

ARTICLE XII
FLOODPLAIN MANAGEMENT REGULATIONS

§ 345-44. General Purposes

- (1) The purpose of these provisions is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:
- (2) Regulating uses, activities and land development which, acting alone or in combination with other existing or future uses, activities and land development, will cause unacceptable increases in flood heights, velocities and frequencies;
- (3) Restricting or prohibiting certain uses, activities and land development from locating within areas subject to flooding;
- (4) Requiring all uses, activities and land development that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage;
- (5) Minimizing the financial burden imposed on the community, its governmental bodies and individuals by floods;
- (6) Maintaining, to the maximum extent possible, the floodplain in its natural state and minimizing the removal of vegetation and compaction of soil to maximize its flood carrying capacity and water filtering capabilities; and
- (7) Complying with the provisions of the National Flood Insurance Program and the Pennsylvania Flood Plain Management Act (Act 1978-166).

§ 345-45. General Provisions

- A. These provisions shall apply to all lands within the jurisdiction of the Borough of Macungie and shown as being located within the boundaries of any identified Flood Hazard District which are considered as a part of the official Zoning Map.
- B. The Flood Hazard District shall be an overlay to the existing zoning districts as shown on the Borough of Macungie Zoning Map and, as such, the provisions of the Flood Hazard District shall be imposed in addition to the requirements of the underlying zoning districts. In the event that a conflict exists between the overlay and the underlying districts, the more restrictive provisions shall apply.
- C. No development shall be undertaken, no structure or land shall hereafter be used; no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered; and no area shall be developed, graded, filled or excavated in any Flood Hazard

District except in full compliance with the terms and provisions of this Ordinance and any other applicable ordinances and regulations.

- D. Failure to comply with the provisions of this Ordinance is a violation of the Borough of Macungie Zoning Ordinance and the Borough of Macungie may proceed with Court Action and/or issue a declaration of violation, under Section 1316 of the National Flood Insurance Act of 1968 to the Federal Emergency Management Agency to deny flood insurance on the property in violation. The effects of having a Section 1316 violation are non-availability of flood insurance for any buildings, possible reduction of market value, risk of damage without compensation, possible mortgage foreclosure, and denial of disaster assistance for repair of structural damage.
- E. Warning and Disclaimer of Liability
- (1) 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 on rare occasions. 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 the identified Flood Hazard District or that land uses permitted within such a district will be free from flooding or flood damages.
 - (2) This Ordinance shall not create liability on the part of the Borough of Macungie or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

§345-46. Identification and Establishment of Flood Hazard Districts

- A. The identified floodplain area shall be those areas of the Borough of Macungie which are subject to the one hundred (100) year flood as identified in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRM) prepared for the Borough of Macungie by the Federal Emergency Management Agency (FEMA) or other sources and studies found acceptable by the Borough of Macungie. The referenced Flood Insurance Study is declared to be part of this Ordinance and shall be kept at the Borough of Macungie offices.
- B. The Flood Hazard District shall consist of the following specific areas:
- (1) The Floodway Area (FW) - The areas identified as "Floodway" in the AE Zone in the Flood Insurance Study prepared by FEMA. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study. Such studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough of Macungie.

- (2) The Flood-Fringe Area (FF) - The portion of the AE Zone not included in the Floodway. The basis for the outermost boundary of this area shall be the base flood elevations shown in the flood profiles contained in the Flood Insurance Study.
- (3) The General Floodplain Area (FA) - The areas identified as A Zone in the Flood Insurance Study for which no base flood elevations have been provided or areas subject to flooding defined by one of the following methods:
 - (a) Soils identified with potential for flooding, as described and mapped by the United States Department of Agriculture;
 - (b) Hydrologic and hydraulic analyses undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods reflect accepted technical concepts. Such studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough of Macungie.
- (4) An initial determination shall be made by the Zoning Officer should a dispute concerning any district boundary arise. Any party aggrieved by this decision may appeal to the Zoning Hearing Board under the provisions of this Ordinance. The burden of proof is on the appellant.
- (5) The delineation of the Flood Hazard District may be revised by the Borough of Macungie where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by FEMA, U. S. Army Corps of Engineers or other qualified agency, or an individual. However, prior to any such change, approval must be obtained from FEMA.
- (6) The Borough of Macungie reserves the right to require that studies be performed in areas that have no base flood elevations by a licensed professional land surveyor and or engineer. Calculations should be submitted to the Borough Engineer and FEMA for their review and approval.

