

THE BOROUGH OF SMITHTON
WESTMORELAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 207

AN ORDINANCE OF THE BOROUGH OF SMITHTON, WESTMORELAND COUNTY, PENNSYLVANIA REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT, PROVIDING FOR THE ISSUANCE OF PERMITS FOR SAME, ESTABLISHING CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE BOROUGH WHICH ARE SUBJECT TO FLOODING, AND ESTABLISHING PENALTIES FOR ANY PERSON WHO FAILS OR REFUSES TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS OF SAME

WHEREAS, the Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry; and

WHEREAS, consistent with the Pennsylvania Flood Plain Management Act of 1978, the Council of the Borough of Smithton, County of Westmoreland and Commonwealth of Pennsylvania desires to establish such regulations within Smithton Borough.

NOW, THEREFORE, WITH THE FOREGOING RECITALS BEING INCORPORATED HEREIN BY REFERENCE THERETO, THE COUNCIL OF THE BOROUGH OF SMITHTON, WESTMORELAND COUNTY, PENNSYLVANIA HEREBY ORDAINS AND ENACTS THE FOLLOWING:

ARTICLE I. GENERAL PROVISIONS

Section 1.01 - INTENT

The intent of this Ordinance is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supplies 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.

Section 1.02 - Applicability

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Borough of Smithton unless a Permit has been obtained from the Floodplain Administrator as set forth hereafter.
- B. A Permit shall not be required for minor repairs to existing buildings or structures.

Section 1.03 - Abrogation and Greater Restrictions

This ordinance supersedes any other conflicting provisions that may be in effect in identified floodplain areas; provided, however, that any other ordinance provisions affecting development within floodplain areas which are more restrictive than those established by this ordinance shall remain in full force and effect. If there is any conflict between any of the provisions of this Ordinance and any other ordinance, the more restrictive provision or provisions shall apply.

Section 1.04 - Severability

The terms of this ordinance are severable. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared void, invalid or unenforceable by a court of competent jurisdiction, the remaining portions of the Ordinance shall continue in full force and effect.

Section 1.05 - 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 acceptable engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. Nothing in this Ordinance should be deemed or construed to infer or imply that areas outside any identified floodplain area, or land uses permitted within such areas, will be free from flooding or flood damage.

This Ordinance shall not and does not create or infer liability on the part of the Borough of Smithton, or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

ARTICLE II. ADMINISTRATION

Section 2.01 - Designation of the Floodplain Administrator

The Mayor of the Borough of Smithton is hereby appointed to administer and enforce this ordinance and is referred to herein as the Floodplain Administrator.

Section 2.02 - Permits Required

A Permit shall be required before any construction or development is undertaken within any area of the Borough.

Section 2.03 - Duties and Responsibilities of the Floodplain Administrator

- A. The Floodplain Administrator shall issue a Permit only 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.
- B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review any history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued. The Borough's Building Code Official may assist the Floodplain Administrator in such review as necessary.
- D. During the construction period, the Floodplain Administrator or other authorized official, including any Building Inspector or Building Code Official, shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and all other applicable municipal laws and ordinances. Such inspector shall make as many inspections during and upon completion of the work as are necessary to ensure compliance with same.
- E. In the discharge of their duties, the Floodplain Administrator, or their designated agent, shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.

- F. In the event the Floodplain Administrator discovers that any work performed fails to 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 revoke the Permit and report such fact to the Council of the Borough of Smithton for whatever action it considers necessary.
- G. The Floodplain Administrator shall maintain all records associated with the requirements of this ordinance including, but not limited to, permitting, inspection and enforcement.
- H. The Floodplain Administrator shall consider the requirements of Title 34 of the Pennsylvania Code, the 2006 IBC and the 2006 IRC or latest revisions thereof in assessing the work performed. Any such work shall comply with the applicable provisions of same.

