

Resolution
of the
City of Easton, Pennsylvania

No. -2014

Date: June 11, 2014

Introduced by: Kenneth Brown

RESOLVED, by the Council of the City of Easton, Pa., that it has read and approves the Stipulation of Counsel (copy attached hereto) for property located at 134 S. 4th Street, Easton Pa., and designated as Tax Parcel Map No. L9SE2D-8-1B-0310 Appeal of Easton Ventures Inc, vs. county of Northampton Revenue Appeals Board and Easton Area School District, File No. C48CV2010-5-12.

BE IT FURTHER RESOLVED, that Council authorizes William K. Murphy, City Solicitor to execute the Stipulation of Counsel on behalf of the City of Easton, Pa.

This is to certify that the above Resolution was adopted by the City Council on the above date.

Attest: _____
City Clerk

Signed: _____
Mayor

Chapter 103

PARK COMMISSION, HUGH MOORE

§ 103-1. Purpose.

§ 103-4. Consent of Council.

§ 103-2. Name of Commission.

§ 103-5. Duration of Commission.

§ 103-3. Membership.

[HISTORY: Adopted by the Council of the City of Easton 1-23-1974 by Ord. No. 2234 (Art. 179 of the 1965 Codified Ordinances). Amendments noted where applicable.]

GENERAL REFERENCES

Parks — See Ch. 404.

§ 103-1. Purpose.

The purpose of the Commission created by this article is to plan, develop, maintain and operate various phases of the Hugh Moore Park including the development of a plan that will provide for the proper emphasis and development of the Hugh Moore Park. The Commission shall keep in focus the broader significance of the recreational theme as proposed and shall encourage financial support from organizations in the community and solicit legislative support where it would be helpful to the development of the Hugh Moore Park.

§ 103-2. Name of Commission.

The Commission established by this article shall be known as the "Hugh Moore Park Commission."

§ 103-3. Membership.

The Hugh Moore Park Commission shall consist of seven members. They shall be appointed by the Mayor. Each shall serve for a term of five years. Residence in the City shall not be a requirement for appointment to the Commission. The following shall serve as nonvoting ex officio members of the Commission: Mayor, Director of Public Works, Chairman of the Public Services Committee of Council and one member from each of the following municipalities selected by the respective governing bodies: Boroughs of West Easton, Wilson and Glendon; and Townships of Palmer, Bethlehem, Williams and Lower Saucon.

§ 103-4. Consent of Council.

All plans as may be developed by the Commission shall not be implemented until such plan or plans receive the consent of Council. Council may approve the plans as submitted or make such modifications as Council deems necessary to the proper development of the Hugh Moore Park.

§ 103-5. Duration of Commission.

The Commission shall remain in existence until it is abolished by action of Council.

**File of the
Council of the City of Easton, Pa.**

Ordinance No.

SESSION 2014

Bill No. 20

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Introduced by: Elinor Warner – June 11, 2014
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Enacted by Council:
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AN ORDINANCE REPEALING FLOOD RELATED DEFINITIONS LOCATED IN ARTICLE IV, §595-10 OF THE CITY OF EASTON ZONING ORDINANCE; REPEALING §595-137 THROUGH §595-146 OF ARTICLE XXV, FLOOD HAZARD (FH) OVERLAY DISTRICT OF THE CITY OF EASTON ZONING ORDINANCE AND AMENDING SAID FLOOD HAZARD (FH) OVERLAY DISTRICT TO REFERENCE A SINGLE-PURPOSE ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF SUCH PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE CITY OF EASTON 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.

Whereas, the Federal Emergency Management Agency has updated its National Flood Insurance Program (NFIP) for Northampton County, including Flood Insurance Rate Maps (FIRM) and data thereto; and,

Whereas, the Legislature of the Commonwealth of Pennsylvania has delegated the responsibility to local governmental units to adopt floodplain management regulations; and,

Whereas, the City of Easton is committed to protecting the health, safety and welfare of its residential and business community through appropriate floodplain management regulations; and,

Whereas, minimum regulations are necessary for continued participation in the National Flood Insurance Program and the benefits related thereto including community disaster assistance and subsidized insurance rates; and,

Whereas, the Pennsylvania Department of Economic Development and Lehigh Valley Planning Commission have offered suggested provisions to meet the minimum requirements of the National Flood Insurance Program and the Pennsylvania Floodplain Management Act, Section 60.3(d); and,

Whereas, said suggested provisions best serve the public as a single-purpose Ordinance; and,

Whereas, certain amendments to the City of Easton Zoning Ordinance are necessary to achieve this purpose.

THE CITY OF EASTON HEREBY ORDAINS:

Section 1: ARTICLE IV, §595-10 of the City of Easton Zoning Ordinance is hereby amended as follows:

**ARTICLE IV
Definitions**

§595-10. Word usage; terms and words defined.

D. As used in this chapter, except where the context clearly indicates otherwise, the following words or phrases shall have the meaning indicated as follows:

~~BASE FLOOD—The one hundred year (regulatory) flood as described in a map and profiles found in the booklet entitled "Flood Insurance Study, Northampton County, PA" (all jurisdictions) and dated April 6, 2001, as developed by the Federal Emergency Management Agency, and any updates thereto.~~

~~BASE FLOOD PROTECTION ELEVATION (BFE)—The minimum elevation to which uses subject to this article are required to be elevated or floodproofed. Such elevation is a minimum of 18 inches above the elevation of the one hundred year flood (base flood) within the one hundred year floodplain, or a minimum of 18 inches above the base flood elevation within the five hundred year floodplain.~~

~~FLOOD or FLOODING~~

~~(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:~~

~~(a) The overflow of inland waters;~~

~~(b) The unusual and rapid accumulation or runoff of surface waters from any source;
or~~

~~(c) Mudslides (i.e., mudflows) which are approximately caused or precipitated by accumulations of water on or under the ground.~~

~~(2) The collapse or subsidence of land along a body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical~~

~~levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1) of this definition.~~

~~FLOOD FRINGE—The area outside the delineated floodway which is subject to inundation by the one hundred year flood (base flood) or five hundred year flood.~~

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

~~FLOODWAY—The channel of a stream and adjacent land areas which are required to carry and discharge the floodwater or flood flows of any river or stream associated with the base flood. The limit of the floodway shall be established by allowing not more than a one foot rise of the water surface elevation of the base flood as a result of encroachment. Wherever practical, equal conveyance reduction from each side of the floodplain shall be used. The floodway, for the purposes of this chapter, is determined by the FEMA study entitled "Flood Insurance Study, Northampton County, PA" (all jurisdictions).~~

~~FLOODWAY ENCROACHMENT LINES—Limits of obstruction to flood flows. These lines are generally parallel to the stream. The lines are established by assuming that the area landward (outside) of the encroachment lines will be ultimately developed in such a way that it will not be available to convey flood flows. If hydraulic efficiency of the floodway is maintained by protecting it against unnecessary encroachments, it will be adequate to convey the base flood without resulting in an increase in flood elevations that would cause damage to existing or future development.~~

~~ONE HUNDRED YEAR FLOOD—The flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year, although the flood may occur in any year).~~

~~REPETITIVE LOSS—Flood related damages sustained by a building or structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure before the damages occurred.~~

Section 2: ARTICLE XXV, FLOOD HAZARD (FH) OVERLAY DISTRICT of the City of Easton Zoning Ordinance is hereby amended as follows:

**ARTICLE XXV
Flood Hazard (FH) Overlay District**

The purpose of the Flood Hazard Overlay District is to establish basic performance standards to mitigate flood hazards in and adjacent to flood-prone areas of the City. Regulating standards for the Flood Hazard Overlay District are set forth in a single-purpose Ordinance and are hereby incorporated into this Zoning Ordinance as the Flood Hazard (FH) Overlay District by reference.

