

**NEW BRITAIN TOWNSHIP
ORDINANCE NO. 2015-01-01**

AN ORDINANCE OF THE TOWNSHIP OF NEW BRITAIN, BUCKS COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF CHAPTER 27, ZONING, OF THE NEW BRITAIN TOWNSHIP CODE BY ADOPTING NEW FLOODPLAIN REGULATIONS THAT REQUIRE ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A ZONING AND/OR BUILDING PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT IN THE FLOODPLAIN; PROVIDING FOR THE ISSUANCE OF SUCH PERMITS; AND SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE TOWNSHIP WHICH ARE SUBJECT TO FLOODING.

WHEREAS, the Federal Emergency Management Agency (“FEMA”) has created new Flood Insurance Rate Maps (“FIRM”) for New Britain Township; and

WHEREAS, FEMA and Pennsylvania Department of Community and Economic Development is requiring municipalities to adopt revised adopt floodplain management regulations in conjunction with the adoption of the new FIRMs; and

WHEREAS, 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; and

NOW THEREFORE, be it, and it is hereby ENACTED and ORDAINED by the Board of Supervisors of the Township of New Britain, Bucks County, Commonwealth of Pennsylvania, as follows:

ARTICLE I. Definitions

Part 2 of Chapter 27, Zoning, of the New Britain Township Code is hereby amended by revising the following definition:

FLOODPLAIN SOILS – Soil areas subject to “flooding” as listed in the last updated Websoil Survey operated by the USDA Natural Resources Conservation Services. Floodplain soils shall include, but may not be limited to, the following soil types: Bowmansville-Knauers Silt Loam (Bo), Buckingham Silt Loam (BwB), and Rowland Silt Loam (Ro). A landowner may submit detailed soil profiles and a report to the Township for the purpose of determining an alluvial soil classification which the Township may or may not accept as the correct boundary of the floodplain soils.

ARTICLE II. Floodplain Overlay District Regulations

Part 19 of Chapter 27, Zoning, of the New Britain Township Code is hereby amended and replaced by the following:

§27-1900. Creation, Purpose, Applicability, and Permits.

- a. **Creation.** This Part 19 of the New Britain Zoning Ordinance hereby establishes and creates the Floodplain Overlay District. This District covers any and all land in the Township which is or is found to be located within the special flood hazard area, as well as additional areas more fully described below.
- b. **Purpose.** The purposes of the Floodplain Overlay District are to promote the general health, safety and welfare of the Township, to regulate development within floodplain area and to comply with the regulations of the Federal Emergency Management Administration (FEMA).
- c. **Applicability.** No improvements other than those permitted herein shall hereafter be permitted to that area designated as the Floodplain Overlay District as defined in this Part.
- d. **Permits.**
 1. It shall be unlawful for any person, partnership, business, or corporation to undertake or cause to be undertaken, any activities, construction, or development within any floodplain area of New Britain Township unless a zoning and/or building permit has been obtained from the Floodplain Administrator.
 2. A zoning permit shall not be required for "minor repairs" to existing buildings or structures.

§27-1901. Abrogation and Greater Restrictions.

This Part supersedes any conflicting ordinance provisions which may be in effect in the Floodplain Overlay District; however, these conflicting provisions shall remain in full force and effect to the extent that they are more restrictive. If there is any conflict between a provision of this Part and another provision of this Chapter, the more restrictive shall apply.

§27-1902. Definitions.

These definitions only apply to provisions contained in this Part. Where these definitions conflict with other definitions in this Chapter, these definitions shall control, but only in relation to provisions contained in this Part.

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.

DCED - the Pennsylvania Department of Community and Economic Development.

DEP - the Pennsylvania Department of Environmental Protection.

DEVELOPMENT - any manmade change to improved or unimproved real estate including, but not limited to, the construction, reconstruction, renovation, repair, expansion or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; utilities; mining, dredging, filling, grading, excavation or drilling operations; storage of equipment or materials; and the subdivision of land.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before March 16, 2015.

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.

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 FEMA 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 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. See §27-1904.

FLOODPROOFING — any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, utilities, 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. See §27-1904.