Section 2.04 - Application Procedures and Requirements

- A. Any application for a Permit hereunder shall be made, in writing, to the Floodplain Administrator on forms supplied by the Borough of Smithton. Such application shall contain the following information:
 - 1. The name and address of applicant.
 - 2. The name and address of owner of land on which proposed construction is to occur.
 - 3. The name and address of contractor.
 - 4. The location, including the address, at which the work is being performed.
 - 5. A list of other permits required.
 - 6. A brief description of the proposed work and the estimated cost of same, including, where applicable, a breakout of flood-related damage repair costs and the market value of the building before any flood damage occurred.
 - 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, the Applicant shall provide information deemed necessary by the Floodplain Administrator, in sufficient detail and clarity, to enable the Floodplain Administrator to determine whether:
 - 1. such proposal is consistent with the need to minimize flood damage and conforms 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 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 to minimize flood damage have been used; and
 7. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.
- C. In order to facilitate the Floodplain Administrator's required determinations under this Ordinance, the Applicant shall, at a minimum, provide and file with the Floodplain Administrator:
1. A completed Permit Application Form.
 2. A plan of the perimeter of the entire site upon which the work is being performed, clearly and legibly drawn at a scale of one (1) inch equal to one hundred (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.
 3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - a. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - b. the elevation of the base flood;
 - c. supplemental information as may be necessary under Title 34 of the Pennsylvania Code, the 2006 IBC or the 2006 IRC.

4. The following data and documentation:
 - a. where available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood elevation;
 - b. detailed information concerning any proposed flood proofing measures and corresponding elevations.
 - c. A report, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an Special Floodplain Area (See section 3.02 B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point, together with all evidence and calculations supporting same;
 - d. a statement by a registered professional engineer or architect certifying that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood elevation. Such statement shall include a description of the type and extent of the flood proofing measures that have been incorporated into the design of the structure and/or development.
 - e. sufficient information needed to determine compliance with Section 4.03 F. (“Storage”) and Section 4.04 (“Development Which May Endanger Human Life”) including:
 - i. the amount, location and purpose of any materials or substances referred to in Sections 4.03 F. and 4.04 which are intended to be used, produced, stored or otherwise maintained on site.
 - ii. 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 4.04 during a base flood.
 - f. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
 - g. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
5. Applications for Permits shall be accompanied by a fee, payable to the Borough based upon the estimated cost of the proposed construction as determined by the Floodplain Administration.

Section 2.05 - Review by County Conservation District

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Floodplain Administrator to the County Conservation District for review and comment prior to the issuance of a Permit. The recommendations of the Conservation District may be considered by the Floodplain Administrator for incorporation into the proposed plan.

Section 2.06 - 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 (e.g. planning commission, municipal engineer, etc.) for review and comment.

Section 2.07 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 Floodplain Administrator for consideration.

Section 2.08 - Placards

In addition to the Permit, the Floodplain Administrator shall issue a placard that shall be displayed on the premises during the time 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.

Section 2.09 - Start of Construction

Work on the proposed construction and/or development shall begin within 180 days after the date the permit is issued and shall be completed within twelve (12) months after the date of issuance of the permit. Any permit issued shall expire twelve (12) months from the date it is issued unless an extension is granted, in writing, by the Floodplain Administrator. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

An extension of time shall be granted only if a written request is submitted by the applicant setting forth sufficient and reasonable cause for the Floodplain Administrator to approve same.

Section 2.10 - Enforcement

A. Notices

Whenever the Floodplain Administrator or other authorized municipal representative determines there has been a violation of any provision of this Ordinance, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of the violation to the owner and/or applicant. Such notice shall:

1. be in writing;
2. describe the nature of the violation and a citation to the section or sections of this ordinance violated;
3. allow a reasonable time to remedy the condition giving rise to the violation, provided, however, that such time period shall not exceed thirty (30) days for the performance of any act it requires;
4. be served upon the property owner and the applicant by certified and first class U.S. Mail, postage prepaid, at the address provided on the application or at the address of the property owner as same appears in the real estate tax records of the Borough for the property upon which the violation occurs;
5. describe the remedial action necessary to be taken to effect compliance with the provisions of this Ordinance.