~~§595-137. Legislative intent; requirements.~~

~~A. Legislative intent.~~

- ~~(1) The purpose of the Flood Hazard Overlay District is to establish basic performance standards to mitigate flood hazards in and adjacent to flood-prone areas of the City.~~

~~B. Requirements.~~

- ~~(1) The Flood Hazard Overlay District shall regulate development in the one-hundred year and five hundred year floodplains as delineated by FEMA.~~
- ~~(2) Both new construction and redevelopment in the district shall comply with Article XXXV, Context Sensitive Design Standards, particularly standards for buffers and buffer areas, natural resource protection, uses, and street trees and landscaping.~~

~~§595-138. Findings of fact.~~

~~A. Flood losses.~~

- ~~(1) Flood losses resulting from periodic inundation. The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.~~
- ~~(2) General causes of flood losses. These flood losses are caused by the cumulative effect of obstructions in floodways, causing increases in flood heights and velocities, and the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from flood damages.~~

~~B. Analysis of flood hazards. The regulations of this article are adopted to comply with the National Flood Insurance Act of 1968, as amended, and Pennsylvania Act 166, as amended. The method used for analyzing hazards consists of a series of interrelated steps:~~

- ~~(1) The base flood levels are calculated by a process which considers such flood factors as historic flows, expected frequency of occurrence, the area inundated and the depth of inundation. The regulatory (base) flood selected is reasonably characteristic of what can be expected to occur on the particular streams subject to this article. It is in the general order of a flood which could be expected to occur on the average of once every 100 years.~~
- ~~(2) Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.~~
- ~~(3) Computation of the floodway required to convey this flood without increasing flood heights to an extent which would cause substantial upstream or downstream damage to existing development.~~
- ~~(4) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause such damage.~~
- ~~(5) Delineation of the flood fringe, i.e., that area outside the floodway encroachment lines but which is still subject to inundation by the regulatory (base) flood.~~
- ~~(6) Delineation of the area subject to the five hundred year flood.~~

~~§595-139. Intent.~~

~~It is the purpose of this article to promote the public health, safety and general welfare and to minimize those losses described above by provisions designed to:~~

- ~~A. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or cause increased flood heights or velocities;~~
- ~~B. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction;~~
- ~~C. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard;~~
- ~~D. Reduce financial burdens imposed on the community, its governmental units and its individuals by preventing excessive development in areas subject to periodic flooding;~~
- ~~E. Minimize danger to public health by protecting water supply and natural drainage;~~
- ~~F. Comply with federal and state floodplain management requirements; and~~
- ~~G. Promote responsible floodproofing and flood damage alleviation measures within the Flood Hazard Overlay Districts.~~

~~§595-140. General provisions.~~

- ~~A. Lands to which regulations apply. This article shall apply to lands within the jurisdiction of the City shown on the Flood Hazard Overlay District Map, which shall be considered to be an overlay of the Zoning Map, and as amended by § 595-143. This article regulates at the minimum those uses of lands and the placement of structures found within the five hundred year flood and the one hundred year flood (base flood), as determined by the Federal Emergency Management Agency study entitled: "Flood Insurance Study, Northampton County, PA" (all jurisdictions), dated as effective April 6, 2001, and accompanying maps, and any updates thereto.~~
- ~~B. Rules for interpretation of district boundaries. The boundaries of the five hundred-year floodplain and the floodway and flood fringe of the one hundred year floodplain shall be determined by scaling the appropriate delineation from the appropriate FIRM panel and superimposing it (manually or digitally) on a topographic map with a compatible datum. Next, transfer the base flood elevations from the appropriate FIRM panel onto a topographic map with a compatible datum. The delineation shall be considered to be an overlay to the Zoning Map, the Flood Hazard District. Where interpretation is needed as to the exact location of the boundaries of the districts, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, the Zoning Administrator shall make the necessary interpretation. The base flood elevation for this point in question shall be the governing factor in locating the district boundary on the land. Any person contesting a district boundary location determined by the Zoning Administrator may appeal to the Zoning Hearing Board, in accordance with procedures set forth in Article XXXVII, and shall submit technical evidence in support thereof.~~
- ~~C. Relationship to existing district. The Flood Hazard District shall be overlaid on and above the existing zoning districts of the City of Easton's Official Zoning Map. The provisions of the underlying districts shall remain in full force and shall be made to be in compliance whenever there is new construction or improvements within the base flood elevation and/or 1 1/2 feet above the base flood elevation to structures within those zones should they be in the Five Hundred Year, Flood Fringe or Floodway District.~~
- ~~D. Compliance. No structure on land or water, newly constructed or improved, within the base flood elevation and/or 1 1/2 feet above the base flood elevation shall hereafter be used without full compliance with the terms of this article and other applicable regulations, except that structures and uses existing legally at the effective date of this article which by virtue of this article become nonconforming shall hereafter have the status of legal nonconforming structures and uses and shall be permitted to continue.~~
- ~~E. Abrogation and greater restrictions. It is not intended by this article to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However,~~

~~where the regulations in this article impose greater restrictions, the provisions of this article shall prevail. This article supersedes any zoning provisions currently in effect in flood zone areas. However, any underlying zoning shall remain in full force and effect to the extent that those provisions are more restrictive than provisions contained herein.~~

~~F. Interpretation. In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of City Council and shall not be deemed a limitation or repeal of any other powers granted by state statutes.~~

~~G. Warning and disclaimer of liability. The degree of flood protection required by this article is considered reasonable for regulatory purposes. Larger floods may occur on occasion or the flood height may be increased by man-made or natural causes, such as but not limited to bridge openings restricted by debris. This article does not imply that areas outside any identified floodplain areas or that land uses permitted within such districts will be free from flooding or flood damages. This article shall not create liability on the part of the City or any officer or employee thereof for any flood damages that may result from reliance on this article or any administrative decision made thereunder.~~

~~§595-141. Administration.~~

~~This article shall be administered and enforced by the Zoning Administrator, who may, as necessary, consult with other agencies and bureaus.~~

~~A. Review of application. The Zoning Administrator shall review all applications for building permits and zoning permits and check addresses and locations in order to:~~

~~(1) Ascertain whether they are within the Floodway or Flood Fringe Zoning Districts. Upon finding that they are, he/she shall prescribe the necessary regulations as per this chapter, particularly this article, and the Building Code, Chapter 245, Article II, of the Code of the City of Easton.~~

~~(2) In the case of existing structures, the Zoning 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.~~

~~(3) 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 Zoning Administrator to any other appropriate agencies and/or individuals for review and comment.~~

~~B. Base elevation data required. Where he/she has ascertained that development occurs within the Five Hundred Year, Floodway and/or Flood Fringe District, the Zoning Administrator shall:~~

- (1) Obtain the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new structures and of substantially improved structures, whether or not such structures contain a basement;
- (2) Obtain, if the structure has been floodproofed, the elevation in relation to mean sea level, to which the structure was floodproofed; and
- (3) Maintain a record of all such information.

