

CLINTON TOWNSHIP AND NICHOLSON BOROUGH
WYOMING COUNTY, PENNSYLVANIA

CLINTON TOWNSHIP ORDINANCE NO. 319-12
NICHOLSON BOROUGH ORDINANCE NO. 12-306

AN ORDINANCE AMENDING THE CLINTON TOWNSHIP - NICHOLSON BOROUGH ZONING ORDINANCE, AS AMENDED, TO UPDATE FLOODPLAIN MANAGEMENT STANDARDS.

BE IT HEREBY ORDAINED AND ENACTED by the Board of Supervisors of Clinton Township and the Borough Council of Nicholson Borough, Wyoming County, Pennsylvania, by authority of and pursuant to the provisions of Act of 1968, P.L. 805, No. 247 of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1968, as reenacted and amended, known and cited as the *Pennsylvania Municipalities Planning Code*, as follows:

Article XIV of the Clinton Township - Nicholson Borough Zoning Ordinance, as amended, is hereby amended to read as follows:

ARTICLE XIV
FLOODPLAIN MANAGEMENT

1400 Statutory Authority and Floodplain Overlay District

- A. Statutory Authority - 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. Therefore, the Board of Supervisors of the Township of Clinton and the Borough Council of the Borough of Nicholson, do hereby order as follows in this Article XIV.
- B. Floodplain Overlay District - The requirements of this Article XIV shall apply in the Floodplain Overlay District established by §401.3 of this Zoning Ordinance.

1401 General Provisions

1401.1 Intent

The intent of this Article 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 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.

1401.2 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 Clinton Township or Nicholson Borough, unless a zoning permit has been obtained from the Zoning Officer.
- B. A zoning permit shall not be required for minor repairs to existing buildings or structures.

1401.3 Abrogation and Greater Restrictions

This Article supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Article, the more restrictive shall apply.

1401.4 Warning and Disclaimer of Liability

- A. Warning - The degree of flood protection sought by the provisions of this Article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur, flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside any identified floodplain areas or that land uses permitted within such areas will be free from flooding or flood damages.
- B. Disclaimer - This Article shall not create liability on the part of the Township or Borough or any officer of the Township or Borough or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

1402 Administration

1402.1 Floodplain Administrator; Zoning Permits

- A. Floodplain Administrator - The Zoning Officer in Clinton Township and the Zoning Officer in Nicholson Borough are hereby appointed to administer and enforce this Article and are herein referred to as the Floodplain Administrator.
- B. Zoning Permits Required - Zoning permits shall be required before any construction or development is undertaken within any area of Clinton Township and Nicholson Borough.

1402.2 Issuance of Zoning Permit

- A. Conformance - The Floodplain Administrator shall issue a zoning permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Ordinance and all other applicable codes and ordinances.
- B. State and Federal Laws - Prior to the issuance of any zoning 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, §404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. Repetitive Loss - In the case of existing structures, prior to the issuance of a zoning permit the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.

- D. Inspections - 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 municipal laws and ordinances. The Floodplain Administrator shall make as many inspections during and upon completion of the work as are necessary.
- E. Authority for Entry - In the discharge of his/her duties, the Floodplain Administrator 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 Article.
- F. Enforcement Action; Penalties and Remedies
1. 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 revoke the permit and report such fact to the Board of Supervisors for whatever action it considers necessary.
 2. All enforcement actions shall be undertaken in accord with §1216 - Violations and §1217 - Penalties and Remedies.
- G. Records - The Floodplain Administrator shall maintain all records associated with the requirements of this Article including, but not limited to, permitting, inspection and enforcement.
- H. Construction Codes - The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or latest revisions thereof.

1402.3 Application Procedures and Requirements

Applications shall be made in accord with §1202 of this Ordinance, and in addition to the information required by §1202.3, applications shall include the following:

- A. Other Permits - Listing of other permits required.
- B. Description of Work - Brief description of proposed work and estimated cost, including a breakout of the flood-related cost and the market value of the building before the flood damage occurred.
- C. Site Plan - A plan of the site showing the exact size and location of the proposed construction, as well as, any existing buildings or structures.
- D. Flood Damage Minimization - If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for zoning 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.
 7. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.
- E. Contours - Topographic contour lines, if available.
- F. Water Features - 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.
- G. Improvements; Elevations - 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 Geodetic Vertical Datum of 1988.
 2. The elevation of the base flood.
 3. Supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC.
 4. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
 5. Detailed information concerning any proposed flood proofing measures and corresponding elevations.
- H. Certifications
1. AE Area/District - Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within any AE Area/District without floodway (see §1403.2.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.
 2. Other Floodplain Areas - Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within any identified floodplain area which is not an AE Area/District without floodway, when combined with all other existing and anticipated development, will not increase the base flood elevation as designated in §1403.
 3. Flood Proofing Measures - 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 elevation. 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.
- I. Dangerous Materials - Detailed information needed to determine compliance with §1404.3.F - Storage, and §1404.4 - Development Which May Endanger Human Life, including:
1. The amount, location and purpose of any materials or substances referred to in §1404.3.F and §1404.4 which are intended to be used, produced, stored or otherwise maintained on site.
 2. 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 §1404.4 during a one hundred (100) year flood.

