UNION TOWNSHIP
FLOODPLAIN ORDINANCE
ORDINANCE NO. 73

AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A SPECIAL EXCEPTION FOR ANY CONSTRUCTION OR DEVELOPMENT LOCATED IN ANY FLOODPLAIN AREA; PROVIDING FOR THE ISSUANCE OF SUCH SEPCIAL EXCEPTION PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF UNION TOWNSHIP 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 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 Union does hereby order as follows.

ARTICLE II. GENERAL PROVISIONS

Section 2.01 Purpose

Given the basic rural nature of Union Township, it is felt important by the decision makers and citizens of the Township to preserve and maintain in their natural state, the marshes and floodprone areas now existing. Marshes are fragile natural systems that act as water recharge areas, wildlife habitat areas, and have aesthetic value to many people. Floodprone areas as determined by a 100-year flood frequency are also important natural systems as well as habitat areas.

Section 2.02 Intent

The intent of this Ordinance is to:

A. Promote the general health, welfare, safety of the community.

B. Preserve the rural nature of the Township.

C. Limit the amount and type of development which may take place within identified floodplain areas of the Township.

D. Minimize danger to public health by protecting water supply and natural drainage.

E. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

F. Comply with federal and state floodplain management requirements.

Section 2.03 Applicability

A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township of Union unless a Permit has been obtained from the Floodplain Administrator.

A. The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.

C. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.

D. 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. He/she shall make as many inspections during and upon completion of the work as are necessary.

E. 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.

F. 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 Township of Union Supervisors for whatever action it considers necessary.

G. The Floodplain Administrator shall maintain all records associated with the requirements of this ordinance including, but not limited to, permitting, inspection and enforcement.

H. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or latest revisions thereof.

Section 3.04 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 regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. Be in writing;

2. Include a statement of the reasons for its issuance.

3. Allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires.

4. Be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served 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 this State.

5. Contain an outline of remedial action which, if taken, will effect compliance with the provisions of

B. A Permit shall not be required for minor repairs to existing buildings or structures.

Section 2.04 Abrogation and Greater Restrictions

This ordinance supersedes any other conflicting provisions, ordinances or parts thereof 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 2.05 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 2.06 Warning and Disclaimer of Liability

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

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

ARTICLE III. ADMINISTRATION

Section 3.01 Designation of the Floodplain Administrator

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: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) 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.

In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Chief Executive Officer.

Section 3.02 Permits Required

A Special Exception Permit (or Permit) shall be required before any construction or development is undertaken within any identified floodplain area of the Township of Union.

Section 3.03 Duties and Responsibilities of the Floodplain Administrator

A. The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.

C. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.

D. 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. He/she shall make as many inspections during and upon completion of the work as are necessary.

E. 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.

F. 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 Township of Union Supervisors for whatever action it considers necessary.

G. The Floodplain Administrator shall maintain all records associated with the requirements of this ordinance including, but not limited to, permitting, inspection and enforcement.

H. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or latest revisions thereof.

Section 3.04 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 regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. Be in writing;

2. Include a statement of the reasons for its issuance.

3. Allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires.

4. Be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served 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 this State.

5. Contain an outline of remedial action which, if taken, will effect compliance with the provisions of

this Ordinance.

B. Penalties

Any person 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 of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of an misdemeanor and upon conviction shall pay a fine to the Township of Union, of not less than Twenty-five Dollars ($25.00) nor more than Six Hundred Dollars ($600.00) 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 and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Board of Supervisor's to be a public nuisance and abatable as such.

Section 3.05 Appeals

A. Any person aggrieved by any action or decision of the Zoning Hearing Board concerning the administration of the provisions of this Ordinance, may appeal to the Board of Supervisor's. 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 set a time and place, within not less than ten (10) or not more than thirty (30) days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.

C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief there from by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

ARTICLE IV. IDENTIFICATION OF FLOODPLAIN AREAS

Section 4.01 Identification

The identified floodplain area shall be any areas of The Township of Union, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated *February 19, 2014 a*nd issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

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

Section 4.02 Description and Special Requirements of Identified Floodplain Areas

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

A. Floodway Area

1. Description - the area identified as Floodway in the FIS which represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas 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.

B. Special Floodplain Area

1. Description - the areas identified as Zones AE and A1-30 in the FIS which are subject to inundation by the 1-percent-annual chance flood event determined by detailed methods and have base flood elevations (BFEs) shown.

C. Approximate Floodplain Area

1. Description - the areas identified as Zone A in the FIS which are subject to inundation by the 1-percent-annual-chance flood event determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no BFEs or flood depths are shown.

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

In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township of Union.

Section 4.03 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, approval must be obtained from the 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.