~~C. Alteration or relocation of watercourse. In the event and prior to any development within the Five Hundred Year, Floodway and/or Flood Fringe District which will effect the alteration or relocation of a watercourse, the Zoning Administrator shall notify adjacent communities that will be affected by such change, FEMA, and the Commonwealth of Pennsylvania State Coordinating Office of the National Flood Insurance Program. In such case, an applicant for a zoning, subdivision or development permit shall apply to and procure a permit from the Department of Environmental Protection, Division of Dams and Encroachments.~~

~~D. Maintenance of records. A record of certificates received from applicants prepared by registered engineers and architects, which indicate the specific elevation in relation to mean sea level to which structures are floodproofed in accordance with this section and are reviewed, shall be maintained by the Zoning Administrator.~~

~~E. Reports and correspondence. The Zoning Administrator shall be responsible for receiving and maintaining maps, etc. for filing all reports, such as annual reports and communications with FEMA. The Zoning Administrator shall report to PEMA (Pennsylvania Emergency Management Agency) the variances from the provisions of this article establishing regulations for flood-prone areas.~~

~~F. Other permitting agencies. The Zoning Administrator shall review the proposed development proposal in order to ascertain that all necessary permits (i.e., on site sewage, dam and encroachment, sewer extensions, etc.) have been received from those governmental agencies from which approval is required by federal, state and local law, including the Federal Water Pollution Control Act.~~

~~§595-142. Establishment of flood zoning districts.~~

~~A. The flood zone districts within the jurisdiction of the City of Easton are hereby divided into the following districts:~~

- ~~Zone A — One hundred year floodplain; no base flood elevations determined~~
- ~~Zone AE — Base flood elevations determined; shaded crosshatched areas are identified floodways; areas outside identified floodways and in the AE or X (500) Zones shall be considered flood fringe~~
- ~~Zone AH Flood depths of one feet to three feet; base flood elevations determined~~

- ~~Zone AO — Flood depths of one foot to three feet; average depth determined; for areas of alluvial fan flooding, velocities determined~~
- ~~Zone A99 — Protected by federal flood protection system under construction; no base flood elevations determined~~
- ~~Zone X(500) — Areas of five hundred year flood; areas of one hundred year flood with average depths of less than one foot or with drainage areas less than one square mile; areas protected by levees from one hundred year flood~~
- ~~Zone X — Areas determined outside the five hundred year flood~~
- ~~Zone D — Flood hazard undetermined, but possible~~

~~B. The boundaries of these districts are as shown on the map entitled, "FIRM — Flood Insurance Rate Map," as prepared by the Federal Emergency Management Agency, dated as effective April 6, 2001, and profiles as included within the "Flood Insurance Study, Northampton County, PA," as dated April 6, 2001, and any updates thereto, both of which shall be made a part of an overlay to the Zoning Map of the City of Easton. Within these districts all uses not permitted as principal or accessory uses or as special exception uses shall be and are prohibited.~~

~~§595-143. Regulations and general provisions for flood zoning districts.~~

~~A. Floodway District (FW) of Zones A, AE, AH, AO and A99.~~

- ~~(1) Purpose of district. The "FW" (Floodway) District is designated to protect the landowner, the developer and the land user, and the general public against the hazards incurred in the occupancy of land which is subjected to flooding conditions reasonably expected to be experienced by the community.~~
- ~~(2) Floodway development. The floodway is designed to carry the waters of the base flood where encroachments within the flood fringe have increased the water surface elevation of that flood not more than one foot at any one point. No new construction, development, improvement, use, activity or encroachment shall be permitted within the base regulatory floodway which shall have any increase in flood heights unless fully offset by stream improvements.~~
- ~~(3) Permitted uses. In this district, no land shall be used except for one or more of the following permitted uses to the extent that they are not prohibited by regulations governing the underlying zoning districts or other regulations or ordinances, and provided that they do not require fill, unless necessary to meet stream improvement requirements:~~
 - ~~(a) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.~~

- ~~(b) Public and private recreational uses and activities not requiring permanent or temporary structures, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas. Temporary structures necessary to special uses, such as, but not limited to, circuses and carnivals, will be permitted, provided that the applicant submits an evacuation plan for these with the application for a permit.~~
 - ~~(c) Accessory residential uses such as yard areas, gardens, play areas and parking areas.~~
 - ~~(d) Accessory nonresidential uses, such as yard areas, parking and loading areas, etc.~~
 - ~~(e) Structures and/or uses existing legally at the effective date of this section, which by virtue of this article become nonconforming, shall thereafter have the status of legal nonconforming structures and uses and shall be permitted to continue. Changed, new and abandoned structures and/or uses, as determined by the Zoning Administrator, shall not be considered legally nonconforming pursuant to this subsection.~~
 - ~~(f) New uses in existing structures shall be allowed by special exception, only if permitted in the underlying zoning district. New uses in existing structures as described in this section shall meet the requirements of this article, including but not limited to §§ 595-143A and B, 595-144 and 595-145.~~
- ~~(4) Special exception uses:~~
- ~~(a) Marina, boat rental, dock, pier or wharf.~~
 - ~~(b) Railroad, street, bridge, dam, utility transmission lines and pipes.~~
 - ~~(c) Wire fence with openings adequate in size so as not to impede the free flow of floodwaters.~~
 - ~~(d) Flood control structures.~~
- ~~(5) Manufactured homes prohibited. Prohibited in the Floodway District is the placement of any manufactured homes.~~
- ~~(6) Forestry prohibited. Timber activities and timber harvesting operation uses are prohibited in the Floodway.~~
- ~~(7) Heavy manufacturing and industrial uses prohibited. Outdoor storage area, chemical industries, petroleum industries, plastics and rubber industries, stone,~~

clay and glass industries, primary metal industries, fabricated metal industries, recycling collection facility, recycling processing facility, salvage yard, and solid waste disposal facility are prohibited in the Floodway District.