IDENTIFIED FLOODPLAIN AREA — the floodplain area specifically identified in this Part as being inundated by the base flood. Includes areas identified as Floodway (FW), Zone AE, and Zone A. See §27-1904.

INTERNATIONAL BUILDING CODE (IBC) – a model building code developed and published by the International Code Council. Where referenced by this Part, it means the latest edition, version, or revision of this Code.

INTERNATIONAL RESIDENTIAL CODE (IRC) - a model building code developed and published by the International Code Council specifically for residences. Where referenced by this Part, it means the latest edition, version, or revision of this Code.

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 Part.

MANUFACTURED HOME - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational vehicles, 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.

MINOR REPAIR — the replacement of existing work with equivalent materials for the purpose of routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support or the removal or change of any required means of egress or rearrangement of

parts of a structure affecting the exit way requirements, nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electrical wiring or mechanical or other work affecting public health or general safety.

NEW CONSTRUCTION - structures for which the start of construction commenced on or after March 16, 2015 and includes any subsequent improvements to such structures. Any construction started after August 14, 1995 and before March 16, 2015 is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

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 March 16, 2015.

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.

REGULATORY FLOOD ELEVATION - equal to 1.5 feet above the base flood elevation.

SPECIAL FLOOD HAZARD AREA (SFHA) - means an area in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or AH.

START OF CONSTRUCTION - includes substantial improvement and other proposed new development and means the date the zoning 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 manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

SUBSTANTIAL IMPROVEMENT — any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of a structure either:

- a. Before the start of construction of the improvement; or
- b. Before the structure has been substantially damaged.

Substantial improvement does not include either of the following:

- c. Any project for improvement for a structure to comply with any State or local health sanitary or safety code specifications which are solely necessary to assure safe living conditions.
- d. Any alteration of a structure listed on the National Register of Historic Places or a State inventory of historic places.

UNIFORM CONSTRUCTION CODE (UCC) — the statewide building code adopted by the Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party, or the Department of Labor and Industry. Applicable to residential and commercial buildings, the UCC adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC. The UCC is promulgated under Title 34 of the Pennsylvania Code, Chapters 401, 403 and 405, in accordance with the Pennsylvania Construction Code Act (35 P.S. §7210.101 *et seq.*)

VIOLATION - means the failure of a structure or other development to be fully compliant with this Part. 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.

§27-1903. Floodplain Overlay District Boundaries.

- a. The Floodplain Overlay District shall consist of the following areas:

1. The identified floodplain area, which includes any area of New Britain Township classified as floodway or special flood hazard areas in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated March 15, 2015, as amended, and issued by FEMA or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.
2. Areas subject to periodic flooding and as last updated in the Websoil Survey operated by the USDA Natural Resources Conservation Services, as being "subject to flooding", including, but not limited to the following floodplain soil types: Bowmansville-Knauers Silt Loam (Bo); Buckingham Silt Loam (BwB); Reaville (Rl); and Rowland Silt Loam (Ro).

The greater or stricter of the above shall be used to delineate the extent of Floodplain Overlay District.

- b. The identified floodplain area shall consist of the following specific areas:
 1. Floodway Area (FW). The areas identified as "floodway" in the most current Flood Insurance Study (FIS) prepared by FEMA. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the FIS. For the purposes of this Part, the floodway is based upon the criteria that a certain area within the floodplain would be capable of carrying the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
 2. The AE Area adjacent to the floodway shall be those areas identified as Zone AE 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.
 - (a) The A Area shall be those areas identified as Zone A 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 floodplain area which is nearest the construction site.
 - (b) In lieu of the above, the Township may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall

certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township.

