

**TOWNSHIP OF HAMILTONBAN,  
ADAMS COUNTY, PENNSYLVANIA  
ORDINANCE NO. 2020-04  
FLOODPLAIN MANAGEMENT ORDINANCE**

AN ORDINANCE REQUIRING ALL PERSONS,  
PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO  
OBTAIN A PERMIT FOR ANY CONSTRUCTION OR  
DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF  
SUCH PERMITS; SETTING FORTH CERTAIN MINIMUM  
REQUIREMENTS FOR NEW CONSTRUCTION AND  
DEVELOPMENT WITHIN AREAS OF THE TOWNSHIP OF  
HAMILTONBAN WHICH ARE SUBJECT TO FLOODING;  
AND ESTABLISHING PENALTIES FOR ANY PERSONS  
WHO FAIL, OR REFUSE TO COMPLY WITH, THE  
REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

## **ARTICLE I: STATUTORY AUTHORIZATION**

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act (Act of Oct. 5, 1978, P.L. 851, No. 166), 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 Hamiltonban does hereby order as follows.

## **ARTICLE II: GENERAL PROVISIONS**

### **Section 200: 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 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.

### **Section 201: Applicability**

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 Identified Floodplain Area of Township of Hamiltonban unless a Floodplain Management Permit has been obtained from the Floodplain Administrator.

### **Section 202: Abrogation and Greater Restrictions**

This Ordinance 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 Ordinance, the more restrictive shall apply.

### **Section 203: Severability**

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

## **Section 204: Warning and Disclaimer of Liability**

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

B. This Ordinance shall not create liability on the part of the Township of Hamiltonban or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

## **ARTICLE III: DEFINITIONS**

### **Section 300: General**

Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its most reasonable application.

### **Section 301: Specific Definitions**

**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.

**Base Flood:** A flood which has a one percent (1%) chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent (1%) annual chance flood).

**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).

**Base Flood Elevation (BFE):** The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE and AH, and that indicates the water surface elevation resulting from a flood that has a one percent (1%) 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.

**Building:** A combination of materials to form a permanent structure having walls and a roof. Building includes but is not limited to all manufactured homes and mobilehomes to be used for human habitation.

**Community Identified Flood Hazard Area (CIFHA):** Any land identified within a local flood study as being within an area subject to flooding.

**Cumulative Substantial Damage:** Flood related damages sustained by a structure on two (2) or

more separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damages occurred.

**Declaration of Land Restriction (Non-Conversion Agreement):** A form signed by the property owner to agree not to convert or modify, in any manner that is inconsistent with the terms of the Floodplain Management Permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions.

**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.

**Existing Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Expansion to an Existing Manufactured Home Park or Subdivision:** The preparation of additional sites within an Existing Manufactured Home Park or Subdivision 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).

**FEMA:** The Federal Emergency Management Agency.

**Flood:** A temporary inundation of normally dry land areas.

**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.

**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.

**Floodplain Administrator:** The municipal official delegated the responsibility of administering and enforcing the requirements of this Ordinance.

**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, as well as any area subject to the unusual and rapid accumulation of surface waters from any source.

**Floodplain Management Permit:** A permit issued by the Floodplain Administrator that certifies that proposed development within the Identified Floodplain Area complies with the applicable requirements of this Ordinance.

**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 (1) foot.

**Highest Adjacent Grade:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic Structures –** Any structure that meets at least one of the following conditions.

- A. Structures that are listed individually in the National Register of Historic Places (a listing maintained by the United States Department of Interior) or preliminarily determined by the Secretary of the United States Department of the Interior as meeting the requirements for individual listing on the National Register.
- B. Structures that are certified or preliminarily determined by the Secretary of the United States Department 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. Structures that are listed individually on a state inventory of historic places, where such listing has been approved by the Secretary of the United States Department of the Interior.
- D. Structures that are listed individually on a local inventory of historic places where such local inventory has been certified by at least one of the following.
  1. An approved state program as determined by the Secretary of the United States Department of the Interior.
  2. The Secretary of the United States Department of the Interior.

**Identified Floodplain Area-** All of the areas within which the floodplain regulations of this Ordinance are applied. The Identified Floodplain Area includes the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, and may include additional areas identified by Township of Hamiltonban.

**Lowest Floor:** The lowest fully enclosed area (including basement) of a building or structure.

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 in a manner that renders the structure 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 which are placed on a site for more than one hundred eighty (180) consecutive days. The term also includes Mobilehome, as defined in the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended).

**Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. The term includes Mobilehome Park, as defined in the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended).

**Market Value:** The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel.

**New Construction:** Structures for which the start of construction commenced on or after the effective date of this Ordinance, including any subsequent improvements to such structures. Any construction started after July 4, 1988 and before the effective start date of this Ordinance is subject to the ordinance in effect at the time the Floodplain Management Permit was issued, provided the start of construction was within one hundred eighty (180) days of Floodplain Management Permit issuance.