~~B. Flood Fringe (FF) District of Zones A, AE, AH, AO, A99 and X (500).~~

~~(1) Purpose of district. The "FF" (Flood Fringe) District is designed to protect the landowner, the land user and the general public against the hazards incurred in the development and occupancy of land which has a reasonable probability of being subjected to floodwaters of the base flood but where water velocities normally are of low magnitude. The regulations permit open land users and those structural uses listed as permitted or special exception uses in the underlying zoning districts, wherein the potential damage from floodwaters can be averted by limiting development and occupancy of land and by taking special precautions in the design and construction of buildings and other structures.~~

~~(2) Permitted uses (by permit). In this district no land shall be developed or used and no existing building or structure shall be hereafter substantially improved or erected except for one or more of the following uses listed below, and shall be reviewed in accordance with Subsection B(3) hereof, entitled "Special exception uses."~~

~~(a) Any use enumerated in the FW Floodway District as a permitted use.~~

~~(b) Nonstructural uses defined as permitted herein.~~

~~(c) Residential structures. All new construction and improvements to existing residential structures within the Flood Fringe District where zoning or building permits are required shall have the lowest floor (including basement) elevated to a minimum of 1 1/2 feet above the base flood. The design and construction standards in the specifications contained in the 2003 IBC and in the 2003 IRC and ASCE 24 and 34 Pa. Code, or as amended, shall be utilized.~~

~~(d) Nonresidential structures. All new construction plus improvements to existing structures of nonresidential use within the Flood Fringe District shall:~~

~~[1] Have the lowest floor, including basement, elevated to a minimum of 1 1/2 feet above the base flood; or~~

~~[2] Be designed so that the structure, together with attendant utility and sanitary facilities, is floodproofed below the base flood protection elevation.~~

~~[3] Where floodproofing is utilized in accordance with Subsection B(2(d), hereof, a registered professional engineer or architect shall certify that the structure is watertight, with walls substantially impermeable to the passage~~

~~of water and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy, and/or the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impacts and uplift forces with other factors associated with the base flood, and a record of such certificates indicating the specific elevation, in relation to mean sea level, to which such structures are floodproofed shall be maintained with the Zoning Administrator as provided in § 595-141D.~~

~~[4] Any fully enclosed area below the BFE shall be certified by a registered engineer or architect to meet the design criteria in CFR Part 60.3(c) (5).~~

~~(e) Space below the lowest floor:~~

~~[1] Fully enclosed space below the lowest floor (including basement) is prohibited.~~

~~[2] Partially enclosed space below the lowest floor (including basement) 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 floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "partially enclosed space" also includes crawl spaces.~~

~~[3] Designs for meeting this requirement must be certified by a registered professional engineer or architect.~~

~~(f) Accessory structures. Structures accessory to a building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:~~

~~[1] The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles or to the storage of tools, material and equipment related to the principal use or activity.~~

~~[2] Floor area shall not exceed 600 square feet.~~

~~[3] The structure will have a low damage potential.~~

~~[4] The structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.~~

~~[5] Power lines, wiring and outlets will be a minimum of 1 1/2 feet above the base flood protection 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 be certified by a registered professional engineer or architect.~~

~~(g) For existing manufactured home parks and existing manufactured home subdivisions where the repairs reconstruction or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvements have commenced, that:~~

~~[1] Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home shall be at the base flood protection elevation;~~

~~[2] Adequate surface drainage and access for a hauler are provided; and~~

~~[3] In the instance of elevation on pilings, lots are large enough to permit steps; piling foundations are placed in stable soil no more than 10 feet apart and reinforcement is provided for pilings more than six feet above ground level.~~

~~(h) Manufactured homes prohibited. Prohibited in the Flood-Fringe District is the placement of any new manufactured homes.~~

~~(i) Forestry prohibited. Timber activities and timber harvesting operation uses are prohibited in the Flood-Fringe District.~~

~~(j) Heavy manufacturing and industrial uses prohibited. Outdoor storage area, chemical industries, petroleum industries, plastics and rubber industries, stone, clay and glass industries, primary metal industries, fabricated metal industries, recycling collection facility, recycling processing facility, salvage yard, and solid waste disposal facility are prohibited in the Floodway District.~~

~~(k) Structures and uses existing legally at the effective date of this section, which by virtue of this article become nonconforming, shall thereafter have the status of legal noneonforming structures and uses and shall be permitted to continue. Changed, new and abandoned structures and/or uses, as determined by the Zoning Administrator, shall not be considered legally nonconforming per Subsection B (2) (e) hereof.~~

- ~~(1) Developments which involve 50 or more lots or five or more acres shall include a determination of the base flood elevation (BFE) and its relation to the site development. The BFE and/or floodway data may be established using any recognized engineering sources for this purpose.~~
- ~~(3) Special exception. No use may be established in any flood hazard area unless authorized by the Zoning Hearing Board, upon filing of an application and following procedures for special exception permits established in § 595-251, Special exceptions, and subject to the provisions of § 595-255, Time limitations.~~

~~§595-144. Special regulations applying to Five-Hundred-Year, Floodway and Flood-Fringe Zoning Districts.~~

~~A. All uses.~~

- ~~(1) Easements. In connection with development of land situated within a Five-Hundred Year, Floodway District or Flood Fringe District, access easements, watercourse easements, and/or maintenance easements may be required. The open space area contained within such easements shall be used for computing density limits and open space requirements under the zoning regulations.~~

~~B. Fill.~~

- ~~(1) Beneficial effects. Any person proposing to deposit fill anywhere within the City limits shall make a request for a zoning permit per § 595-11. Any person proposing to deposit fill in the flood fringe (including the five hundred year floodplain) shall prove to the satisfaction of the Zoning Administrator that such proposal will be of benefit to the general public, as well as the landowner. The amount of such fill shall not be greater than that which is necessary to achieve such beneficial purpose, as demonstrated by a plan showing the location and dimensions of the proposed fill area and the uses to which the filled land is to be put. There shall be no development permitted in a floodway and no City zoning permits shall be issued for same until the Zoning Administrator has certified compliance with the requirements of this subsection and § 595-143, Regulations and General Provisions for Flood Zoning Districts.~~

~~(2) If fill is used, it shall:~~

- ~~(a) Extend laterally a minimum of 15 feet beyond the building line from all points;~~
- ~~(b) Consist of soil or small rock materials only; sanitary landfills shall not be permitted;~~

~~(c) Be compacted to provide the necessary permeability and resistance to erosion, scouring or settling;~~

~~(d) Be no steeper than one vertical to two horizontal feet unless substantiated data, justifying steeper slopes, is submitted to and approved by the Zoning Administrator; and~~

~~(e) Be used to the extent to which it does not adversely affect adjacent properties. The provisions contained in the 2003 International Building Code (IBC), as amended or replaced, shall be utilized.~~

~~(3) Fill protection. Such fill or material shall be protected against erosion by riprap vegetative cover or bulkheading as approved by the City.~~

~~C. Storage of materials and equipment. The storage or processing of materials that are buoyant, flammable, explosive or are certified by the responsible City, state or federal agency as hazardous or dangerous in such stored concentrations to animal or plant life is prohibited. Storage of other material or equipment is permitted, if the same is not susceptible by reason of its physical characteristics to major damage by floods, is firmly anchored to prevent flotation in accordance with good engineering practices, or is readily removable from the site within the normal time available after flood warning by the responsible federal, state or local agency, and the improvements are constructed in such manner as to facilitate their removal.~~

~~D. Sanitary sewers and septic systems:~~

~~(1) New sanitary sewers are to be designed to minimize or eliminate flood damages, the infiltration of floodwaters into the systems, and discharges from the systems into floodwaters.~~

~~(2) New and replacement septic systems are prohibited. Any on site systems (septic systems) shall be in accordance with the provisions and pertinent regulations of Act 537, known as the Sewage Facilities Act.~~

~~E. Existing structures. The following provisions apply whenever any improvement is made to an existing structure located within any Floodway or Flood Fringe District:~~

~~(1) No expansion or enlargement of an existing structure shall be permitted within any floodplain area that would cause any increase in the base elevation.~~

~~(2) Any modification, alteration, reconstruction or improvement of any kind to an existing structure, to an extent or amount of 50% or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this article.~~