Section 4.04 Boundary Disputes

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

ARTICLE V. GENERAL AND TECHNICAL PROVISIONS

Section 5.01 Permitted Uses

A. The following uses are permitted within any identified floodplain area provided that the development or use will not cause any increase in the one hundred year flood elevation:

1. Open space land uses;
2. Agricultural pursuits compatible with floodprone and marsh areas provided no structures are located within the identified floodplain area;
3. Hunting and fishing;
4. Wildlife observation and study;
5. Recreational uses provided no structures are located within the identified floodplain area; and
6. Selective cutting of timber for individual home use, such as firewood.

Section 5.02 Prohibited Uses

B. The following uses are prohibited within any identified floodplain area:

1. Cut and fill operations;
2. Dams, bridges and roads; and
3. Commercial logging

Section 5.03 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, the FEMA and Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

B. When a community proposes to permit the following encroachments:

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

the **applicant** shall (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 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.

1. Upon completion of the proposed encroachments, a community shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.

C. Any new 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.

ARTICLE VI. PROHIBITED ACTIVITIES

Section 6.01 General

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any identified floodplain area:

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

4. Sanitary landfills

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. Manufactured Home as defined in Section 10.02.

Section 6.02 Development Which May Endanger Human Life

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

1. will be used for the production or storage of any of the following dangerous materials or substances; or,

2. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,

3. will involve the production, storage, or use of any amount of radioactive substances;

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

The following list of materials and substances are considered dangerous to human life:

- Acetone
- Ammonia
- Benzene
- Calcium carbide
- Carbon disulfide
- Celluloid
- Chlorine
- Hydrochloric acid
- Hydrocyanic acid
- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel oil, etc.)
- Phosphorus
- Potassium

- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

B. Within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited. No Special Exceptions shall be granted.

Section 6.03 Special Requirements for Subdivisions

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in flood hazard areas where base flood elevation data are not available, shall be prohibited within any floodplain area. No Special Exceptions shall be granted.

Section 6.04 Special Requirements for Manufactured Homes

Manufactured homes shall be prohibited from locating within any identified floodplain area. No Special Exceptions shall be granted.

Section 6.05 Special Requirements for Recreational Vehicles

Recreational vehicles shall be prohibited within any identified floodplain area. No Special Exceptions shall be granted.

ARTICLE VII. NONCONFORMING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

Section 7.01 Existing Structures

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 7.02 shall apply.

Section 7.02 Improvements

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

A. No expansion or enlargement of an existing structure shall be allowed within any identified floodplain area that would cause any increase in the base flood elevation (BFE). In Approximate Floodplain Areas, the methodology listed in section 4.02.C2 shall be used to determine the BFE.

C. 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.

D. 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, requires approval by the Zoning Hearing Board as a special exception.

D. 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.

E. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of

"repetitive loss" shall be undertaken only in full compliance with the provisions of this ordinance.

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

ARTICLE VIII. SPECIAL EXCEPTIONS

Section 8.01 General

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

Section 8.02 Special Exception Procedures and Conditions

Requests for Special Exceptions shall be considered by the Zoning Hearing Board in accordance with the procedures contained in Section 3.05 and the following:

A. No Special Exception shall be granted for any construction, development, use, or activity within any identified floodplain area that would cause any increase in the BFE. In Approximate Floodplain Areas, the methodology listed in section 4.02.C2 shall be used to determine the BFE.

B. No Special Exception shall be granted for any of the other requirements pertaining specifically to Prohibited Uses (Section 5.02) or Prohibited Activities (Article VI).

C. If granted, a Special Exception shall involve only the least modification necessary to provide relief.

D. In granting any Special Exception, 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 Ordinance.

E. In reviewing any request for a Special Exception, 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 Special Exception would result in exceptional hardship to the applicant.
3. That the granting of the Special Exception 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.

F. Whenever a Special Exception is granted, the Township of Union shall notify the applicant in writing that:

1. The granting of the variance may result in increased premium rates for flood insurance.
2. Such variances may increase the risks to life and property.

G. A complete record of all Special Exception requests and related actions shall be maintained by the Zoning Hearing Board. In addition, a report of all Special Exceptions granted during the year shall be included in the annual report to the FEMA.

H. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the base flood.

Section 8.03 Special Exception Uses

The Board shall have the power to decide applications for Special Exceptions as specified in this ordinance, in harmony with its general purpose and intent and in accordance with the standards set forth. The Board shall approve a Special Exception use only if it meets the following standards and criteria:

1. The use is compatible with adjacent uses and structures.
2. The use is suited to the topography and other characteristics of the site.
3. The use complies with all off-street parking and other provisions of this Ordinance.

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the health, safety and general welfare of the Township.