1402.4 Reserved.

1402.5 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.

1402.6 Start of Construction

- A. Beginning: Completion - Work on the proposed construction or development shall begin within one hundred and eighty (180) days after the date of issuance and shall be completed within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator.
- B. Permanent Construction - The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- C. Substantial Improvement - 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.

1403 Identification of Floodplain Areas

1403.1 Identification

- A. Identified Floodplain Area - The identified floodplain area shall be any areas of Clinton Township and Nicholson Borough classified as special flood hazard areas (SFHAs) in the most recent Flood Insurance Study (FIS) and the most recent Flood Insurance Rate Maps (FIRMs) dated August 2, 2012, as issued by the Federal Emergency Management Agency (FEMA), including all digital data developed as part of the Flood Insurance Study.
- B. FIS and FIRM Adoption - The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted and declared to be a part of this Article.

1403.2 Description and Special Requirements of Identified Floodplain Areas

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

- A. Floodway Area/District - The Floodway Area/District shall be those areas identified as Floodway on the FIRM as well as those floodway areas which 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. The floodway 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.
 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 community during the occurrence of the base flood

discharge.

2. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection Regional Office.
- B. AE Area/District Without Floodway - The AE Area/District without floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA and for which base flood elevations have been provided in the FIS but no floodway has been delineated.
1. In AE Area/District without 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.
 2. 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 than one (1) foot at any point.
- C. A Area/District
1. 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 one (1%) percent annual chance flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable source shall be used when available. Where other acceptable information is not available, the 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.
 2. In lieu of the above, the Township/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, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township.
- D. Shallow Flooding Area/ District - The Shallow Flooding 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 flood waters around and away from structures on slopes.
- E. Watercourses - In any identified floodplain area, 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.

1403.3 Changes in Identification of Area

The identified floodplain area may be revised or modified by the Township/Borough where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency (FEMA). Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data.

1403.4 Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Planning Commission and any party aggrieved by this decision or determination may appeal to the Township/Borough. The burden of proof shall be on the appellant.

1403.5 Jurisdictional Boundary Disputes

Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the Township/Borough shall review flood hazard data affecting the lands subject to boundary changes. The Township/Borough shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in CFR 44 60.3.

1404 Technical Provisions

Any development in Clinton Township or Nicholson Borough authorized by this Article shall comply with the technical provisions of this §1404 and all other applicable codes, ordinances and regulations.

1404.1 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 municipality, and until 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 shown 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 notified prior to any alteration or relocation of any watercourse.

B. Technical Information - Technical or scientific data shall be submitted by the Applicant to FEMA for a Letter of Map Revision (LOMR) as soon as practicable but within six (6) months of any new construction, development, or other activity resulting in changes in the BFE. The situations when a LOMR or a Conditional Letter of Map Revision (CLOMR) are required are:

1. Any development that causes a rise in the base flood elevations within the floodway; or,
2. Any development occurring in Zone A, Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one (1) foot in the base flood elevation; or,
3. Alteration or relocation of a stream (including but not limited to installing culverts and bridges).

C. Watercourses - In any identified floodplain area, 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. 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.

1404.2 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 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 determined in accordance with §1403.2.C of this Article.

3. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including 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 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

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 flood proofed 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 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.
3. 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 (including basement) elevated or completely flood proofed up to, or above, the regulatory flood elevation determined in accordance with §1403.2 of this Article.
4. Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be flood proofed in accordance with the W1 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 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.
5. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

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 criteria:
 - 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.

- 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 that they permit the automatic entry and exit of flood waters.

D. Historic Structures - Historic structures undergoing repair or rehabilitation that would constitute a *substantial improvement* as defined in §1408, must comply with all Ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement 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 Ordinance requirements 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 shall be elevated to or above 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 or movement and shall be designed to automatically provide for the entry and exit of flood water 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 (1) square inch for every square foot of enclosed space.
 - 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 that they permit the automatic entry and exit of flood waters.