~~(3) Any modification, alteration, reconstruction or improvement to an existing structure, to an extent or amount of less than 50% of its market value but more than 25% its market value, shall be elevated and/or floodproofed to the greatest extent possible.~~

~~(4) Any modification, alteration, reconstruction or improvement of any kind that meets the definition of "repetitive loss" shall be undertaken only in full compliance with the provisions of this article.~~

~~F. Prohibited uses. Notwithstanding any of the provisions of this article, within any identified floodplain area no permit shall be issued nor shall any variance be granted for:~~

~~(1) 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:~~

~~(a) Hospitals;~~

~~(b) Nursing homes; or~~

~~(c) Jails or prisons.~~

~~(2) 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.~~

~~(3) Any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances; or which 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 will involve the production, storage or use of any amount of radioactive substances or any of the following dangerous materials or substances on the premises, including:~~

~~(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.~~

~~§595-145. Special exception permits in flood zoning districts.~~

~~Any use listed in this article as requiring a special exception permit may be established only upon application for a site plan review by the Planning Commission followed by application for a special exception permit from the Zoning Hearing Board.~~

~~A. Site plan review and requirements. Applications for special exception permits and site plan reviews involving development or use of land shall contain the following information submitted by the applicant:~~

- ~~(1) Plans drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures and the relationship of the above to the location of the channel and floodway and the base flood elevation and any other information deemed necessary for the health, safety and welfare of the community in accordance with the intent of this article.~~
- ~~(2) One copy of the information described in Subsection A (1) hereof for the Zoning Administrator or other designated person or agency from which the Board or the Planning Commission may request expert technical assistance in evaluating the~~

~~proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters. In the event that the Zoning Hearing Board or the Planning Commission may request information from the applicant which can be provided only through expert technical assistance, the applicant shall be responsible for the cost of the technical assistance.~~

- ~~(3) The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing methods prescribed are adequate to withstand the flood depths, pressure, velocities, impact and uplift forces and other factors associated with the base flood.~~
- ~~(4) Much of the following additional information as if deemed necessary by the Board or the Planning Commission for the evaluation of the effects of the proposed use upon flood flows and other factors necessary to render a decision on the suitability of the proposed use.
 - ~~(a) A typical cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.~~
 - ~~(b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types and other pertinent information.~~
 - ~~(c) Profile showing the slope of the bottom of the channel or the flow line of the stream.~~
 - ~~(d) Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.~~
 - ~~(e) An impact assessment and mitigation report in accordance with Article XXXIV.~~~~

~~B. Decision of Planning Commission and Zoning Hearing Board. In passing upon such applications, in addition to criteria set out in other applicable sections of this chapter and other related ordinances and regulations, the Planning Commission and the Zoning Hearing Board shall consider:~~

- ~~(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 onto 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 facility and its contents to flood damage and the effect of such damage on the individual owner.~~
- ~~(5) The importance of the services provided by the proposed facility to the community.~~
- ~~(6) The requirements of the facility 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 Comprehensive Plan and floodplain management program for the area.~~
- ~~(10) The safety of access to the property in times of flood for ordinary emergency — vehicles.~~
- ~~(11) The expected heights, velocity, duration, rate of rise and sediment transport of — the floodwaters expected at the site.~~
- ~~(12) The degree of mitigation proposed to affect or ameliorate adverse impacts.~~
- ~~(13) Such other factors which are relevant to the purposes of this article.~~

~~C. Conditions attached to special exception permits. Upon consideration of the factors listed above and the purposes of this article, the Zoning Hearing Board shall attach such conditions, including conditions recommended by the Easton Planning Commission, to the granting of a special exception permit as deemed necessary to further the purposes of this article. Among such conditions, without limitation because of specific enumeration, the following may be included:~~

- ~~(1) Modification of waste disposal and water supply facilities.~~
- ~~(2) Limitations on periods of use and operation.~~
- ~~(3) Imposition of operational controls, sureties and deed restrictions.~~

- ~~(4) Requirements for construction of channel modifications, dikes or levees or other protective measures.~~
- ~~(5) Floodproofing measures, such as the following, shall be designed to the level which is a minimum of 1.5 feet above the base flood elevation for the particular area.
 - ~~(a) Anchorage to resist flotation and lateral movement.~~
 - ~~(b) Installation of watertight doors, bulkheads and shutters.~~
 - ~~(c) Reinforcement of walls to resist water pressures.~~
 - ~~(d) Use of paints, membranes or mortars to reduce seepage of water through walls.~~
 - ~~(e) Addition of mass or weight to structures to resist flotation.~~
 - ~~(f) Installation of pumps to lower water levels in structures.~~
 - ~~(g) Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters.~~
 - ~~(h) Pumping facilities for subsurface external foundation wall and basement floor pressures.~~
 - ~~(i) Construction to resist rupture or collapse caused by water pressure or floating debris.~~
 - ~~(j) Cutoff valves on sewer lines or the elimination of gravity flow basement drains.~~
 - ~~(k) Elevation of structures and uses to the base flood protection elevation.~~~~
- ~~(6) A modification to the size or number of buildings and other structures to reduce or lessen potential adverse impacts.~~

~~§595-146. Variances.~~

~~A. Conditions for granting.~~

- ~~(1) Variances shall not be issued within the Floodway District if the result is an increase in flood levels in the base flood discharge.~~
- ~~(2) No variance shall be granted for any use regulated by § 595-144F, Prohibited uses.~~

- ~~(3) Variances may be issued within the flood fringe areas by the Zoning Hearing Board upon:~~
- ~~(a) A showing of good and sufficient cause;~~
 - ~~(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant;~~
 - ~~(c) A determination that failure to grant the variance would neither result in increased flood heights, additional threats to public safety or extraordinary public expense, nor create nuisances, cause fraud on or victimize the public, or conflict with existing state or local laws or ordinances and regulations; and~~
 - ~~(d) A showing that there is no other viable alternative layout, location, configuration and size for the proposed structure, building or improvement at issue.~~
- ~~(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~
- ~~(5) The Zoning Hearing Board shall notify the applicant in writing over the signature of its Chairperson that:~~
- ~~(a) The issuance of a variance may result in increased premium rates for flood insurance; and~~
 - ~~(b) Construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in Subsection B hereof.~~
- ~~(6) The general conditions for granting of variances as are stated in § 595 252 of the Code of the City of Easton.~~

~~B. Recordkeeping. The Secretary of the Zoning Hearing Board shall:~~

- ~~(1) Maintain a record of all variance actions, including the justification for their issuance; and~~
- ~~(2) Communicate Board decisions to the Zoning Administrator.~~

Section 3: The City Council does hereby adopt regulating standards for the Flood Hazard (FH) Overlay District by reference and in the form of a single-purpose Ordinance as follows:

ARTICLE 1. STATUTORY AUTHORIZATION

- A. 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 City Council of the City of Easton, Pennsylvania does hereby order as follows.