**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 this Ordinance.

**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.

**Post-FIRM Structure:** Any structure for which construction or substantial improvement occurred after December 31, 1974, or on or after the community's initial Flood Insurance Rate Map (FIRM) dated July 4, 1988, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

**Pre-FIRM Structure:** Any structure for which construction or substantial improvement occurred

on or before December 31, 1974, or before the community's initial Flood Insurance Rate Map (FIRM) dated July 4, 1988, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

Recreational Vehicle: Any vehicle which meets the following conditions.

- A. Built on a single chassis.
- b. Comprised of 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. Designed for use as temporary living quarters for recreational, camping, travel, or seasonal purposes, but not as a permanent dwelling.

Regulatory Flood Elevation: The Base Flood Elevation (BFE), or the estimated flood height as determined using simplified methods, plus a freeboard safety factor of one and one-half (1 ½) feet.

Special Flood Hazard Area (SFHA): Any area in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, AE, or AH.

Start of Construction: The point in time at which substantial improvement and other proposed new development begins following the date that the Floodplain Management Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within one hundred eighty (180) days after the date of the Floodplain Management Permit and is completed within twelve (12) months after the date of issuance of the Floodplain Management 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 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.

Structure: A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Subdivision: The division or re-division of a lot, tract, or parcel of land by any means into two

or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**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 percent (50%) or more of the market value of the structure before the damage occurred.

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" or "cumulative 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.

**Uniform Construction Code (UCC):** The statewide building code, established by the Pennsylvania Construction Code Act (Act of Nov. 10, 1999, P.L. 491, No. 45, as amended), and applicable to new construction in all municipalities whether administered by the municipality, a third party or the Pennsylvania 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.

**Variance:** A grant of relief by a community from the terms of a floodplain management regulation. The term includes Variance, as defined in the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended).

**Violation:** The failure of a structure or other development to be fully compliant with the floodplain management regulations of this Ordinance. 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.

**Watercourse:** A channel or conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

**Wet Floodproofing:** Includes permanent or contingent measures applied to a structure or its contents that prevent or provide resistance to damage from flooding while allowing floodwaters to enter the structure or area. Generally, this includes properly anchoring the structure, using flood resistant materials below the Base Flood Elevation (BFE), protection of mechanical and utility equipment, and use of openings or breakaway walls.

## **ARTICLE IV: IDENTIFICATION OF FLOODPLAIN AREAS**

### **Section 400: Identification**

- A. The Identified Floodplain Area includes the following areas. Any area of Township of Hamiltonban, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated July 22, 2020 and issued by the Federal Emergency Management Agency (FEMA), or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.
- B. Any Community Identified Flood Hazard Area (CIFHAs).

### **Section 401: Adoption by Reference**

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

### **Section 402: Description of Identified Floodplain Areas**

The Identified Floodplain Area shall consist of the following specific areas:

- A. Floodway: The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
- B. A Zone: The A Zone shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no Base Flood Elevations have been provided.
- C. AE Zone: The AE Zone shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which Base Flood Elevations have been provided.
1. The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which Base Flood Elevations have been provided and a floodway has been delineated.
  2. AE Area without floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which Base Flood Elevations have been provided but no floodway has been delineated.
- D. AO and AH Zones: The AO and AH Zones shall be those areas identified as AO and AH Zones on the FIRM and in the FIS. These areas are subject to inundation by one-percent (1%) annual-chance shallow flooding where average depths are between one (1) and three (3) feet.

E. Community Identified Flood Hazard Areas (CIFHAs) shall be those areas where Township of Hamiltonban has identified local flood hazard or ponding areas, as delineated and adopted on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks, soils or approximate study methodologies.

#### **Section 403: Changes in Identification of Area**

The Identified Floodplain Area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, within no later than six (6) months after the date such information becomes available, a community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See 5.03 for situations where FEMA notification is required.

#### **Section 404: Special Requirements for Subdivisions and Development**

All subdivision proposals and development proposals containing at least fifty (50) lots or at least five (5) acres, whichever is the lesser, and located either fully or partially within Identified Floodplain Areas where Base Flood Elevation data is not available, shall be supported by hydrologic and hydraulic engineering analyses that determine Base Flood Elevation 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 (CLOMR) and Letter of Map Revision (LOMR). Submittal requirements and processing fees shall be the responsibility of the applicant.

#### **Section 405: Boundary Disputes**

Should a dispute concerning any Identified Floodplain Area boundary arise, an initial determination shall be made by the Township of Hamiltonban and any party aggrieved by this decision or determination may appeal to the Board of Supervisors. The burden of proof shall be on the appellant.