- c. The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by New Britain Township and declared to be a part of this Chapter.
- d. Should there be any difference or variances between the boundaries of the various areas in the Floodplain Overlay District, the more strict shall apply, but in all cases the FIS delineated boundary shall be met.
- e. Hereafter, any changes in the area designated as floodplain shall be subject to the review and approval of the Federal Insurance Administrator.
- f. Changes in Floodplain Overlay District Delineations.
 - 1. The areas considered to be floodplain may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need or possibility for such revision.
 - 2. No modification or revision of any floodplain area identified in the Flood Insurance Study shall be made without prior approval from the FEMA.
 - 3. As soon as practicable, but not later than six (6) months after the date such information becomes available, the Township shall notify FEMA of the changes to the special flood hazard area by submitting technical or scientific data.
- g. Disputes. Should a dispute arise concerning the identification of any floodplain area, an initial determination shall be made by the Township Engineer, and any party aggrieved by such decision may appeal to the Board of Supervisors. In such an appeal, the burden of proof shall be on the appellant.

§27-1904. Requirements of the Floodplain Overlay District.

- a. Prohibitions within the Floodplain Overlay District:
 - 1. Within any FW (Floodway Area), any encroachment which would cause any increase in the base flood level shall be prohibited unless hydrologic and hydraulic analyses prove that the proposed encroachment would not increase flood levels during the base flood discharge.
 - 2. Within any portion of the Floodplain Overlay District not within the floodway, any new construction or development which would cause any increase in flood heights shall be prohibited.

- b. Increase in Flood Levels Prohibited. In no event shall, within the Floodplain Overlay District, any fill, new construction, substantial improvements, or other development increase the flood levels during a base flood.
- c. Additional Governmental Approvals Required. The Township shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, such as the U.S. Clean Water Act (§404, 33, U.S.C. 1344); the Pennsylvania Clean Streams Act (1937-394, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); and the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended).
- d. DEP Approval. No new construction or development shall be allowed within the identified floodplain area unless a permit is obtained from DEP.
- e. General Technical Requirements.
 - 1. Premises in the Floodplain Overlay District may be used for the purposes specified for the particular zoning district in which they are located, subject to all pertinent regulations of this Chapter and to the additional restrictions of this Section.
 - 2. Any new construction, development, uses or activities allowed within the Floodplain Overlay District shall be undertaken in strict compliance with the provisions contained in this Part and any other applicable statutes, ordinances, codes, rules, and regulations.
- f. Elevation and Floodproofing Requirements within the Floodplain Overlay District.
 - 1. Residential Structures.
 - (a) The bottom of the lowest floor of any new residential structure, or of any substantial improvement to an existing residential structure, shall be up to or above the regulatory flood elevation.
 - (b) The most restrictive applicable design and construction standards and specifications contained in the IBC, the IRC, American Society of Civil Engineers (ASCE) 24, or the UCC shall be utilized.
 - 2. Nonresidential Structures.
 - (a) Any new construction or substantial improvement of a non-residential structure shall have the bottom of the lowest floor elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:

- 1) is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
 - 2) has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (b) In A Zones, where no base flood elevations are specified on the FIRM, any new construction or substantial improvement shall have the bottom of the lowest floor elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with this Part.
- (c) Any non-residential structure or part thereof, having the bottom of a lowest floor which is not elevated to at least 1.5 feet above the base flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972 as amended March 1992), or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above-referenced standards.
- (d) The most restrictive applicable design and construction standards and specifications contained in the IBC, the IRC, American Society of Civil Engineers (ASCE) 24, or the UCC shall be utilized.
3. Enclosed spaces below the lowest floor are permitted only if the following requirements are met:
- (a) Fully enclosed space below the lowest floor 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.
4. **Historic Structures.** Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this Part, must comply with all requirements of this Part that do not preclude the structure's continued designation as a historic structure. Documentation that a specific 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 a requirement of this Part will be the minimum necessary to preserve the historic character and design of the structure.
5. **Accessory Structures.** Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:
 - (a) the structure shall not be designed or used for human or animal 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.
 - (b) the floor area shall not exceed 200 square feet.
 - (c) the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
 - (d) power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
 - (e) permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
 - (f) sanitary facilities are prohibited.
 - (g) 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.
- g. **Structural Anchoring.** Any structure placed in the Floodplain Overlay District shall be anchored firmly to prevent flotation, collapse, or lateral movement. The Floodplain Administrator shall require the applicant to submit the written opinion of a registered professional engineer that the proposed structural design meets the requirements of this Part for all buildings and manufactured homes and may require such an opinion for all other structures. 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.
- h. **Activities Requiring a Special Permit.**
1. **Activities Regulated.** In accordance with the Pennsylvania Floodplain Management Act (Act 1978-166) and regulations adopted by DCED pursuant to this Act, the following obstructions and activities located partially or entirely within the Floodplain Overlay District are prohibited unless a special permit has been issued in conformance with the provisions of this Part:
 - (a) The construction, enlargement or expansion of any structure used, or intended to be used, for hospitals, nursing homes, jails or prisons.
 - (b) The establishment of new manufactured home parks and manufactured home subdivisions.
 - (c) Any substantial improvements to manufactured home parks and manufactured home subdivisions.
 2. **Application Requirements.** Applicants for special permits shall provide five (5) copies of the following items:
 - (a) A written request including completed zoning and building permit application forms.
 - (b) A small-scale map showing the vicinity in which the proposed site is located.