ARTICLE 2. *General Provisions*

Section 2.1 Intent

- A. The intent of this Ordinance is to:
1. Protect areas of the floodplain necessary to contain floodwaters.
 2. Permit only those uses in the floodplain that are compatible with preserving natural conditions and stream flow.
 3. Promote the general health, welfare, and safety of the community.
 4. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
 5. Minimize public and private losses due to flood conditions in areas prone to flooding.
 6. Minimize danger to public health by protecting water supply and natural drainage.
 7. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
 8. Comply with federal and state floodplain management requirements.

Section 2.2 Applicability

- A. This Ordinance shall apply to lands within the jurisdiction of the City shown on the Flood Hazard (FH) Overlay District Map, which shall be considered to be an overlay of the Zoning Map. The Flood Hazard District shall be overlaid on and above the existing zoning districts of the City of Easton's Official Zoning Map. The provisions of the underlying districts shall take precedence regarding land use, shall remain in full force, and shall be made to be in compliance whenever there is new construction or improvements proposed within the identified floodplain areas of the City.
- B. The Flood Hazard (FH) Overlay District is defined and established as a district applicable to those areas of the City of Easton subject to inundation by the waters of

- C. 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 City's identified floodplain areas unless a Permit has first been obtained from the Floodplain Administrator.
- D. A Permit shall not be required for minor repairs to existing buildings or structures.

Section 2.3 Abrogation and Greater Restrictions

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

Section 2.4 Severability

- A. 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 2.5 Warning and Disclaimer of Liability

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

ARTICLE 3. DEFINITIONS

Section 3.1 Terms Defined

- A. When used in this Ordinance, the words, terms and phrases in Section 3.2 shall have the following meanings, unless expressly stated otherwise or unless the context clearly indicates otherwise.

Section 3.2 Specific Definitions

Accessory Use or Structure - A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

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

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

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

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.

Conditional Letter of Map Revision (CLOMR) – A letter outlining FEMA comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFE's), or the floodplain. Such letter does not revise an NFIP map.

Correctional Facility - A facility for the detention, confinement, treatment or rehabilitation of persons arrested or convicted for the violation of civil or criminal law. Such facilities include an adult detention center, juvenile delinquency center, work-release center, jail, and prison.

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 molding, 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 – Any structure or facility that is 1) identified in the current Lehigh Valley Hazard Mitigation Plan as a “critical facility”; 2) that produces, uses, or stores highly volatile, flammable, explosive, toxic and/or water-reactive materials; 3) hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood; 4) police stations, fire stations, vehicle equipment storage facilities and emergency operations centers that are needed for flood

response activities before, during, and after a flood; 5) public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

Development - Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair (excluding minor 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 excepting lot line adjustments or lot consolidation where no new improvements are proposed.

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 this Ordinance.

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).

FEMA – The Federal Emergency Management Agency.

Fill – Man-made deposits of natural soil or rock product.

Flood - A temporary inundation of normally dry land areas.

Flood Insurance Rate Map (FIRM) - The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) - The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

Floodplain Administrator – The municipal official responsible for implementing and enforcing this Ordinance and monitoring floodplain development in the City of Easton.

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.

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

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

Freeboard – A factor of safety usually expressed in feet above a flood level for purposes of floodplain management.

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

Historic Resource – Sites, areas, structures and districts which are valued due to their significance as examples and/or locations of events, customs, skills, and/or arts of the past as designated by the state, county and/or City. This definition includes any structure that is a) listed individually in the National Register of Historic Places.

Letter of Map Amendment – The official amendment, by letter, to an effective National Flood Insurance Program (NFIP) by FEMA.

Letter of Map Revision – The official revision, by letter, to an effective National Flood Insurance Program (NFIP) by FEMA.

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

Manufactured Home - A structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, construction trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

Manufactured Home Park or Subdivision – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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, mechanical or other work affecting public health or general safety.

National Flood Insurance Program (NIFP) – A Federal program created by Congress in 1968 to mitigate future flood losses through sound, community-enforced building and zoning Ordinances and to provide access to affordable, federally backed flood insurance protection for property owners.

New Construction - Structures for which the start of construction commenced on or after the effective date of this Ordinance.

New Manufactured Home Park or Subdivision – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this Ordinance.

One Hundred-Year Flood – A flood that has a 1% chance of being equaled or exceeded in any given year.

PA DCED – The Pennsylvania Department of Economic Development.

PA DEP - The Pennsylvania Department of Environmental Protection.

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

Person - An individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

Post-FIRM Structure - A structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the community's initial Flood Insurance

Rate Map (FIRM) dated February 9, 1973, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

Pre-FIRM Structure - A structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map (FIRM) dated February 9, 1973, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

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

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.

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

Repetitive Loss Structure – Flood related damages sustained by a structure on two or more 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% of the market value of the structure before the damages occurred.

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 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.

Special Exception Permit - A special approval that is considered by the City Zoning Hearing Board and is required for certain types of development located in all, or a designated portion of a floodplain.

Special Flood Hazard Area (SFHA) - An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.

Start of Construction - 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 after the date of the Permit and shall be completed

within twelve (12) months after the date of issuance of the Permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

Substantial Damage - Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceeds fifty (50) percent or more of the market value of the structure before the damage occurred.

Substantially Damaged Structure - A structure that has sustained damage from any cause whereby the cost of reconstruction necessary to restore the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial Improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Violation - The failure of a structure or other development to be fully compliant with the community's floodplain 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.

Warehouse – A structure used primarily for the storage and distribution of goods, merchandise, supplies, and equipment.

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. Man-made swales, constructed specifically for stormwater management purposes, are excluded from this definition.

ARTICLE 4. IDENTIFICATION OF FLOODPLAIN AREAS

Section 4.1 Identification

- A. The identified flood hazard area shall be any areas of the City of Easton, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated July 16, 2014 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study and any community identified flood hazard areas. The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by the City of Easton and declared to be a part of this Ordinance.
- B. The identified flood hazard area shall consist of the following specific areas:
 1. The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
 2. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided. The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
 3. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified flood hazard area which is nearest the construction site.

4. The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.
 5. Community Identified Flood Hazard Areas shall be those areas where the City of Easton has identified local flood hazard or ponding areas, as delineated and adopted on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high water marks, soils or approximate study methodologies.
- C. Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Floodplain Administrator and any party aggrieved by this decision or determination may appeal to the Zoning Hearing Board. The burden of proof shall be on the appellant.

Section 4.2 Changes in Identification of Area

- A. The flood hazard area may be revised or modified by the City of Easton 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 FEMA.

ARTICLE 5. GENERAL TECHNICAL PROVISIONS

- A. A Permit shall be required before any construction or development is undertaken within any flood hazard area of the City of Easton.
- B. 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 City of Easton, and until all required permits or approvals have first been obtained from the Pennsylvania Department of Environmental Protection Regional Office. In addition, FEMA and the Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.
- C. Any new construction, development, uses or activities allowed within any identified flood hazard area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, Ordinances and regulations.