#### **Section 406: Jurisdictional Boundary Changes**

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

## **ARTICLE V: TECHNICAL PROVISIONS**

### **Section 500: General Requirements**

Any new construction, development, uses or activities allowed within any Identified Floodplain Area shall only be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.

### **Section 501: Special Requirements of Identified Floodplain Areas**

#### **A. Floodway Areas**

1. Within any floodway area, new development, excluding development associated with the provision of community serving or property-specific infrastructure such as roads and bridges, utility lines, stream crossings for farms, and similar features, shall be prohibited. Variances from this standard may only be issued in accordance with Article IX, and the new development must comply with Section 501.A.2.
2. Within any floodway area, new development associated with the provision of community serving or property-specific infrastructure such as roads and bridges, utility lines, stream crossings for farms, and similar features may only be permitted where it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed development would not result in any increase in flood levels within the community during the occurrence of the Base Flood discharge. Such development shall only be allowed provided the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

#### **B. A Zone**

1. No development shall be permitted in an A Zone unless it has been demonstrated that the proposed development would not result in an increase in the Base Flood Elevation.
2. One of the following information sources and/or processes shall be used to determine the Base Flood Elevation, which in turn shall be used to prove no rise in flood level as required in Section 501.B.1 above.
  - a. For unenclosed spaces (including, but not necessarily limited to, decks, porches, patios, and gazebos, or accessory components or structures utilizing wet floodproofing as enabled in Section 504.E), the applicant shall determine elevation and floodway information from Federal, State, or other acceptable sources, when available. Where other acceptable information is not available, the Base Flood Elevation shall be determined by using the elevation of a point on the

boundary of the Identified Floodplain Area which is nearest the development site. In the absence of any of the above data or documentation, the community may require elevation of the lowest floor to be at least three (3) feet above the highest adjacent grade.

b. For all development other than that identified in Section 501.B.2.a above, the applicant shall determine the elevation with hydrologic and hydraulic engineering techniques for any proposed development. 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, and other supporting material shall be submitted in sufficient detail to allow a thorough technical review by the municipality.

C. AE Zone without delineated floodway

No development shall be permitted in an AE Zone unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed development would not result in an increase in flood levels within the entire community during the occurrence of the Base Flood discharge.

D. AO and AH Zones: Within AO and AH Zones, development is permitted. However, in these zones, drainage paths shall be established to guide floodwaters around and away from structures on slopes and follow elevating and floodproofing requirements in Section 504.

E. Fifty (50) Feet Top of Bank of a Watercourse: 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 the appropriate permit is obtained from the Department of Environmental Protection Regional Office and requirements for underlying flood zone have been followed.

**Section 502: Alteration or Relocation of Watercourse**

A. 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 first been obtained from the Department of Environmental Protection Regional Office.

B. 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.

C. In addition, FEMA and the Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

### **Section 503: Encroachments**

A. Township of Hamiltonban shall identify any Floodplain Management Permit application that would, if approved, result in one (1) or more of the following encroachments:

1. Any development that causes of rise in the Base Flood Elevation within the floodway.
2. Any development occurring in an AE Zone without a designated floodway, which will case a rise of more than one (1) foot in the Base Flood Elevation.
3. Any alteration or relocation, including but not limited to installing culverts and bridges, of a watercourse.

B. Where such encroachments are identified, the Township of Hamiltonban shall require the applicant for the Floodplain Management Permit to perform the following (as per 44 CFR Part 65.12).

1. Apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
2. Upon receipt of the FEMA Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased Base Flood Elevations and / or revised floodway reflecting the post-project condition.
3. Upon completion of the proposed encroachments, the applicant shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Section 67.

### **Section 504: Elevation and Floodproofing Requirements**

Within any Identified Floodplain Area, new development or substantial improvements shall only be permitted in accordance with the following provisions.

A. Residential Structures

1. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall be performed in a manner that results in the lowest floor (including basement) being elevated up to, or above, the Regulatory Flood Elevation, as determined in accordance with Section 501.B.2 of this ordinance.
2. In AE and AH Zones, any new construction or substantial improvement shall be performed in a manner that results in the lowest floor (including basement) being

elevated up to, or above, the Regulatory Flood Elevation.

3. In AO Zones, any new construction or substantial improvement shall be performed in a manner that results in the lowest floor (including basement) being elevated up to, or above, the highest adjacent grade at least as high as the depth number specified on the FIRM.

B. Non-residential Structures

1. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall be performed in a manner that results in the lowest floor (including basement) being elevated or completely floodproofed up to, or above, the Regulatory Flood Elevation, as determined in accordance with Section 501.B.2 of this ordinance.

2. In AE and AH Zones, any new construction or substantial improvement of a non-residential structure shall be performed in a manner that results in the lowest floor (including basement) being elevated up to, or above, the Regulatory Flood Elevation, or be designed and constructed so that the space enclosed below the Regulatory Flood Elevation meets the following standards:

a. The enclosed space shall be floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water.

b. The enclosed space has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

3. In AO Zones, any new construction or substantial improvement shall be performed in a manner that results in the lowest floor (including basement) being elevated or completely floodproofed up to, or above, the highest adjacent grade to at least as high as the depth number specified on the FIRM.