§345-47. Nonconforming Uses and Structures in the Flood Hazard District

- A. A structure or use of a structure or premises which lawfully existed before the enactment of the Flood Hazard District provisions, but which is not in conformity with those provisions, shall be subject to the requirements of this Article.

§345-48. General Provisions

- A. No encroachment, land development, improvement or reconstruction 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 Borough of Macungie, and until all required permits or

approvals have been first obtained from the Department of Environmental Protection Regional Office. In addition, the Federal Emergency Management Agency and the Pennsylvania Department of Community and Economic Development (DCED) shall be notified prior to any alteration or relocation of any watercourse.

- B. Any new construction, uses, activities or land development occurring within the Flood Hazard District shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes, ordinances and regulations including the Uniform Construction Code, as adopted and amended by the Borough of Macungie, and the Borough of Macungie Subdivision and Land Development Ordinance.
- C. Under no circumstances shall any new construction, uses, activity and/or land development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch or any other drainage facility or system.
- D. Any new construction and/or land development, with the exception of redevelopment projects, that would cause any increase in the base flood elevation shall be prohibited.
- E. New construction, development or redevelopment in the FW area is prohibited.

§345-49. Permitted Uses and Development in the Flood Hazard District

- A. In the Flood Hazard District, the following uses and activities are permitted in the FF or FA areas provided they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance:
 - (1) Agriculture, horticulture, and forestry that:
 - (a) Do not include any structures;
 - (b) Do not require grading which would cause any increase in flood heights or frequency;
 - (c) Are conducted in accord with recognized soil conservation and water quality practices;
 - (2) Public and private recreational uses and activities, limited to parks, day camps, picnic grounds, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, and hunting and fishing areas;
 - (3) Uses accessory to those permitted in the underlying zoning district, including yard areas, gardens, play areas and parking areas, provided that no structures are erected, and no impervious surfaces are created;
 - (4) Redevelopment projects that:

- (a) Do not include residential structures or critical facilities;
 - (b) Do not include prohibited uses listed in §345-50;
 - (c) Are consistent with the goals and objectives of the Southwestern Lehigh Intergovernmental Comprehensive Plan;
 - (d) Are permitted in the applicable underlying zoning district;
 - (e) Are elevated to Flood Protection Elevation (FPE) and in full compliance with the floodproofing requirements in the Uniform Construction Code as adopted and amended by the Borough of Macungie;
- (5) The repair or expansion of riparian buffers;
 - (6) Floodproofing to protect only lawfully existing non-conforming structures and lawfully existing non-conforming uses within structures;
 - (7) Fences and temporary protective fencing that do not impede floodwaters;
 - (8) Dams, culverts, bridges, and altered or relocated watercourses with permits and/or approvals from the PA Department of Environmental Protection, PA Public Utility Commission, and/or US Army Corps of Engineers. Furthermore, notification of such actions shall be provided to all affected adjoining municipalities, FEMA and the Pennsylvania DCED. The approval of a permit by any of the preceding State or Federal agencies for one of the uses allowed in the Flood Hazard District shall in no way affect or conflict with the requirements imposed upon the use under the regulations of the Flood Hazard District;
 - (9) Public utility facilities under the exclusive jurisdiction of the Pennsylvania Public Utility Commission.