B. Penalties

Any person, partnership, corporation or other entity violating the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not less than \$300.00 nor more than \$600.00 plus all court costs, and reasonable attorney fees incurred by the Borough in the pursuit thereof. No judgment shall commence or be imposed, levied or payable until a court of competent jurisdiction determines that a violation exists. Where a civil judgment for a violation of this ordinance has not been timely paid, the violator shall be liable for the penalty imposed, including daily penalties for continuing violations of not less than \$300.00 nor more than \$600.00 for each day a violation exists, plus court costs and reasonable attorney's fees incurred by the Borough in any subsequent enforcement proceedings. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Borough to be a public nuisance and abatable as such. The remedies available to the Borough in the enforcement of this ordinance are cumulative. Nothing contained in this section shall be deemed or construed to preclude the Borough from taking such other legal action, at law or in equity, necessary to prevent or remedy any violation or otherwise enforce the terms of this ordinance.

Section 2.11 Appeals

- A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Ordinance, may appeal such determination to Borough Council. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator is issued. The failure to file a timely appeal shall be deemed a waiver of all rights to such appeal.
- B. Upon receipt of a timely appeal, Council shall set a time and place for a hearing for the purpose of considering and deciding same. Such hearing shall be scheduled not less than ten (10) or not more than thirty (30) days from the date the appeal is received. Notice of the time and place at which the appeal will be considered shall be given to all parties.
- C. Any person aggrieved by any decision of Council may seek relief there from by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

Section 2.12 Fees

The fees for all permits, inspections, appeals and hearings referenced in this Ordinance shall be determined by Resolution adopted hereafter.

ARTICLE III. IDENTIFICATION OF FLOODPLAIN AREAS

Section 3.01 Identification

The identified floodplain area shall be any areas of the Borough of Smithton classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated March 17, 2011 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.

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

Section 3.02 Description and Special Requirements of Identified Floodplain Areas

The identified floodplain area may consist of the following specific areas:

A. Floodway Area

1. Description – The “Floodway Area” is the area identified as Floodway in the FIS that represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing

the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas that have been identified in other available studies or sources of information for those special floodplain areas where no floodway has been identified in the FIS.

2. Prohibited construction:

- a. Any encroachment that would cause any increase in flood heights shall be prohibited.
- b. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection Regional Office.

B. Special Floodplain Area

1. Description – The “Special Floodplain Area” is the area identified as Zones AE and A1-30 in the FIS. These areas are subject to inundation by the 1-percent-annual chance flood event determined by detailed methods and have base flood elevations (BFEs) shown.

2. Prohibited Construction:

- a. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.
- b. In Special Floodplain Areas without a designated floodway, no new development shall be permitted unless it can be demonstrated that the cumulative effect of all past and projected development will not increase the BFE by more than one (1) foot.

C. Approximate Floodplain Area

1. Description – The “Approximate Floodplain Area” is the area identified as Zone A in the FIS. This area is subject to inundation by the 1-percent-annual-chance flood event determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no BFEs or flood depths are shown.

2. Prohibited Construction:

- a. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.
- b. When available, information from other Federal, State, and other

acceptable sources shall be used to determine the BFE, as well as a floodway area, if possible. When no other information is available, the BFE shall be determined by using a point on the boundary of the identified floodplain area that is nearest the construction site in question.

In lieu of the above, the municipality 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, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough of Smithton.

Section 3.03 Changes in Identification of Area

The identified floodplain area may be revised or modified by the Council of Smithton Borough where studies or information provided by a qualified agency or person establishes the need for such revision; provided, however, that prior to any such change, approval must be obtained from FEMA. The Borough shall notify FEMA of the proposed changes by submitting technical or scientific data as soon as practicable, but in no event later than six (6) months, after the date such information becomes available.

Section 3.04 Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Floodplain Administrator and any party aggrieved by this decision or determination may appeal to the Council of Smithton Borough as provided herein. The burden of proof shall be on the appellant to show, by clear and convincing evidence, that the Floodplain Administrator erred in their determination.

ARTICLE IV. TECHNICAL PROVISIONS

Section 4.01 General

A. Alterations or Relocation of Watercourses:

1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected have been notified by the Borough and all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.
2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be demonstrated that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.