4. Any non-residential structure, or part thereof, made watertight below the Regulatory Flood Elevation shall be floodproofed 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 floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards. There shall be a statement confirming compliance with these standards submitted with the Floodplain Management Permit application and with the as-built Floodproofing Certificate prior to the issuance of the Certificate of Occupancy.

5. For any non-residential structure that will be floodproofed, the applicant must submit the following to the Floodplain Administrator along with the non-residential

Floodproofing Certificate and prior to the issuance of the Certificate of Occupancy.

a. An Inspection and Maintenance Plan detailing the annual maintenance of floodproofed components ensuring that all components will operate properly under flood conditions. Components that must be inspected include, at a minimum, the following.

- (1) Mechanical equipment such as sump pumps and generators.
- (2) Flood shields and closures.
- (3) Walls and wall penetrations.
- (4) Levees and berms (as applicable).

b. A Flood Emergency Operation Plan detailing the procedures to be followed during a flooding event. Said Plan must include information pertaining to how all components will operate properly under all conditions, including power failures. The design professional must produce the Plan. The Plan must include the following:

- (1) An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.
- (2) A procedure for notification of necessary parties when flooding threatens and flood warnings are issued. Personnel required to be at the building shall have a planned and safe means of ingress and shall have no other emergency response duties during a flood event. Alternates shall be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.
- (3) A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.
- (4) An evacuation plan for all personnel or occupants, particularly for those without duties for the flood emergency, but also those with duties for implementing the plan. All possible ingress and egress routes must be identified.
- (5) A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills shall be held at least once a year and shall be coordinated with community officials.

C. Space below the lowest floor shall meet the following requirements.

1. Fully enclosed space below the lowest floor (excluding basements, but including crawl spaces) 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 (see wet floodproofing) for the purpose of equalizing hydrostatic forces on exterior walls.

2. Designs for meeting this requirement shall be certified by a registered professional engineer or architect, and shall meet or exceed the following minimum standards.

a. A minimum of two (2) openings, having a net total area of not less than one (1) square inch for every square foot of enclosed space, shall be installed on two (2) separate walls.

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 coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Historic Structures: Historic structures undergoing repair or rehabilitation, that would constitute a substantial improvement as defined in this Ordinance, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. 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 United States Department 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 (see wet floodproofing), 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 two hundred (200) square feet. Variances from this standard may only be issued in accordance with Article IX, and shall specifically comply with Section 902.C.

3. The structure shall have a low damage potential.

4. The structure shall 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 the Regulatory Flood Elevation.
6. Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, and comparable equipment are prohibited.
7. Sanitary facilities are prohibited.
8. The structure shall be adequately anchored to prevent flotation, collapse, and lateral movement, and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement shall be certified by a registered professional engineer or architect, and shall meet or exceed the following minimum criteria.
  - a. A minimum of two (2) 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 that they permit the automatic entry and exit of flood waters.
10. The storage of Hazardous Materials in accessory structures is prohibited.

F. For all development, the design and construction standards and specifications contained in the 2015 International Building Code (IBC) and in the 2015 International Residential Code (IRC) or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

### **Section 505: Design and Construction Standards**

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

- A. **Fill:** Within any Identified Floodplain Area, the use of fill shall be prohibited. Variances from this standard may only be issued in accordance with Article IX, and shall specifically comply with Section 902.D.
- B. **Drainage Facilities:** Storm drainage facilities within Identified Floodplain Areas shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. Water and Sanitary Sewer Facilities and Systems: Such systems within Identified Floodplain Areas shall comply with the following standards.

1. All new or replacement community water supply and community sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.

2. All new individual water supply and individual sanitary sewer facilities and systems shall be prohibited. Replacements to existing individual water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.

3. Community sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.

4. All new individual sanitary sewer facilities and systems shall be prohibited. Any replacements of individual sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.

3. No part of any new on-site waste disposal system shall be located within any Identified Floodplain Area. Any replacement on-site waste disposal systems located within an Identified Floodplain Area must be constructed 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 and electrical and telephone systems shall be located, elevated, and constructed to minimize the chance of impairment during a flood.

E. Streets: The finished elevation of all new streets shall be at or above 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 Section 506, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or the structure storing such material shall be floodproofed to the Regulatory Flood Elevation.

G. Placement of Buildings and Structures: All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain, without causing structural damage to the building.

2. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.

3. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.

4. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other "water-resistant" material.

J. Paints and Adhesives

1. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.

2. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.