§345-50. Prohibited Uses and Development in the Flood Hazard District

- A. The following uses are prohibited from locating within the Flood Hazard District.
 - (1) All uses prohibited in the underlying zoning district;
 - (2) New construction, development or redevelopment in the FW area;
 - (3) All structures, with the exception of those specifically allowed in §345-49;
 - (4) The production, storage, or use of any amount of radioactive substances;
 - (5) The production, storage or use of a substance or material, underground or

aboveground, that is buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life including but not limited to the following:

- (a) Acetone
 - (b) Ammonia
 - (c) Benzene
 - (d) Calcium carbide
 - (e) Carbon disulfide
 - (f) Celluloid
 - (g) Chlorine
 - (h) Hydrochloric acid
 - (i) Hydrocyanic acid
 - (j) Magnesium
 - (k) Nitric acid and oxides of nitrogen
 - (l) Petroleum products (gasoline, fuel oil, etc.)
 - (m) Phosphorus
 - (n) Potassium
 - (o) Sodium
 - (p) Sulphur and sulphur products
 - (q) Pesticides (including insecticides, fungicides, and rodenticides)
 - (r) Radioactive substances, insofar as such substances are not otherwise regulated;
- (6) The production, storage or use of explosives;
 - (7) The storage or disposal of materials used for snow and ice control including sand, salt and other deicing chemicals;
 - (8) Sanitary landfills, dumps, junk and salvage yards, and outdoor storage of vehicles and/or materials;
 - (9) The storage or disposal of any soil, loam, peat, sand, gravel, rock, or other mineral substance, refuse, trash, rubbish, debris, or dredged/excavated spoil;
 - (10) Draining, excavation, or dredging, or removal or relocation of loam, peat, sand, gravel, soil, rock, or other mineral substance, except as accessory to work permitted as of right or by special permit;
 - (11) Manure storage facilities and manure stockpiles;
 - (12) Improvements to existing manufactured home parks and subdivisions;
 - (13) Sewage disposal facilities;

- (14) Other than required to meet the requirements of §345-49.A(8) and 345-49.A(9), fill is prohibited in the Flood Hazard District.

§345-51. Existing Structures in Flood Hazard Districts

- A. No improvement or reconstruction of an existing structure shall be allowed within any FW area as identified by the Flood Insurance Study prepared by FEMA or other available studies or sources of information found acceptable by the Borough of Macungie and approved by FEMA.
- B. No improvement of an existing structure shall be allowed within any FF or FA area that would, together with all other existing and anticipated development, increase the base flood elevation more than one (1) foot at any point.
- C. The improvement or reconstruction of existing structures that store materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be prohibited in the Flood Hazard District.
- D. Existing structures in the FF and FA areas are defined and regulated as follows:
- (1) **INTACT STRUCTURES**
Any improvement to an existing intact structure, to an extent ten (10) percent or more of its market value, shall be undertaken only in full compliance with the floodproofing requirements in the Uniform Construction Code as adopted and amended by the Borough of Macungie.
 - (2) **PARTIALLY DAMAGED STRUCTURES**
Any improvement or reconstruction to an existing partially damaged structure shall be undertaken only in full compliance with the floodproofing requirements in the Uniform Construction Code as adopted and amended by the Borough of Macungie.
 - (3) **SUBSTANTIALLY DAMAGED STRUCTURES**
Any improvement or reconstruction to a substantially damaged structure shall be in full compliance with the floodproofing requirements in the Uniform Construction Code, as adopted and amended by the Borough of Macungie, and shall have the lowest floor, including basement, elevated to Flood Protection Elevation.
 - (4) **REPETITIVE LOSS STRUCTURES**
An improvement to a repetitive loss structure to an extent ten (10) percent or more of its market value of the intact structure shall be prohibited. Any permitted improvement to a repetitive loss structure shall be in full compliance with the floodproofing requirements of the Uniform Construction Code, as adopted and amended by the Borough of Macungie, and shall have the lowest floor, including basement, elevated to Flood Protection Elevation. The reconstruction of a repetitive loss structure shall be in full compliance with the Uniform Construction

Code, as adopted and amended by the Borough of Macungie, as amended, and shall have the lowest floor, including basement, elevated to Flood Protection Elevation.

