to 3 feet (usually areas of ponding or sheet flow on sloping terrain), with or without BFEs or designated flood depths.
 - (4) Zone C and Zone X (unshaded): Areas outside of Zones designated A, AE, A1-30, AO, VE, V1-30, B, and X (shaded).
- V. Floodplain Administrator – The person assigned to administer this Part, as provided in Section 27-902.3.
- W. Floodplain area – a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or

any area subject to the unusual and rapid accumulation of surface waters from any source.

- X. 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.
- Y. Floodproofing Certificate – FEMA Form 81-65 that is to be completed, signed and sealed by a licensed professional engineer or licensed architect to certify that the design of floodproofing and proposed methods of construction are in accordance with the applicable requirements of these regulations. (Note: FEMA Form 81-65 is available online at www.fema.gov/library).
- Z. Floodway – Areas identified on the current FIRM as being within the 100-year Floodway or that are identified as Floodway within a more detailed professional study. Such areas include the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- AA. Freeboard – An additional elevation that is required in certain cases to provide a safety factor to account for limited data, changing climate conditions, debris and similar factors. See “Flood Protection Elevation” above.
- BB.. Highest Adjacent Grade – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- CC. Historic structures – a structure that meets any of the following standards:
 - (1) 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;
 - (2) 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;
 - (3) Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
 - (4) Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior or
 - (b) Directly by the Secretary of the Interior in states without approved programs.
- DD. IBC – the International Building Code that is currently in effect in the Borough of Myerstown. See also “UCC.”

- EE. Identified Floodplain Area – this term is an umbrella term that includes all of the areas within which the Borough has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the Borough. See Sections 27-903.1. and 2. for the specifics on what areas the Borough has included in the Identified Floodplain Area.
- FF. IRC – the International Residential Code that is currently in effect in Myerstown.
- GG. Lowest floor – the lowest floor of the lowest fully enclosed area (including any basement that may be allowed). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this ordinance.
- HH. 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.
- II. Manufactured home park or subdivision – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- JJ. Minor repair – the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring, mechanical or other work affecting public health or general safety.
- KK. New construction – structures for which the start of construction commenced on or after July 8, 2020, and includes any subsequent improvements to such structures. Any construction started after July 5, 1977 and before July 8, 2020 is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.
- LL. 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.

- MM. Person – an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.
- NN. Post-FIRM Structure – is a structure for which construction or substantial improvement occurred on or after the Borough’s initial Flood Insurance Rate Map (FIRM) dated July 5, 1977, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.
- OO. Pre-FIRM Structure – is a structure for which construction or substantial improvement occurred on or before July 5, 1977, the date the Borough’s initial Flood Insurance Rate Map (FIRM) was first effective, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.
- PP. Recreational vehicle – a vehicle which is:
- (1) built on a single chassis;
 - (2) not more than 400 square feet, measured at the largest horizontal projections;
 - (3) designed to be self-propelled or permanently towable by a light-duty truck,
 - (4) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- QQ. Regulatory flood elevation – the base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of 2.5 feet.
- RR. Special flood hazard area (SFHA) – means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or AH.
- SS. Start of construction – includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within 12 months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation.
- (1) Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the

property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

- (2) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- TT. Structure – a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
- UU. Subdivision – the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.
- VV. 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 percent or more of the market value of the structure before the damage occurred. This term is also used as “substantially damaged” structures.
- WW. Substantial improvement – Any reconstruction, rehabilitation, addition or other improvement of a building or structure, the costs of which equals or exceeds 50 percent of the market value of the building or structure before the start of construction of the improvement. This term includes structures which have incurred “substantial damage,” or “cumulative substantial damage” regardless of the value of or actual cost of repair work performed. The term does not, however, include either:
- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
 - (2) any alteration of a ‘historic structure’, provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”
- XX. Uniform Construction Code (UCC) – The statewide building codes that are currently in effect in the Myerstown. These include the International Residential Code (IRC) and the International Building Code (IBC). For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC. If such section numbers would change, the success or section number shall apply.
- YY. Variance – A grant of relief by the Zoning Hearing Board of a specific floodplain management regulation.
- ZZ. Violation – means the failure of a structure or other development to be fully compliant with the Borough'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.