3. All wooden components (doors, trim, cabinets, etc.) used at or below the Regulatory Flood Elevation shall be finished with a "marine" or "water-resistant" paint or other comparable 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

1. 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 and shall be anchored to resist floatation, collapse, and lateral movement.

2. Ductwork shall be elevated to or above the Regulatory Flood Elevation or shall be floodproofed to remain water resistant.

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.

### **Section 506: Development That May Endanger Human Life**

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, the following standards regarding development that may endanger human life are applied.

A. Any new or substantially improved structure which is intended to be used in accordance with one or more of the following conditions is prohibited within any Identified Floodplain Area.

1. Any structure used for the production or storage of any dangerous materials or substances.

2. Any structure used for any activity requiring the maintenance of a supply of more than five hundred fifty (550) gallons, or other comparable volume, of any dangerous materials or substances on the premises.

3. Any structure involving the production, storage, or use of any amount of radioactive substances.

B. For the purposes of this Section, the following list of materials and substances shall be considered to be dangerous materials or substances.

- 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.

C. Variances from this standard may only be issued in accordance with Article IX, and shall specifically comply with Section 902.E.

### **Section 507: Special Requirements for Manufactured Homes**

A. Within any Identified Floodplain Area manufactured homes shall be prohibited. Variances from this standard may only be issued in accordance with Article IX, and shall specifically comply with Section 902.F.

### **Section 508: Special Requirements for Recreational Vehicles**

Within any Identified Floodplain Area, the storage of recreational vehicles shall be prohibited. Variances from this standard may only be issued in accordance with Article IX, and shall specifically comply with Section 902.G.

## **ARTICLE VI: PROHIBITED USES AND ACTIVITIES**

### **Section 600: General**

A. The commencement of any of the following uses and activities, or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following uses and activities, shall be prohibited within any Identified Floodplain Area.

1. Hospitals and comparable health care facilities.
2. Nursing Homes, and comparable facilities providing residency and health care for older and/or disabled persons.
3. Jails or Prisons.
4. Manufactured Home Parks or Manufactured Home Subdivision or substantial improvements to Manufactured Home Parks or Subdivisions.
5. Schools, and comparable facilities providing education and care of children.
6. Sanitary Landfills, Junkyards, and comparable facilities intended and designed to dispose or otherwise store waste, garbage, junk, and other similar material.

B. No variances from Section 600.A shall be authorized.

## **ARTICLE VII: EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS**

### **Section 700: 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 701 shall apply.

### **Section 701: Improvements**

The following provisions shall apply whenever any improvement is made to an existing structure located within any Identified Floodplain Area:

A. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of fifty percent (50%) 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. Market value shall be determined using one of the following two sources.

1. The Fair Market building value as found in the assessment records of Adams County, as maintained by the Adams County Tax Services Department.
2. A Fair Market value for the building or structure as determined by a qualified independent appraiser retained by the property owner.

B. Any modification, alteration, reconstruction, or improvement of any kind occurring as a result of "cumulative substantial damage," as defined in this Ordinance, shall be undertaken only in full compliance with the provisions of this Ordinance.

C. No expansion or enlargement of an existing structure shall be permitted within a Floodway, A Zone, or AE Zone without floodway that would cause any increase in Base Flood Elevation, and such expansion or enlargement shall be undertaken only in full compliance with the provisions of this Ordinance.

## **ARTICLE VIII: ADMINISTRATION**

### **Section 800: Designation of the Floodplain Administrator**

A. The Zoning Officer is hereby appointed to administer and enforce this ordinance and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may administer this Ordinance or cause this Ordinance to be administered in one of the following ways.

1. The Floodplain Administrator may directly fulfill the duties and responsibilities set forth in these regulations.

2. The Floodplain Administrator may delegate duties and responsibilities set forth in this Ordinance to qualified technical personnel, plan examiners, inspectors, and other employees.

3. The Floodplain Administrator may, with authorization from the Board of Supervisors, enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

B. In the absence of a designated Floodplain Administrator, the duties of the Floodplain Administrator shall be fulfilled by the Chairman of the Board of Supervisors.

C. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility for the administration of this Ordinance lies with the Floodplain Administrator.

#### **Section 801: Duties and Responsibilities of the Floodplain Administrator**

A. The Floodplain Administrator shall issue a Floodplain Management 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. Where other codes and ordinances are administered by an official other than the Floodplain Administrator, the Floodplain Administrator shall coordinate with said other officials to ensure that compliance with other codes and ordinances is achieved.

B. Prior to the issuance of any Floodplain Management Permit, the Floodplain Administrator shall review the application for said 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 Floodplain Management Permit, the Floodplain Administrator shall review the proposed cost of improvements or repairs and the pre-improvement market value of the structure, so that a substantial improvement/substantial damage determination can be made, in accordance with FEMA's Substantial Improvement/Substantial Damage Desk Reference.