(5) **SEVERE REPETITIVE LOSS STRUCTURES**

An improvement to a severe repetitive loss structure to an extent five (5) percent or more of its market value as an intact structure shall be prohibited. Any permitted improvement to a severe repetitive loss structure shall be in full compliance with the floodproofing requirements of the Uniform Construction Code, as adopted and amended by the Borough of Macungie, and shall have the lowest floor, including basement, elevated to Flood Protection Elevation. The reconstruction of a severe repetitive loss structure shall be a) in full compliance with the Uniform Construction Code, as adopted and amended by the Borough of Macungie; shall b) have the lowest floor, including basement, elevated to Flood Protection Elevation and c) the applicant shall provide documentation from the Borough of Macungie, the State of Pennsylvania and the Federal Emergency Management Agency that states the Borough of Macungie, the State of Pennsylvania or FEMA will not acquire the property for the purposes of flood mitigation prior to the reconstruction of the structure.

- E. The cost of improvements or reconstruction commenced since the adoption of this ordinance must be calculated at today's current cost.
- F. It is the responsibility of the applicant to supply the information necessary (e.g. appraisals, construction costs, estimates, etc. to make the determination that the market value is reasonably accurate and that the cost estimate reasonably reflects the actual costs of the improvements to the structure.
- G. Acceptable estimates of market value shall be determined from one of the following methods:
 - (1) Independent appraisals by a state licensed real estate appraiser.
 - (2) The value of the building taken from NFIP claims data.
- H. Acceptable estimates of cost of improvement shall be determined from one of the following methods:
 - (1) Itemized estimates made by contractors licensed to work in the Borough of Macungie.
 - (2) Building code valuation tables.
- I. The Zoning Hearing Board shall have the right to waive, as a special exception, any of the requirements of this Section for any structure listed on a National, State or Local Register

of Historic Places; provided, however, that the provisions of §345-53 shall be applied in such a case.

§345-52. Building and Zoning Permits

- A. Building and zoning permits shall be required for all proposed development, construction, reconstruction, placement, improvement of uses or structures, regardless of value and activities such as mining, dredging, grading, logging, paving, excavation or drilling operations.
- B. The requirements of the Uniform Construction Code, as adopted and amended by the Borough of Macungie, shall apply to this Article.

§345-53. Variances Within Flood Hazard Districts

- A. General. If compliance with any of the requirements of this Ordinance would result in an exceptional hardship for a prospective builder, developer or landowner, the Zoning Hearing Board and Joint Building Code of Appeals Board may, upon request, grant relief from the strict application of the requirements.
- B. Variance Procedures and Requirements. Requests for variances shall be considered by the Boards in accordance with this Ordinance and with the following:
 - (1) No variance shall be granted for any construction, development, use or activity within any floodplain or floodway area that would cause any increase in the base flood elevation.
 - (2) No variance shall be granted for any of the prohibited uses or activities in §345-50 to locate in the Flood Hazard District.
 - (3) If granted, a variance shall involve only the least modification necessary to provide relief.
 - (4) In granting any variance, the Boards shall attach whatever reasonable conditions and safeguards they consider necessary in order to protect the public health, safety and welfare and to achieve the objectives of this Ordinance.
 - (5) Whenever a variance is granted, the Boards shall notify the applicant in writing that:
 - (a) The granting of the variance may result in increased premium rates for flood insurance.
 - (b) Such variances may increase the risks to life and property.
 - (6) In reviewing any request for a variance, the Boards shall consider, but not be

limited to the following:

- (a) There is good and sufficient cause for the variance.
 - (b) Failure to grant the variance would result in exceptional hardship to the applicant.
 - (c) The granting of the variance will not result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with any other applicable state or local ordinance regulations.
 - (d) The review factors listed in §345-53.C, below.
- (7) A complete record of all variance requests and related actions shall be maintained by the Boards. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.