- D. Under no circumstances shall any new construction, use, 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.
- E. All subdivision and land development proposals containing at least fifty (50) lots or a minimum of five (5) acres in the Flood Hazard District where base flood elevation data is not available shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision (CLOMR) or Letter of Map Revision (LOMR).
- F. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

ARTICLE 6. FLOOD HAZARD DISTRICT USE

Section 6.1 Uses Permitted by Right

- A. The following uses and activities are permitted in the Flood Hazard District for areas within the AE Area/District or A Area/District:
 - 1. All uses permitted in the underlying zoning district including accessory uses thereto with the exception of those uses expressly prohibited in Section 6.2, Prohibited Uses.
 - 2. Agriculture, horticulture, and forestry that do not include any structures, do not require grading which would cause any increase in flood heights or frequency, and are conducted in accord with recognized soil conservation and water quality practices.
 - 3. 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.
 - 4. The repair or expansion of riparian buffers.
 - 5. Floodproofing to protect only lawfully existing non-conforming structures and lawfully existing non-conforming uses within structures.
 - 6. Fences and temporary protective fencing that do not impede floodwaters.

7. Municipal water and waste-water treatment facilities.

Section 6.2 Prohibited Uses

- A. The following uses and activities are prohibited within the Flood Hazard District:
1. All uses prohibited in the underlying zoning district.
 2. New construction, development or redevelopment in the Floodway area except as otherwise permitted by this Ordinance.
 3. New residential, commercial and industrial structures, with the exception of those specifically allowed by the underlying zoning, special exception regulations, and Section 6.1 above.
 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. Storage of material or equipment that, in time of flooding, could become buoyant and pose an obstruction to flow in identified floodway areas.
 7. The production, storage or use of explosives.

8. The storage or disposal of materials used for snow and ice control including sand, salt and other deicing chemicals.
9. Sanitary landfills, dumps, junk and salvage yards, and outdoor storage of vehicles and/or materials.
10. The storage or disposal of any soil, loam, peat, sand, gravel, rock, or other mineral substance, refuse, trash, rubbish, debris, or dredged/excavated spoil.
11. 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.
12. Manure storage facilities and manure stockpiles.
13. Expansion to existing manufactured home parks and subdivisions.
14. Sewage disposal facilities.
15. New development and expansion of critical facilities and correctional facilities.
16. Fill, other than that required to meet the requirements of permissible activities.

Section 6.3 Special Exception Uses

- A. The following uses and activities may be allowed in the Flood Hazard District subject to the review and approval of a Special Exception permit authorized by the City of Easton Zoning Hearing Board. While the following represents possible land uses subject to special exception approval, it is possible that the underlying zoning district will not permit these uses either by right or by special exception approval. Additional approvals would therefore be required.
 1. Marina, boat rental, dock, pier or wharf, and waterside restaurants.
 2. Flood control structures including dams, culverts, bridges, and altered or relocated watercourses with permits and/or approvals from the PA DEP, PA Public Utility Commission, and/or US Army Corps of Engineers. Notifications of such actions shall be provided to all affected adjoining municipalities, FEMA and the PA 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.
 3. Public utility facilities under the exclusive jurisdiction of the Pennsylvania Public Utility Commission.

5. Educational classroom facilities and dormitories.
 6. Substantial improvements to existing historic resources.
- B. No application for a Special Exception Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
1. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
 - a. The structure will survive inundation by waters of the base flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE.
 - b. The lowest floor (including basement) will be elevated to at least one and one half (1 ½) feet above base flood elevation.
 - c. The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood.
 2. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.
- C. 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 City of Easton, the Department of Planning and Codes, and the City Engineer or authorized third party Engineer.

Section 6.4 Special Exception Application Requirements

- A. Applicants for Special Exception Permits within the Flood Hazard Overlay District shall provide five copies of the following items:
1. A written request.
 2. A small scale map showing the vicinity in which the proposed site is located.
 3. 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. Topography based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at intervals of two (2) feet.

- c. All property and lot lines including dimensions, and the size of the site expressed in acres or square feet.
 - d. The location of all existing streets, drives, other access ways, and parking areas, with information concerning widths, pavement types and construction, and elevations.
 - e. The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development.
 - f. The location of the floodplain boundary line, information and spot elevations concerning the base flood elevation, and information concerning the flow of water including direction and velocities.
 - g. The location of all proposed buildings, structures, utilities, and any other improvements.
 - h. Any other information which the municipality considers necessary for adequate review of the application.
4. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:
- a. Sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate.
 - b. For any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor.
 - c. Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood.
 - d. Detailed information concerning any proposed floodproofing measures.
 - e. Cross section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths.
 - f. Profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades.
 - g. Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.
5. Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents.

6. Certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the base flood.
 7. A statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a base flood, including a statement concerning the effects such pollution may have on human life.
 8. A statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on base flood elevation and flows.
 9. A statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the base flood elevation and the effects such materials and debris may have on base flood elevation and flows.
 10. The appropriate component of the PA DEP "Planning Module for Land Development".
 11. Where any excavation or grading is proposed, a plan meeting the requirements of the PA DEP to implement and maintain erosion and sedimentation control.
 12. Any other applicable permits such as, but not limited to, a permit for any activity regulated by the PA DEP under Section 302 of Act 1978-166.
 13. An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.
- B. For applicants proposing Subdivision or Land Development, the requirements of Section 520, Subdivision and Land Development, shall apply in addition to the provisions of this Section.

Section 6.5 Application Review Procedures

- A. Upon receipt of an application for a Special Exception Permit by the City of Easton the following procedures shall apply:
 1. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the City of Easton Engineer for review and comment.
 2. If an application is received that is incomplete, the Floodplain Administrator shall notify the applicant in writing, stating in what respect the application is deficient.
 3. A completed application will be forwarded to the Easton Planning Commission

4. If the Zoning Hearing Board decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.

Section 6.6 Non-Conforming Structures and Uses

A. 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 following provisions shall apply:

1. No improvement, expansion, enlargement or reconstruction of an existing structure shall be allowed within any Floodway Area/District.
2. No improvement of an existing structure shall be allowed within any AE Area/District or A Area/District that would, together with all other existing and anticipated development, increase the base flood elevation more than one (1) foot at any point.
3. The 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. Improvements shall be undertaken only in full compliance with the floodproofing and/or elevation requirements prescribed by this Ordinance.
4. Any improvement to an existing structure, to an extent ten (10) percent or more of its market value, shall be undertaken only in full compliance with the floodproofing and/or elevation requirements prescribed by this Ordinance. Floodproofing and elevation requirements shall apply only to the new construction.
5. Any improvement to a partially or substantially damaged structure shall be undertaken only in full compliance with the floodproofing and/or elevation requirements prescribed by this Ordinance.
6. Any 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 improvements shall be in full compliance with the floodproofing and/or elevation requirements prescribed by this Ordinance.
7. Any improvement to a severe repetitive loss structure to an extent five (5) percent or more of its market value of the intact structure shall be prohibited. Any permitted improvements shall be in full compliance with the floodproofing and/or elevation requirements prescribed by this Ordinance.
8. The reconstruction of a severe repetitive loss structure shall be in full compliance with this Ordinance and shall require documentation indicating the City of Easton,

the state of Pennsylvania, and FEMA will not acquire the property for the purposes of flood mitigation prior to the reconstruction of the structure.

9. Historic resources 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 resource. 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 in the form of a Special Exception and shall be the minimum necessary to preserve the historic character and design of the structure.
10. The following shall apply for the purposes of determining market value:
 - a. 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.
 - b. Acceptable estimates of market value shall be determined from either independent appraisals by a state licensed real estate appraiser or the value of the building taken from NFIP claims data.
 - c. Acceptable estimates of cost of improvement shall be determined from either itemized estimates made by contractors licensed to work in the City of Easton or building code valuation tables.
 - d. Improvements shall be cumulative, since the adoption of this Ordinance, for the purpose of determining the market value percentage.