3. In addition, FEMA and the Pennsylvania Department of Community and Economic Development, shall be provided written notice sent not less than thirty (30) days prior to the date any alteration or relocation of any watercourse is to begin.
- B. The Borough shall submit technical or scientific data to FEMA for a Letter of Map Revision (LOMR) within six (6) months of the completion of any new construction, development, or other activity resulting in changes in the BFE.
- C. Any new construction, development, uses or activities permitted within any identified floodplain area shall be undertaken in strict compliance with the provisions of this Ordinance and any other applicable codes, ordinances and regulations.

Section 4.02 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 basement) elevated up to, or above, the regulatory flood elevation.
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 basement) elevated up to, or above, the regulatory flood elevation in accordance with Subsection 3.02.C.2b of this ordinance.
3. The design and construction standards and specifications contained in the 2006 International Building Code (IBC) and in the 2006 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and the provisions of 34 PA Code (Chapters 401-405 as amended) shall be followed in all such construction or improvements hereunder.

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 (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:
 - 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 no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory

flood elevation in accordance with Subsection 3.02.C.2b of this ordinance.

3. Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be flood-proofed in accordance with either 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 flood-proofing shall be accompanied by a statement from a registered professional engineer or architect certifying that the proposed design and methods of construction are in conformance with the above referenced standards.
4. The design and construction standards and specifications contained in the 2006 International Building Code (IBC) and in the 2006 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be followed in all such construction or improvements hereunder.

C. Space below the lowest floor

1. Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, 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. The term "fully enclosed space" also includes crawl spaces.
2. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum requirements:
 - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space must be provided;
 - b. the bottom of all openings shall be no higher than one (1) foot above grade;
 - c. openings may be equipped with screens, louvers, or other similar coverings or devices provided they permit the automatic entry and exit of floodwaters.

D. Accessory structures

Structures accessory to a principal building need not be elevated or flood-proofed 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 on the property.

2. The floor area shall not exceed 100 square feet.
3. The structure will have a low damage potential.
4. The structure will be located on the site in that area which causes the least obstruction to the flow of flood waters.
5. Any power lines, wiring, and/or outlets providing service to the structure will be elevated to at least the regulatory flood elevation.
6. Any permanently affixed utility equipment or appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
7. No sanitary facilities are permitted.
8. The structure shall be adequately anchored to prevent flotation or movement and be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs certified to meet this requirement must either be prepared by a registered professional engineer or architect, or, in the alternative, meet or exceed the following minimum criteria:
 - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space shall be provided.
 - b. the bottom of all openings shall be no higher than one (1) foot above grade.
 - c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided they permit the automatic entry and exit of flood waters.

Section 4.03 Design and Construction Standards

The following minimum requirements shall be met for all construction and development proposed within any identified floodplain area:

A. Fill. In the event fill is used, it shall:

1. extend laterally at least fifteen (15) feet beyond the building line from all points;
2. consist of soil or small rock materials only;
3. not be comprised of materials customarily used or disposed of in sanitary or garbage landfills;
4. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;

5. be no steeper than one (1) vertical foot to two (2) horizontal feet unless substantiated data, justifying steeper slopes are submitted to and approved by the Floodplain Administrator;
6. be used only to the extent it does not adversely affect adjacent properties.

B. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. Such facilities shall insure proper drainage along streets, and provide positive drainage away from buildings. Such facilities 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 sewage facilities and systems shall be located, designed and constructed to minimize or eliminate flood damage and the infiltration of flood waters.
2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
3. No part of any on-site sewage system shall be located within any identified floodplain area unless it is constructed in strict compliance with all State and local regulations for such systems and approved by all regulatory agencies or entities having jurisdiction over same. If any such system is permitted, it shall be located in an area to avoid both damage and impairment to it, as well as damage and contamination from it, during a flood.
4. The design and construction provisions of the UCC and FEMA #348, Protecting Building Utilities from Flood Damage and The International Private Sewage Disposal Code shall be followed in the design and construction of any system subject to this ordinance.

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 (1) foot below the Regulatory Flood Elevation.

F. Storage

All materials that are buoyant, flammable, explosive, or which, during times of flooding,

could cause harm to human, animal, or plant life, and are not otherwise listed in Section 4.04 "Development Which May Endanger Human Life", shall be stored at or above the Regulatory Flood Elevation and/or in a flood-proofed area.

G. Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed to minimize the obstruction to the flow of water. All buildings and structures shall be designed to have a minimum effect upon the flow and height of floodwater.

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 must 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 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 must be of "marine" or "water-resistant" quality.
2. Adhesives used at or below the regulatory flood elevation must be of a "marine" or "water-resistant" variety.
3. All wooden components (doors, trim, cabinets, etc.) must be finished with a "marine" or "water-resistant" paint or other finishing material.

K. Electrical Components

1. Electrical distribution panels must be installed at least three (3) feet above the base flood elevation.

2. Separate electrical circuits must be installed to serve lower levels and shall be extended from above.

L. Equipment

1. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus must 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 and incorporated in the design of such systems to facilitate their drainage 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, including, but not limited to the following provisions, shall be followed and apply to all sections and sub-sections of this ordinance to the extent they are more restrictive and/or supplement the requirements of this ordinance:

1. International Building Code (IBC) 2006 or the latest edition thereof - Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G; and
2. International Residential Building Code (IRC) 2006 or the latest edition thereof - Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

Section 4.04 Development Which May Endanger Human Life

A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:

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 of this ordinance.

B. **Dangerous Materials and Substances.** The following list of materials and substances are considered dangerous to human life:

- Acetone
- Ammonia
- Benzene
- Calcium carbide
- Carbon disulfide
- Celluloid
- Chlorine
- Hydrochloric acid
- Hydrocyanic acid
- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel oil, etc.)
- Phosphorus
- Potassium
- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated
- Any other material which due to its quantity, concentration, physical or chemical characteristics may pose a real hazard to human health and/or the environment. Such hazardous materials may include, but are not limited to the following categories: explosives, compressed gases, flammable liquids, flammable solids, oxidizers and organic peroxides, toxic materials, radioactive materials, corrosives and/or any material listed with the Hazardous Material Information System (HMIS).

C. Within any Floodway Area, any structure of the kind described in Subsection A, above, shall be prohibited.

D. Where permitted within any floodplain area, any new or substantially improved structure of the kind described in Subsection A above, shall be:

1. elevated or designed and constructed to remain completely dry up to at least one and one half (1 ½) feet above the base flood elevation; and
2. designed to prevent pollution from the materials or substances stored in such structure or activity during the course of a flood rising to the base flood elevation.
3. Any such structure, or part thereof, to be built below the regulatory flood elevation must be designed and constructed in accordance with the standards for completely dry flood-proofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

- E. Within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

Section 4.05 Special Requirements for Subdivisions

All subdivision proposals, development proposals and land development proposals containing at 50 lots or 5 acres of land, whichever is less, located in flood hazard areas where base flood elevation data is not available, must be submitted along with 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 or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

Section 4.06 Special Requirements for Manufactured Homes

- A. Within any FW (Floodway Area), manufactured homes shall be prohibited.
- B. Where permitted within any floodplain area, all manufactured homes, and any improvements thereto, shall be:
 - 1. placed on a permanent foundation.
 - 2. elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above the base flood elevation.
 - 3. anchored to resist flotation, collapse, or lateral movement.
- C. Manufactured homes shall be placed and installed in accordance with the manufacturers' installation instructions provided by the manufacturer. Where the applicant cannot provide the manufacturer's installation instructions, the requirements of Appendix E of the 2006 International Residential Building Code 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 and 34 PA Code Chapter 401-405.
- D. Where the manufacturers' standards for anchoring cannot be provided or are not established by the manufacturer for the units(s) proposed installation, the installation shall be made and carried out in compliance with the requirements of the 2006 IBC, and the 2006 IRC or the most recent revisions thereto and 34 PA Code, as amended and as applicable to the units

SECTION 4.07 Special Requirements for Recreational Vehicles

- 1. Recreational vehicles are not permitted to be stored, parked or otherwise kept in Zones A, A1-30, AH and AE unless:

- a. They are on the site for fewer than 180 consecutive days;
- b. They are fully licensed and ready for highway use; or
- c. They are installed in compliance with the permit requirements for manufactured homes in Section 4.06 above.