C. Review Factors. In reviewing applications for a variance, the Boards shall consider all relevant factors and procedures specified in other Articles of this Ordinance and:

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (2) The danger that materials may be swept on to other lands or downstream to the injury of others.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- (4) The susceptibility of the proposed use and its contents to flood damage and the effect of such damage on the individual owners.
- (5) The importance of the services provided by the proposed use to the community.
- (6) The requirements of the use for a waterfront location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

- (9) The relationship of the proposed use to the Southwestern Lehigh Intergovernmental Comprehensive Plan and the Borough of Macungie stormwater management objectives and regulations.
 - (10) The safety of access to the property in times of flood of ordinary and emergency vehicles.
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
 - (12) The requirements of the National Flood Insurance Program Regulations, Part 59: General Provisions, and Part 60: Criteria for Land Management and Use.
 - (13) Such other factors which are relevant to the purposes of this Ordinance.
- D. Supplemental Technical Review. The Boards may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for:
- (1) Technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.
 - (2) All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough of Macungie and the Pennsylvania Department of Community and Economic Development.

§345-54. Definitions

A Zone. The flood insurance rate zone that corresponds to the 100 year floodplain where base flood elevations are not shown.

AE Zone. The flood insurance rate zone that corresponds to the 100 year floodplain where base flood elevations are shown at selected intervals.

Base Flood. The flood having a 1% chance of being equaled or exceeded in any given year, also known as the “100-year” flood.

Base Flood Elevation. The elevation shown on the Flood Insurance Rate Map (FIRM) that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Cost of Improvement: Cost that includes both the structural and finish or labor and materials, minus those required to meet floodproofing and flood elevation regulations and the cost of permits. This includes lighting fixtures, built-in appliances, interior moldings, paneling, tiling, wall-to-wall carpet over sub-flooring, built-in cabinets, etc. The cost to demolish undamaged building components must be established and included.

Cost of Reconstruction: Cost that includes both the structural and finish or labor and materials minus those required to meet floodproofing and flood elevation regulations and the cost of permits, to reproduce by new construction the exact form and detail of a structure or a part thereof, as it appeared at a specific period of time.

Critical Facilities. Those facilities that are vital to the community in the event of a hazard event or disaster, that provide essential services to the general public, are necessary to preserve the welfare and quality of life in the region, that fulfill important public safety, emergency response or disaster recovery functions, or contain at-risk or special needs populations such as the elderly or children. Examples include emergency shelters, emergency services, hospitals, public utilities, government buildings, schools, day cares and elderly housing.

Current Cost: A basis of valuation, which values an asset at the amount which it would currently cost to obtain.

Encroachment. Construction, placement of fill or similar alteration of topography in the floodplain that reduces the area available to convey floodwaters.

Fill. Any clean soil or rock materials (sand or clay) used to raise the ground elevation.

Flood. A temporary inundation of normally dry land area.

Flood, One Hundred Year: A flood that has a 1% chance of being equaled or exceeded in any given year. Over a long period, it is a flood that is likely to occur, on average, once for every 100 years of record.

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. For the purpose of this Ordinance, the floodplain area shall include the area within the Flood Hazard District as defined by §345-46.

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 as specified in the Uniform Construction Code, as adopted and amended by the Borough of Macungie.

Floodway. The channel of a river, stream, or other watercourse, plus 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.

Flood Protection Elevation. The base flood elevation plus 1.5 feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations or base flood elevations determined and/or approved by the Borough of Macungie plus 1.5 feet of freeboard.

Freeboard. An additional amount of height above a flood elevation used as a factor of safety (e.g., 1.5 feet above the base flood elevation) in determining the level at which a structure's lowest floor, including basement, must be elevated or floodproofed.