ARTICLE 7. VARIANCES

Section 7.1 General

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

Section 7.2 Variance Procedures and Conditions

- A. No variance shall be granted for any construction, development, use, or activity within any Floodway Area/District that would cause any increase in the BFE.
- B. No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.

- C. No variance shall be granted for any specifically prohibited uses and structures.
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare of the residents of the municipality.
- F. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that the granting of the variance may result in increased premium rates for flood insurance and that such variances may increase the risks to life and property.
- G. In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, that there is good and sufficient cause, including:
 - 1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning Ordinance in the neighborhood or district in which the property is located.
 - 2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - 3. That such unnecessary hardship has not been created by the appellant.
 - 4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
 - 5. That failure to grant the variance would result in exceptional hardship to the applicant.
 - 6. That the granting of the variance will neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense, nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local Ordinances and regulations.
 - 7. A complete record of all variance requests and related actions shall be maintained by the City of Easton. In addition, a report of all variances granted during the year shall be included in the required report to FEMA.

ARTICLE 8. TECHNICAL PROVISIONS FOR PERMITTED, SPECIAL EXCEPTION, AND VARIANCE APPROVALS

The following sub-sections are applicable in all flood hazard specific areas unless otherwise provided for:

Section 8.1 Alteration or Relocation of Watercourses

- A. Alteration or relocation of a watercourse includes, but is not limited to, the installation of culverts and bridges.
- B. No encroachment, alteration, relocation or improvement of any kind shall be made to any watercourse until FEMA, PA DCED and 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.
- C. 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.
- D. The municipality shall require technical and/or scientific data to be submitted to FEMA for a Letter of Map Revision (LOMR) within six (6) months of the completion of any new construction, development, or other activity resulting in changes in the BFE. A LOMR or Conditional Letter of Map Revision (CLOMR) is required for:
 - 1. Any development that causes a rise in the base flood elevations within the floodway; or
 - 2. 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
 - 3. Any 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):
 - a. Apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
 - b. 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.

- c. 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.

Section 8.2 Residential and Non-Residential Structures

A. Residential Structures

1. In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated at or above, the regulatory flood elevation.
2. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated at or above, the regulatory flood elevation determined in accordance with Section 4.1 B.3. of this Ordinance.
3. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
4. The design and construction standards and specifications contained in the City of Easton Building Code shall be used.

B. Non-residential Structures

1. Any new non-residential 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 is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and, has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
2. Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (May 2000, as amended) 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.
3. The design and construction standards and specifications contained in the City of

Section 8.3 Space Below the Lowest Floor

- A. 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.
- B. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - 1. 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.
 - 2. The bottom of all openings shall be no higher than one (1) foot above grade.
 - 3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Section 8.4 Accessory structures

- A. 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 floor area shall not exceed 144 square feet.
 - 3. The structure will have a low damage potential.
 - 4. The structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
 - 5. Power lines, wiring, and outlets 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.
- B. The structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for

meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

1. 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.
2. The bottom of all openings shall be no higher than one (1) foot above grade.
3. 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 8.5 Manufactured Homes

- A. Where permitted within the Flood Hazard Area, all manufactured homes, and any improvements thereto, shall be:
 1. Placed on a permanent foundation.
 2. Elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above base flood elevation.
 3. Anchored to resist flotation, collapse, or lateral movement.
 4. Have all ductwork and utilities including HVAC/heat pump elevated to the Regulatory Flood Elevation.
- B. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions. Where the applicant cannot provide the above information, the more restrictive requirements of the City of Easton Building Code or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, September 1996 Edition as amended, shall apply.
- C. Consideration shall be given to the installation requirements of the City of Easton Building Code or the most recent revisions thereto where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed installation.

Section 8.6 Recreational Vehicles

- A. Recreational vehicles must either be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use or, in the alternative, meet the permit requirements for manufactured homes in Section 8.5.

Section 8.7 Fill

A. If fill is used, it shall:

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

2. Consist of soil or small rock materials only.
3. Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling.
4. Be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by, the Floodplain Administrator.
5. Be used to the extent to which it does not adversely affect adjacent properties.

Section 8.8 Drainage Facilities

- A. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

Section 8.9 Water and Sanitary Sewer Facilities and Systems

- A. 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.
- B. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
- C. No part of any on-site waste disposal 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.
- D. The design and construction provisions of the City of Easton Building Code and FEMA #P-348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code shall be utilized.

Section 8.10 Other Utilities

- A. 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.

Section 8.11 Streets

- A. The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

Section 8.12 Storage

- A. All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed as a prohibited use in Section 6.2, shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.

Section 8.13 Placement and Composition of Buildings and Structures

- A. 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.
- B. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
- C. 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.
- D. 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.
- E. Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
- F. 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.
- G. Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other "water-resistant" material.
- H. Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" quality.
- I. Adhesives used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
- J. All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.
- K. Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
- L. Separate electrical circuits shall serve lower levels and shall be dropped from above.
- M. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory

- N. 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.

ARTICLE 9. ADMINISTRATION

Section 9.1 Designation of the Floodplain Administrator

- A. The Zoning Administrator 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.
- B. In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Director of Planning and Codes.

Section 9.2 Duties and Responsibilities of the Floodplain Administrator

- A. The Floodplain Administrator shall use ‘Best Available Technology’ including relevant FIRM profiles and topographic maps, to determine flood district boundaries. Any such determination is appealable pursuant to Section 9.8.
- B. 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.
- C. 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.
- D. In the case of existing structures, prior to the issuance of any 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.

- E. During the construction period, the Floodplain Administrator or other authorized party 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.
- F. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.
- G. In the event the Floodplain Administrator discovers that the work does not comply with the 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 Zoning Hearing Board for whatever action it considers necessary.
- H. The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of this ordinance including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
- I. The Floodplain Administrator shall consider the requirements of the City of Easton Building Code and latest revisions thereto.

Section 9.3 Application Procedures and Requirements

- A. Application for Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the City of Easton. 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 Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to

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 located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
1. A completed Permit Application Form.
 2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - a. North arrow, scale, and date.
 - b. Topographic contour lines, if available.
 - c. The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development.
 - d. The location of all existing streets, 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.
 - f. The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988.
 - g. The elevation of the base flood.

- h. Supplemental information as may be necessary by the City of Easton Building Code.
 - i. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood and detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - j. Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point.
 - k. 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.
3. Applications for Permits shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator and City of Easton Fee Schedule.

Section 9.4 Changes

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

Section 9.5 Placards

- A. In addition to the Permit, 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 Permit, the date of its issuance, and be signed by the Floodplain Administrator.

Section 9.6 Start of Construction

- A. 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.

- B. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- C. Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original permit is compliant with the ordinance & FIRM/FIS in effect at the time the extension is granted.

Section 9.7 Enforcement

- A. 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 Pennsylvania.
 - 5. Contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this Ordinance.

- B. 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 or agent of the municipality shall pay a fine to the City of Easton 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