D. In the case of existing structures, prior to the issuance of any Floodplain Management Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any cumulative substantial damage concerns can be addressed before the permit is issued.

E. 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 Floodplain Management Permit application. He/she shall make as many inspections during and upon completion of the work as are necessary.

F. 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 Ordinance.

G. In the event the Floodplain Administrator discovers that the work does not comply with the Floodplain Management Permit application, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Floodplain Management Permit and report such fact to the Board of Supervisors for whatever action it considers necessary.

H. The Floodplain Administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this Ordinance including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.

I. The Floodplain Administrator shall submit a biennial report to FEMA concerning community participation in the National Flood Insurance Program as requested.

### **Section 802: Floodplain Management Permit Required**

A. For all proposed development within Township of Hamiltonban, the Floodplain Administrator shall determine whether the proposed development is located within an Identified Floodplain Area.

B. Where the Floodplain Administrator determines that proposed development is located within an Identified Floodplain Area, a Floodplain Management Permit shall be required before any construction or development is undertaken within said Identified Floodplain Area.

### **Section 803: Application Procedures and Requirements**

A. Application for a Floodplain Management Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Township of Hamiltonban. Such application shall contain the following:

1. Name and address of applicant.
2. Name and address of owner of land on which proposed development is to occur.

3. Name and address of contractor.
4. Site location including address.
5. Listing of other permits required. Where such other permits are already issued, copies of the approved other permits shall be provided.
6. Brief description of proposed work and estimated cost, including a breakdown of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
7. A plan of the site showing the exact size and location of the proposed development as well as any existing buildings or structures.

B. If any proposed construction or development is located entirely or partially within an Identified Floodplain Area, the applicant for the Floodplain Management Permit shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine the following.

1. The proposal is 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 are anchored to prevent floatation, collapse, or lateral movement.
5. Building materials are flood-resistant.
6. Appropriate practices that minimize flood damage are being used.
7. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities are being designed and located to prevent water entry or accumulation.

C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:

1. A completed Permit Application Form.
2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being 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, driveways, and other access ways.
  - 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 Base Flood Elevation.
  - c. Supplemental information as may be necessary under 34 PA Code, the 2015 IBC or the 2015 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.
4. The following data and documentation.
- a. FEMA Elevation Certificate
  - b. Detailed information concerning any proposed floodproofing measures and corresponding elevations.
  - c. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
  - d. Documentation, certified by a registered professional engineer or architect, to show that the effect of any proposed development within a Floodway Area will not increase the Base Flood Elevation at any point.
  - e. Documentation, certified by a registered professional engineer or architect, to show that the effect of any proposed development within a Floodway, A Zone or AE Zone without Floodway will not result in any increase the Base Flood Elevation at any point within the community.

f. A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the Base Flood. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.

g. Detailed information needed to determine compliance with Section 505.F., Storage, and Section 506, Development Which May Endanger Human Life, including the following/

(1) The amount, location and purpose of any materials or substances, referred to in Sections 505.F and 506, and 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 Section 506 during a Base Flood.

h. The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."

i. 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.

D. Applications for Floodplain Management Permits shall be accompanied by a fee, payable to the municipality based upon the fee schedule as determined by resolution by the Township of Hamiltonban.

#### **Section 804: 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 805: Changes**

After the issuance of a Floodplain Management Permit by the Floodplain Administrator, no changes of any kind shall be made to the application, the 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 807: Placards**

In addition to the Floodplain Management Permit, the Floodplain Administrator shall issue a placard, or similar document, which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Floodplain Management Permit, the date of its issuance, and be signed by the Floodplain Administrator.

### **Section 808: Start of Construction**

A. Work on the proposed construction or development shall begin within one hundred eighty (180) days after the date of issuance of the Floodplain Management Permit. Work shall also 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. 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 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.

C. Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request. A time extension may only be approved if the original Permit is compliant with this Ordinance and with the FIRM/FIS in effect at the time the extension is requested.

### **Section 809: Enforcement**

A. Notices: Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulation adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall comply with the following.

1. The notice shall be in writing.
2. The notice shall include a statement of the reasons for its issuance.
3. The notice shall allow a reasonable time, not to exceed a period of thirty (30) days, for the performance of any act it requires to correct the violation.

4. The notice shall be served upon the property owner or his agent as the case may require provided, however, that such notice shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of the Commonwealth of Pennsylvania.

5. The notice shall contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this Ordinance.

B. Penalties: Any person, corporation, or other entity who fails to comply with any or all of the requirements or provisions of this Ordinance, or who fails or refuses to comply with any notice, order, or direction of the Floodplain Administrator or any other authorized official of the municipality shall be guilty of a summary offense and upon conviction shall pay a fine to Township of Hamiltonban, of not less than five-hundred dollars (\$500.00) nor more than one-thousand dollars (\$1,000.00) per occurrence, per day, plus costs of prosecution. In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this Ordinance. 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. 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 Board of Supervisors to be a public nuisance and abatable as such. Furthermore, the township may seek equitable relief in the form of a civil injunction to abate and cease any violations of this ordinance.