1404.3 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 fifteen (15) feet beyond the building line from all points;
 2. Consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
 3. Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
 4. Be no steeper than one (1) vertical to two (2) horizontal, feet unless substantiated data, justifying steeper slopes are
 5. Submitted to, and approved by the Floodplain Administrator; and
 6. Be used to the extent to which 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. The system shall insure 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 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 sewage 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 UCC and FEMA #348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code shall be utilized.
- 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, in times of flooding, could be injurious to human, animal, or plant life, and not listed in §1404.4, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or flood proofed 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.
5. The provisions of the UCC pertaining to this subsection and referenced in the 34 PA Code (Chapters 401-405 as amended) and contained in the 2009 IBC (Secs. 801.1.3, 1403.2, 1403.4, 1403.6 and 1404.2), the 2009 IRC (Secs. R323.1.7 & R501.3) and ASCE 24-98 (Chapter 6).

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.) 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 three (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 above and other sections and subsections of this Article, to the extent that they are more restrictive and/or supplement the requirements of this Article.

1. International Building Code (IBC) 2009 or the latest edition thereof: Sections 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

2. International Residential Building Code (IRC) 2009 or the latest edition thereof: Sections R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

1404.4 Development Which May Endanger Human Life

- A. Prohibition - In accord 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 prohibited in any identified floodplain area.

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

1. Acetone
2. Ammonia
3. Benzene
4. Calcium carbide
5. Carbon disulfide
6. Celluloid
7. Chlorine
8. Hydrochloric acid
9. Hydrocyanic acid
10. Magnesium
11. Nitric acid and oxides of nitrogen
12. Petroleum products (gasoline, fuel oil, etc.)
13. Phosphorus
14. Potassium
15. Sodium
16. Sulphur and sulphur products
17. Pesticides (including insecticides, fungicides, and rodenticides)
18. Radioactive substances, insofar as such substances are not otherwise regulated.

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

1404.5 Special Requirements for Manufactured Homes

Where permitted within any identified floodplain area, all manufactured homes, and any improvements thereto, shall be:

- A. Placed on a permanent foundation.
- B. Elevated so that the lowest floor of the manufactured home is at least one and one half (1 1/2) feet above the base flood elevation.
- C. Anchored to resist flotation, collapse, or lateral movement.

- D. 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 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.
- E. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 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 units(s) proposed for installation.

1404.6 Special Requirements for Recreational Vehicles

Recreational vehicles in Zones A, A1-30, AH and AE must either:

- A. Be on the site for fewer than 180 consecutive days.
- B. Be fully licensed and ready for highway use, or
- C. Meet the permit requirements for manufactured homes in §1404.5.

1404.7 Special Requirements for Subdivisions

All subdivision proposals and development proposals containing at least fifty (50) lots or at least five (5) acres, whichever is the lesser, in flood hazard 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 or Letter of Map Revision. Submission requirements and processing fees shall be the responsibility of the applicant.

1405 Activities Prohibited in Identified Floodplain Areas

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:

- A. 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:
 1. Hospitals
 2. Nursing homes
 3. Jails or prisons
- B. 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.

1406 Existing Structures in Identified Floodplain Areas

1406.1 Changes/Improvements not required

The provisions of this Article do not require any changes or improvements to be made to lawfully existing structures. However, when any improvement is made to any existing structure located within any identified floodplain area, the provisions of §1406.2 shall apply.

1406.2 Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

A. AE Area/District without Floodway

1. No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.
2. 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 (1) foot at any point.

B. Substantial Improvements

1. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (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.
2. 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.

C. Repetitive Loss - 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 Article.

D. Construction Standards - The above activity shall also address the requirements of the 34 PA Code, as amended, and the 2009 IBC and the 2009 IRC.

1407 Variances

1407.1 Hardship

If compliance with any of the requirements of this Article would result in an exceptional hardship to a prospective builder, developer or landowner, the Zoning Hearing Board may, upon written request in accord with §1207 of this Ordinance, grant relief from the strict application of the requirements.

1407.2 Procedure

In addition to the requirements of §1207 the following shall apply:

A. Prohibited Variances

1. No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE.
2. 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.
3. No variance shall be granted for any of the activities prohibited by §1404.4 - Development Which May Endanger Human Life or §1405 - Activities Prohibited in Identified Floodplain Areas.