ARTICLE V. ACTIVITIES REQUIRING SPECIAL PERMITS

Section 5.01 General

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any identified floodplain area unless a Special Permit has been issued by the Borough of Smithton:

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

Section 5.02 Application Requirements for Special Permits

Applicants for Special Permits shall submit file five (5) copies of the following to the Floodplain Administrator:

- A. A written request for a Special Permit along with a completed Permit Application Form.
- B. A small-scale map showing the location of the site within the Borough and Floodplain.
- C. A plan of the entire site upon which the proposed development will occur, clearly and legibly drawn at a scale of one (1) inch equal to one hundred (100) feet or less, containing the following:
 1. north arrow, scale and date;
 2. contour lines based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at intervals of two (2) feet;

3. all property and lot lines, together with their courses and distances, and the size of the site expressed in acres or square feet;
4. the location of all existing streets, drives, other access ways, and parking areas, together with the widths, pavement types, construction and elevations for same;
5. the location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and related facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development;
6. the location of the floodplain boundary line, spot elevations concerning the base flood elevation elevations and information supporting same and the direction and velocities regarding the flow of water;
7. the location of all proposed buildings, structures, utilities, and any other improvements; and
8. any other information which the Floodplain Administrator considers necessary for adequate review of the application.

D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale containing the following:

1. sufficiently detailed drawings, including floor plans, sections, and exterior building elevations, prepared by an architect or engineer licensed in the Commonwealth of Pennsylvania;
2. for any proposed building, the elevation of the lowest floor (including basement) and the elevation of all other floors;
3. complete information detailing flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood elevation;
4. detailed information concerning proposed flood-proofing measures;
5. cross section drawings for all proposed streets, drives, other access ways, and parking areas, showing all rights-of-way and pavement widths;
6. profile drawings for all proposed streets, drives, and vehicular access ways including existing and proposed grades; and
7. plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following information:

1. A certificate from the applicant that the site upon which the activity or

development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;

2. A certificate from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the base flood elevation;
3. A statement, certified by a registered professional engineer, architect, landscape architect, or other similarly qualified person containing a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a base flood elevation, including a statement concerning the effects such pollution may have on human life;
4. A statement certified by a registered professional engineer, architect, or landscape architect, containing a complete and accurate description of the effects the proposed development will have on base flood elevation elevations and flows;
5. A statement, certified by a registered professional engineer, architect, or landscape architect, containing a complete and accurate description of the nature, kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the base flood elevation and the effects any such materials or debris may have on base flood elevations and flows;
6. The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development;"
7. Where any excavation or grading is proposed, the applicant shall also submit a plan meeting the requirements of the Department of Environmental Protection for erosion and sedimentation control along with an acknowledgement that such plan will be implemented and maintained;
8. Any other applicable permits including, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and
9. An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood event.

Section 5.03 Application Review Procedures

In addition to those procedures and requirements set forth in Article II above, upon receipt of an application for a Special Permit to the Borough of Smithton, the Floodplain Administrator shall:

- A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Borough engineer for review and

comment.

- B. If any application received is incomplete, the Borough shall notify the applicant in writing of the reasons why the application is deficient.
- C. If the Borough disapproves an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- D. If the Borough approves an application, it shall forward written notification of such approval, together with the application and all supporting documentation, to the Department of Community and Economic Development, by registered or certified mail, within five (5) working days after the date of approval.
- E. Before issuing the Special Permit, the Borough shall allow the Department of Community and Economic Development thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the Borough.
- F. If the Borough does not receive any comments on the Special Permit Application from the Department of Community and Economic Development during the thirty (30) day review period, the Application shall be deemed approved by such Department and the Borough may issue a Special Permit to the applicant.
- G. If the Department of Community and Economic Development disapproves an application, it shall notify both the Borough and the applicant, in writing, of the reasons for the disapproval, and the Borough shall not issue the Special Permit.

Section 5.04 Special Technical Requirements

- A. In addition to the requirements of Article IV of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Article IV of this Ordinance or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
- B. No application for a Special Permit may be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
 - 1. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
 - a. the structure will survive inundation by waters of the base flood elevation without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE.
 - b. the lowest floor (including basement) will be elevated to at least one and one half (1 ½) feet above base flood elevation.