### **Section 810: 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 to the Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination, or action of the Floodplain Administrator.

B. Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended) and any other local ordinance.

C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act (Act of Oct. 5, 1978, P.L. 851, No. 166).

## **ARTICLE IX: VARIANCES**

### **Section 900: 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 Township of Hamiltonban Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements. The Township of Hamiltonban Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudication regarding variances from the terms of this Ordinance in accordance with Section 909.1(a)(5) of the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended).

### **Section 901: General Variance Procedures**

The Township of Hamiltonban Zoning Hearing Board shall conduct hearings and make decisions following the process requirements of Section 908 of the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended), and in accordance with any additional process requirements of the Township of Hamiltonban Zoning Ordinance.

### **Section 902: Variance Standards**

The Township of Hamiltonban Zoning Hearing Board shall apply the following standards to variance applications, and shall issue findings confirming that the following standards are met, prior to granting any variance application.

A. Standards Applicable to All Variance Applications: The Township of Hamiltonban Zoning Hearing Board shall apply the standards established in Section 910.2(a) of the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247, as reenacted and amended) and the Township of Hamiltonban Zoning Ordinance. These standards include the following.

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or other shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood in which the property is located.
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the applicant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood in which the property is located, nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will

afford relief and will represent the least modification possible of the regulation in issue.

6. In granting any variance, the Township of Hamiltonban Zoning Hearing Board 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.

B. Additional Variance Standards: The following standards, in addition to the Standards Applicable to All Variance Applications, as established in Section 902.A, are hereby established and shall be applied to all variance applications, where applicable.

1. In reviewing any request for any variance, the Township of Hamiltonban Zoning Hearing Board shall consider, in addition to the standards listed in Section 902.A, the following:

- a. That there is good and sufficient cause for granting the variance.
- b. That failure to grant the variance would result in exceptional hardship to the applicant.
- c. That the granting of the variance will be consistent with the following.

(1). Granting the variance will not result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense for properties surrounding the applicant's property or for the community at large,

(2) Granting the variance will not create nuisances, cause fraud on or victimize the public, or conflict with any other applicable state or local ordinance and regulation.

2. No variance shall be granted within any Identified Floodplain Area that would cause any increase in Base Flood Elevation beyond the limits identified in Section 501.

3. Notwithstanding any of the above, all structures shall be designed and constructed so as to have the capability of resisting the one-percent (1%) annual chance flood.

C. Accessory Structures Exceeding Two Hundred (200) Square Feet: Any variance granted to allow accessory structures exceeding two hundred (200) square feet within an Identified Floodplain Area shall meet the following standards in addition to the standards listed in Sections 902.A and 902.B above:

1. No such accessory structure shall be located within any Floodway Area or within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
2. Issuance of any variance allowing such structure below the Base Flood Elevation

shall be conditioned on the applicant signing a Declaration of Land Restriction (Nonconversion Agreement), which shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.

3. No variances shall be granted for any proposed accessory structure that exceeds six hundred (600) square feet in size.

D. Fill: Any variance granted to allow fill as a component of any development within an Identified Floodplain Area shall meet the following standards in addition to the standards listed in Sections 902.A and 902.B above.

1. Fill shall extend laterally at least fifteen (15) feet beyond the building line from all points.

2. Fill shall consist of soil or small rock materials only.

3. Fill shall be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling.

4. Fill shall be no steeper than one (1) foot vertical to two (2) feet horizontal unless substantiated data justifying steeper slopes are submitted to, and approved by, the Floodplain Administrator.

5. Fill shall only be used to the extent to which it does not adversely affect adjacent properties.

E. Development Which May Endanger Human Life: Any variance granted to allow structures intended to be used in accordance with Section 506.A within an Identified Floodplain Area shall meet the following standards in addition to the standards listed in Sections 902.A and 902.B above

1. Within any Floodway Area, any structure of the kind described in Section 506.A shall be prohibited.

2. Within any Identified Floodplain Area, any new or substantially improved structure of the kind described in Section 506.A., shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

3. Where permitted within an Identified Floodplain Area, any new or substantially improved residential structure of the kind described in Section 506.A, shall be elevated to remain completely dry up to at least one and one half (1 ½) feet above the Base Flood Elevation and constructed in accordance with all other applicable standards of this Ordinance.

4. Where permitted within any Identified Floodplain Area, any new or substantially improved non-residential structure of the kind described in Section 506.A shall be constructed in accordance with all other applicable standards of this Ordinance, and specifically including the following.

a. The structure shall be 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.

b. The structure shall be designed to prevent pollution from the structure or activity during the course of a Base Flood.

c. Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

F. Manufactured Homes: Any variance granted to allow manufactured homes within an Identified Floodplain Area shall meet the following standards in addition to the standards listed in Sections 902.A and 902.B above.