Historic Structure. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a State of Pennsylvania inventory of historic places;
- (4) Individually listed on a local inventory of historic places in the Borough of Macungie that has been approved by the Pennsylvania Historic and Museum Commission (PHMC).

Identified Floodplain Area. The floodplain area specifically identified in this Ordinance as being inundated by the one hundred (100) year flood.

Improvement. The creation or addition of structural or functional capacity of a structure that adds to its value and useful life. The term does not include either:

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

Intact Structure. A structure that is undamaged in any way; whole.

Land Development. Any of the following activities:

(1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

(a) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or 2. The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

(2) A subdivision of land.

(3) A development in accordance with section 503(1.1) of the Pennsylvania Municipalities Planning Code.

Manure. The animal excrement, including poultry litter, which is produced at an agricultural operation. It includes materials such as bedding and raw materials which are commingled with that excrement.

Manure stockpile. A storage pile of manure accumulated for future use that is not confined within a manure storage facility.

Manure storage facility. A permanent structure or pond, a portion of a structure or pond, or a group of structures or ponds at one agricultural operation, utilized for the purpose of containing manure or agricultural process wastewater. This includes concrete, metal or other fabricated tanks and underground structures, as well as earthen and synthetically-lined manure storage ponds.

Market Value: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale; the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus.

Minimize. To reduce to the smallest amount or extent possible. "Minimize" shall not mean complete elimination but shall require that the most substantial efforts possible under the circumstances have been taken to reduce the adverse effect(s) of the action required to be minimized. "Minimize" shall include but not be limited to the requirement that the placement of dwellings and other structures and the locations of roads, stormwater management facilities, and other land disturbance shall be planned and designed to reduce the adverse effect(s) of the activity in question to the smallest amount possible under the circumstances consistent with otherwise permitted development.

New Construction. Any structure that was not constructed on the effective date of this ordinance. The first placement of permanent features of the structure such as pouring of slabs or footings constitute beginning of construction but land preparation, grading and filling do not.

Non-conforming structure. A structure or part thereof which does not conform to the applicable

provisions or requirements of the district in which it is located, either at the time of enactment of an Ordinance, or as a result of subsequent amendments thereto, where such structure lawfully existed prior to the enactment of such Ordinance or amendment.

Non-conforming use. Use of land or structure, which use does not conform to the applicable regulations of the district in which it is located, either at the time of the enactment of an Ordinance or as a result of subsequent amendment of an Ordinance or as a result of subsequent amendments thereto, but which did not violate such regulations prior to the enactment of Ordinance or amendments.

Partially Damaged Structure. A structure that has sustained damage from any cause whereby the cost of restoring the structure to its before-damaged condition is less than fifty (50) percent of the market value of the structure before the damage occurred.

Reconstruction. The act or process of reproducing by new construction the exact form and detail of a structure or a part thereof, as it appeared at a specific period of time.

Redevelopment. The removal and replacement, rehabilitation, or adaptive reuse of an existing structure or structures, or of vacant but formerly developed land.

Repetitive Loss Structure: As determined by FEMA, structures for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling ten-year period, since 1978. At least two of the claims must be more than 10-days apart but, within ten-years of each other.

Residential structure. A structure regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business.

Severe Repetitive Loss Structure: As determined by FEMA, a residential structure that is covered under flood insurance by the NFIP and has incurred flood-related damage for which four or more separate claim payments have been paid since 1978 under flood insurance coverage with the amount of each claim payment exceeding \$5,000 and with cumulative amount of such claim payments exceeding \$20,000; or for which at least two separate claim payments have been made since 1978 with the cumulative amount of such claims exceeding the reported value of the property.

Structure. Any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land.

Substantially Damaged Structure. A structure that has sustained damage from any cause 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.

Vacant but formerly developed land. Land from which previous improvements have been removed.

Watercourse. A watercourse is a channel or conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow. Manmade swales, constructed specifically for stormwater management purposes, are excluded from this definition.