- c. the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood elevation.
- 2. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property. Hydrologic and hydraulic analyses in supporting any design, location or construction conclusions:
 - a. 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; and
 - b. all studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Borough and the Department of Community and Economic Development.

ARTICLE VI EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

Section 6.01 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 6.02 shall apply.

Section 6.02 Improvements

- A. The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:
1. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the base flood elevation.
 2. No expansion or enlargement of an existing structure shall be allowed within any Special Floodplain Area that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
 3. Any modification, alteration, addition to or improvement, of any kind to an existing structure, the cost of which is in excess of fifty (50) percent or more of such structure's existing fair market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
 4. Any modification, alteration, addition to or improvement subject to regulation under this Ordinance shall comply with the requirements of 34 PA Code, as amended and the 2006 IBC and the 2006 IRC, as same be amended.
 5. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.
 6. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of "repetitive loss" shall be undertaken only in full compliance with the provisions of this ordinance

ARTICLE VII VARIANCES

Section 7.01 General

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the Borough may, upon request, grant relief from the strict application of the requirements.

Section 7.02 Variance Procedures and Conditions

Requests for variances shall be considered by the Borough in accordance with the procedures contained in Section 2.11 (relating to appeals from the determination of the Floodplain Administrator), provided, that:

- A. No variance may be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the BFE.
- B. No variance may be granted for any construction, development, use, or activity within any Special Floodplain Area that would, together with all other existing and anticipated development, increase the BFE than one (1) foot at any point.
- C. Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit (Article V) or to Development Which May Endanger Human Life (Section 4.04).
- D. If granted, a variance shall only be issued to approve the least modification necessary to provide relief.
- E. In granting any variance, the Borough may 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 Ordinance.
- F. Whenever 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.
- G. In reviewing any request for a variance, the Borough shall consider whether:
 - 1. The applicant has submitted sufficient evidence to support their request for a variance;
 - 2. That failure to grant the variance would result in exceptional hardship to the

applicant.

3. That the granting of the variance will neither:
 - a. result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense; nor
 - b. create nuisances, cause fraud upon, or victimize the public, or conflict with any other applicable state law or local ordinances and/or regulations.
- H. 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.
- I. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the base flood.

ARTICLE VIII DEFINITIONS

Section 8.01 General

The following words and phrases, when used in this section and in relation to construction within a flood plain, shall have the meanings set forth hereafter. To the extent any word or phrase set forth hereafter is defined differently in any other portion of this Ordinance, the meaning set forth hereafter shall be attributed to those circumstances involving flood plain construction. Any inconsistencies in any word or phrase shall be construed to give effect to both definitions where possible and this section shall be interpreted to effectuate its intended purpose.

SECTION 8.02 – Defined Terms

BASE FLOOD - a flood that has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood").

BASE FLOOD ELEVATION (BFE) - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

BASEMENT - any area of the building having its floor below ground level on all sides.

DATE OF COMPLETION or DATE WORK COMPLETED – when used herein, shall mean the date any work performed under a Permit issued hereunder is completed on the ground, inspected and finally approved in writing by the Floodplain Administrator.

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.

ESSENTIALLY DRY SPACE — A space which will remain dry during flooding, except for the passage of some water vapor or seepage; and which space is substantially impermeable to the passage of water.

FA (GENERAL FLOODPLAIN AREA) — The areas identified as Zone A in the Flood Insurance Study for which no one-hundred-year flood elevations have been provided. When available, information from federal, state and other acceptable sources shall be used to determine the one-hundred-year elevation, as well as a floodway area, if possible. When no other information is available, the one-hundred-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.

FE (SPECIAL FLOODPLAIN AREA) — The areas identified as Zone AE in the Flood Insurance Study, where one-hundred-year flood elevations have been provided, but no floodway has been delineated.

FEMA - The Federal Emergency Management Agency.

FLOOD-FRINGE DISTRICT — That area of the one-hundred-year floodplain not included in the Floodway District. The basis for the outermost boundary of this district shall be the one-hundred-year-flood elevations contained in the flood profiles of the Flood Insurance Study.