1. All manufactured homes, and any improvements thereto, shall meet the following standards.

a. The manufactured home shall be placed on a permanent foundation.

b. The manufactured home shall be elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above base flood elevation;

c. The manufactured home shall be anchored to resist flotation, collapse, or lateral movement.

2. Equipment requirements for manufactured homes.

a. 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 and shall be anchored to resist floatation, collapse, and lateral movement.

b. Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.

c. 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 2015 "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 and 34 PA Code Chapter 401-405 shall apply.

G. Recreational Vehicles: Any variance granted to allow storage of recreational vehicles within an Identified Floodplain Area shall meet the following standards in addition to the standards listed in Sections 902.A and 902.B above.

1. The recreational vehicle shall be on the site for fewer than one hundred eighty (180) consecutive days.
2. The recreational vehicle shall be fully licensed and ready for highway use.
3. The recreational vehicle shall meet the variance requirements for manufactured homes as expressed in Section 902.F above.

### **Section 903: Additional Procedural Requirements**

The Township of Hamiltonban Zoning Hearing Board shall adhere to the following additional procedural requirements.

A. A complete record of all variance requests and related actions shall be maintained by the Township of Hamiltonban Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

B. Whenever a variance is granted, the Township of Hamiltonban Zoning Hearing Board shall notify the applicant in writing that:

1. The granting of the variance may subject the applicant to increased premium rates for flood insurance.
2. Such variance may increase the risks to the applicant's life and property.

**ARTICLE X: ENACTMENT**

**Section 1000: Adoption**

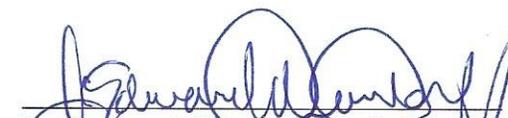
This Ordinance shall be effective on JUNE 16, 2020 and shall remain in force until modified, amended or rescinded by Township of Hamiltonban, Adams County, Pennsylvania.

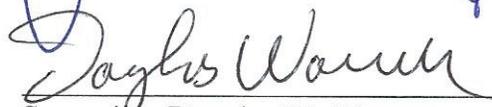
ENACTED AND ADOPTED by the Board of Supervisors this 16th day of June, 2020.

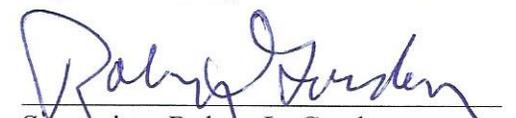
**ATTESTED BY:**

HAMILTONBAN TOWNSHIP  
BOARD OF SUPERVISORS

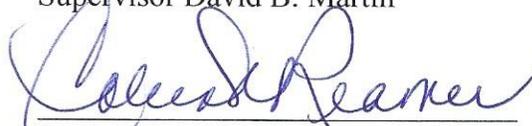
  
\_\_\_\_\_  
Nina Garretson  
Secretary/Treasurer

  
\_\_\_\_\_  
Supervisor J. Edward Deardorff

  
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Supervisor Douglas W. Woerner

  
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Supervisor Robert L. Gordon

  
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Supervisor David B. Martin

  
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Supervisor Coleen N. Reamer

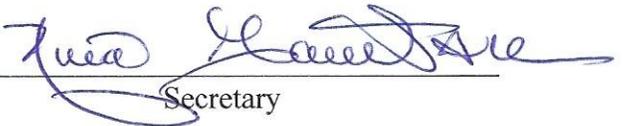
**CERTIFICATE**

I, the undersigned, Secretary of the Township of Hamiltonban, in Adams County, Pennsylvania (the "Township"), certify that: the foregoing is a true and correct copy of an Ordinance which duly was enacted by affirmative vote of a majority of all members of the Board of Supervisors of the Township, in accordance with law, at a meeting duly held on June 16, 2020, at which meeting a quorum was present; said Ordinance has been certified and recorded by me, as Secretary of the Township, in the book provided for the purpose of such recording; said Ordinance, upon enactment, as aforesaid, was assigned Ordinance No. 2020-04; said Ordinance has been advertised, as required by law, in a newspaper of general circulation in the Township; and said Ordinance has not been amended, altered or repealed as of the date of this Certificate.

I further certify that the Board of Supervisors of the Township met the advance notice and public comment requirements of the Sunshine Act, 65 Pa.C.S. Ch. 7, by posting prominently a notice of said meeting at the principal office of the Township or at the public building in which said meeting was held, and by providing a reasonable opportunity for public comment at said meeting, all in accordance with such Act.

**IN WITNESS WHEREOF**, I set my hand and affix the official seal of the Township, this 16th day of June, 2020.



  
Secretary