Section 8.04 Special Exception Application Procedures and Requirements

A. Application for such a Special Exception shall be made, in writing, to the Floodplain Administrator on forms supplied by the Township of Union. Such application shall contain the following:

1. Name and address of applicant.

2. Name and address of owner of land on which proposed construction is to occur.

3. Name and address of contractor.

4. Site location including address.

5. Listing of other permits required.

6. Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.

7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Special Exceptions 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.

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 Special Exception 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, drives, 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 elevation of the base flood.

c. Supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC.

4. The following data and documentation:

a. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.

b. Detailed information concerning any proposed floodproofing measures and corresponding elevations.

c. Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within any Identified Floodplain Area (See section 4.02) when combined with all other existing and anticipated development, will not increase the base flood elevation.

d. 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.

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

f. 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 Special Exceptions shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Floodplain Administration.

Section 8.05 Review by County Conservation District

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

Section 8.06 Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. planning commission, township engineer, etc.) for review and comment.

Section 8.07 Changes

After the issuance of a Special Exception by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.

Section 8.08 Placards

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

Section 8.09 Start of Construction

Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development 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. The issuance of development permit does not refer to the zoning approval.

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. 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.

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 and the original permit is compliant with the ordinance & FIRM/FIS in effect at the time the extension is granted.

ARTICLE IX. TECHNICAL REQUIREMENTS FOR SPECIAL EXCEPTIONS

Section 9.01 Elevation and Floodproofing Requirements

A. Residential Structures

1. In AE, A1-30, and AH Zones, any new construction or substantial improvement (zoning/building Special Exception required) shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation. 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.

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 Subsection 4.02.C.2 of this ordinance.

3. 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 floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,

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

2. In A Zones, where there no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with Subsection 4.02.C.2 of this ordinance.

3. Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the WI or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.

4. 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. 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 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 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. The structure shall not exceed 200 sq. ft.

3. The structure will have a low damage potential.

4. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.

5. power lines, wiring, and outlets will be elevated to the regulatory flood elevation.

6. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.

7. sanitary facilities are prohibited.

8. the structure shall be adequately anchored to prevent flotation or movement and shall be designed to

automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

a. a minimum of two openings having a net total area of not less than one (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.

Section 9.02 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 designated floodplain area the use of Fill shall be prohibited.

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 supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.

2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.

3. No part of any on-site 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 Section 6.02, Development Which May Endanger Human Life, shall be prohibited.

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.) 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 sub-sections of this ordinance, to the extent that they are more restrictive and/or supplement the requirements of this ordinance.
International Building Code (IBC) 2009 or the latest edition thereof:
Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
International Residential Building Code (IRC) 2009 or the latest edition thereof:
Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

ARTICLE X. DEFINITIONS

Section 10.01 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 10.02 Specific Definitions

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

3. 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.

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

5. 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.

6. 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.

7. 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.

8. 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).

9. Flood - a temporary inundation of normally dry land areas.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. Freeboard - Freeboard is a factor of safety usually expressed in feet above a flood level for purposes of floodplain management.

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 structures – any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:

    i. By an approved state program as determined by the Secretary of the Interior or

    ii. Directly by the Secretary of the Interior in states without approved programs.

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 ordinance.

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 which 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 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 exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring 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 the *effective start date of this floodplain management ordinance* and includes any subsequent improvements to such structures. Any construction started after *September 16, 1981* and before *the effective start date of this floodplain management ordinance* is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

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 a community.

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. Recreational vehicle - a vehicle which is:

a. built on a single chassis;

b. not more than 400 square feet, measured at the largest horizontal projections;

c. designed to be self-propelled or permanently towable by a light-duty truck,

d. not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

26. Regulatory flood elevation - the base flood elevation (BFE) plus a freeboard safety factor of one and one-half (1 ½) feet.

27. 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 25 percent of the market value of the structure before the damages occurred.

28. Special exception - a special approval which is required for uses allowed by Section 8.03 of this Ordinance, when such development is located in all, or a designated portion of a floodplain.

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 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 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 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 redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, 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.

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, of which the cost 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" *or "repetitive loss"* 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.

35. 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.

36. Violation - means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without 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.

37. Watercourse – a natural or artificial channel through which water flows.

ARTICLE XI. ENACTMENT

Section 11.01 Adoption

This Ordinance shall be effective on February 19, 2014 and shall remain in force until modified, amended or rescinded by Union Township, Erie County, Pennsylvania.

ENACTED AND ADOPTED by the Union Township Supervisors this 10th day of Dec., 2013.

ATTEST: Board of the Township of Union
By:

Earl J Brown
Township of Union Secretary

Board Chairman

APPROVED, this 10th day of Dec., 2013, by the Supervisors of the Township of Union

ATTEST:

Earl J Brown
Township of Union Secretary

Board Chairman

Dennis Linscott
Supervisor

Earl J Brown
Supervisor