FLOOD INSURANCE RATE MAP (FIRM) - the official map upon which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) - the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

FLOODPLAIN — A relatively flat or low land area which is subject to inundation from the rapid accumulation of surface waters, including Floodway Districts, Flood-Fringe Districts and General Floodplain Districts.

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.

FLOODPLAIN DISTRICT — A floodplain area for which no detailed flood profiles or elevations are provided, but where a one-hundred-year floodplain boundary has been approximated. Such areas are shown on the Flood Boundary and Floodway Maps of the Flood Insurance Study.

FLOODPROOFING - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOODWAY DISTRICT — That portion of a floodplain delineated for regulation by this chapter which must be reserved to discharge the waters of the one-hundred-year flood without causing more than a one-foot rise in flood heights. The areas included in this district are specifically defined on Tables 1 through 6 of the Flood Insurance Study.

FW (FLOODWAY AREA) — The areas identified as "floodway" in the AE Zone in the Flood Insurance Study prepared by the Federal Emergency Management Agency. 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 Flood Insurance Study.

HISTORIC STRUCTURE – any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior; or
 - ii. Directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this ordinance.

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 that are placed on a site for more than 180 consecutive days.

MANUFACTURED HOME PARK OR SUBDIVISION – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION - structures for which the start of construction commenced on or after July 17, 1978, and includes any subsequent improvements thereto.

ONE HUNDRED YEAR FLOOD - A FLOOD that, on the average, is likely to occur once every one hundred (100) years (i.e., that has a one percent (1%) change of occurring each year, although the FLOOD may occur in any year).

RECREATIONAL VEHICLE - a vehicle which is:

- a. built on a single chassis;
- b. not more than 400 square feet, measured at the largest horizontal projections;
- c. designed to be self-propelled or permanently towable by a light-duty truck; and
- d. not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOOD ELEVATION — The one-hundred-year-flood elevation, plus a freeboard safety factor of 1 1/2 feet.

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.

START OF CONSTRUCTION – means any or all of the following:

- (a) land preparation, such as clearing, grading, and filling;
- (b) the installation of streets and/or walkways;
- (c) excavation for a basement, footings, piers, or foundations or the erection of temporary forms;
- (d) 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;
- (e) the placement of a manufactured home on a foundation; or
- (f) for a “substantial improvement”, the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE – a walled and roofed building, a gas or liquid storage tank or any other building or appurtenance that is principally above ground, including a manufactured home. 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.

SUBSTANTIAL DAMAGE - damage from any cause sustained by a structure where 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 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 that have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however include:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or;
- b. Any alteration of a "historic structure, provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without an elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time that documentation is provided.

ARTICLE X. ENACTMENT

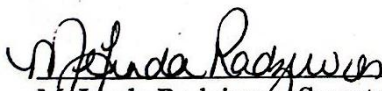
Section 10.01 Adoption

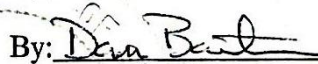
This Ordinance shall be effective on March 17, 2011 and shall remain in full force and effect until modified, amended or rescinded by the Council of the Borough of Smithton, County of Westmoreland, Commonwealth of Pennsylvania.

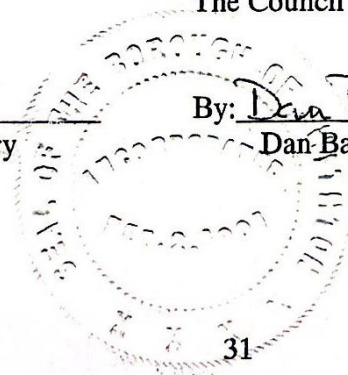
THIS ORDINANCE IS DULY ORDAINED AND ENACTED BY THE COUNCIL OF THE BOROUGH OF SMITHTON AT A DULY ADVERTISED PUBLIC MEETING HELD THE 14th DAY OF March, 2011.

ATTEST:

The Council of the Borough of Smithton:


Melinda Radziwon Secretary


By: 
Dan Barthels, President of Council



By execution of this Ordinance I hereby certify that I have reviewed and approved same.

ATTEST:

By:


Melinda Radziwon, Secretary


Christine Tutena, Mayor of Smithton Borough