B. Least Modification - If granted, a variance shall involve only the least modification necessary to provide relief.

- C. Conditions and Safeguards - In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Article.
- D. Standards - 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.
- E. Notice - Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:
- a. The granting of the variance may result in increased premium rates for flood insurance.
 - b. Such variances may increase the risks to life and property.
- F. Record - A complete record of all variance requests and related actions shall be maintained by the Township/Borough. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.
- G. Flood Resistance - Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one (1) percent annual chance flood.

1408 Definitions

In addition to the definitions included in Article III of this Ordinance, the following definitions shall apply to this Article XIV. In cases where a definition appears in Article III and this §1408, the definition in this §1408 shall apply to this Article XIV. Unless specifically defined below or in Article III of this Ordinance, words and phrases used in this Article XIV shall be interpreted so as to give this Article its most reasonable application.

1. Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. Base Flood - a flood that has a one (1) percent chance of being equaled or exceeded in any given year (also called the *100-year flood* or *one-percent annual chance flood*)
3. 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).
4. 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.
5. Basement - any area of the building having its floor below ground level on all sides.

6. 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.
7. 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.
8. 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 the Township/Borough.
9. 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)
10. Flood - a temporary inundation of normally dry land areas.
11. 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 community.
12. 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.
13. 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.
14. Flood proofing - 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.
15. 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.
16. Highest Adjacent Grade - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
17. Historic Structure - any structure that is:
 - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- c. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
 - 1) By an approved state program as determined by the Secretary of the Interior or
 - 2) Directly by the Secretary of the Interior in states without approved programs.
18. 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 Article.
19. 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.
20. Manufactured Home Park or Subdivision - a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.
21. 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 exit way 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 or mechanical or other work affecting public health or general safety.
22. New Construction - structures for which the start of construction commenced on or after 07/03/90 in Clinton Township, and on or after 03/01/87 in Nicholson Borough, and includes any subsequent improvements thereto. Any construction started after 07/03/90 in Clinton Township, and on or after 03/01/87 in Nicholson Borough and before August 2, 2012, is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within one hundred eighty (180) days of permit issuance.
23. 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 the Township/Borough.
24. 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.
25. Planning Commission - The Northeast Wyoming County Planning Commission, Wyoming County, Pennsylvania.
26. Recreational Vehicle - a vehicle which is:

- a. Built on a single chassis;
 - b. Not more than four hundred (400) square feet, measured at the largest horizontal projections;
 - c. Designed to be self-propelled or permanently towable by a light-duty truck;
 - d. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
27. Regulatory Flood Elevation - the base flood elevation (BFE) plus a freeboard safety factor of one and one-half (1 ½) feet.
28. Repetitive Loss - flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds twenty-five (25) percent of the market value of the structure before the damages occurred.
29. 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.
30. 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 one hundred eighty (180) days from the date of the permit and shall be completed within twelve (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 manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
31. Structure - a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
32. Subdivision - the division or re-division of a lot, tract, or parcel of land by any means into two (2) 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 (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.
33. Substantial Damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.
34. Substantial Improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include 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. (See §1404.2.D for historic structures.)

- 35. Township/Borough - Clinton Township or Nicholson Borough, as applicable.
- 36. Uniform Construction Code (UCC) - the statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings. The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
- 37. Violation - the failure of a structure or other development to be fully compliant with the Township's/Borough's flood plain 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.

SEVERABILITY

Should any section, subsection, clause, provision or other portion of this Ordinance be declared invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance; the Governing Bodies having adopted this Ordinance as if such invalid portions had not been included therein.

EFFECTIVE DATE

This Ordinance shall become effective immediately on August 2, 2012. .

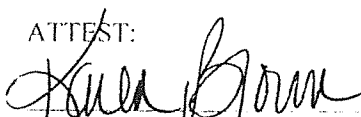
CLINTON TOWNSHIP ADOPTION

This Ordinance Ordained and Enacted this 11 day of July, 2012, by the Board of Supervisors of Clinton Township, Wyoming County, Pennsylvania, to be effective on August 2, 2012.


Chairman



Vice-Chairman

Supervisor

ATTEST:

Township Secretary

NICHOLSON BOROUGH ADOPTION

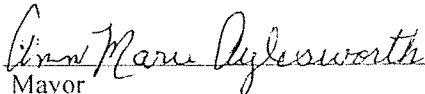
This Ordinance Ordained and Enacted this 2nd day of July, 2012, by the Borough Council of Nicholson Borough, Wyoming County, Pennsylvania, to be effective on August 2, 2012.

By: 
Council President

ATTEST:


Borough Secretary

APPROVED this 2nd day of July, 2012

By: 
Mayor