- (c) An engineered plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
- 1) North arrow, scale and date.
 - 2) Topography based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at intervals of two feet.
 - 3) All property and lot lines including dimensions and the size of the site expressed in acres or square feet.
 - 4) The location of all existing streets, drives, other access ways and parking areas, with formation and concerning widths, pavement types and construction and elevations.
 - 5) The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development.
 - 6) The location of the floodplain boundary line, information and spot elevations concerning the base flood elevations and information concerning the flow of water including direction and velocities.
 - 7) The location of all proposed buildings, structures, utilities and any other improvements.
 - 8) Any other information which the Township considers necessary for the adequate review of the application.
- (d) Plans of all proposed buildings, structures, and other improvements, clearly and legibly drawn at suitable scale showing the following:
- 1) Sufficiently detailed architectural or engineering drawings including floor plans, sections, and exterior building elevations, as appropriate.
 - 2) For any proposed building, the elevation of the lowest floor and, as required, the elevation of any other floor.
 - 3) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood.

- 4) Detailed information concerning any proposed floodproofing measures.
 - 5) Cross-section drawings for all proposed streets, drives, other access ways and parking areas, showing all right-of-way and pavement widths.
 - 6) Profile drawings for all proposed streets, drives, and vehicular access ways including existing and proposed grades.
 - 7) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.
- (e) The following data and documentation:
- 1) Certification from the applicant that the site upon which the activity or development proposed is an existing separate and independent parcel owned by the applicant.
 - 2) Certification from a registered professional engineer that the proposed construction has been adequately designed to protect against damage from the base flood.
 - 3) A statement certified by a registered professional engineer or other qualified person which contains a complete and accurate description of the nature and extent of pollution resulting from a base flood and any effect it may have on human life.
 - 4) A statement certified by a registered professional engineer which contains a complete and accurate description of the effects the proposed development will have on base flood elevations and flows.
 - 5) The appropriate component of DEP's "Planning Module for Land Development" fully completed.
 - 6) Where any excavation or grading is proposed, a plan meeting the requirements of DEP to implement and maintain erosion and sedimentation control.
 - 7) Any other applicable permits such as, but not limited to, a permit for any activity regulated by DEP under §302 of Act 1978-166.

- 8) 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.
3. Application Review Procedures. Upon receipt of an application for a special permit by the Township, the following procedures shall apply in addition to all other applicable permit procedures which are already established:
 - (a) In conjunction with submitting the application to the Township, the applicant shall forward a complete copy of the application and all accompanying documentation to the Bucks County Planning Commission by registered or certified mail for its review and recommendations. Proof of such mailing shall be provided to the Township. The Township shall forward copies of the application to the Township Planning Commission and Township Engineer for review and comment.
 - (b) If an incomplete application is received, the Township shall notify the applicant, in writing, stating in what respects the application is deficient.
 - (c) If the Township decides to deny an application, it shall notify the applicant, in writing, of the reasons for the denial.
 - (d) If the Township grants an application, it shall file written notification, together with the application and all pertinent information, with DCED, by registered or certified mail within five working days after the date of approval. The Department shall have 30 days after receipt of such notification to review the application and the Township's granting thereof.
 - (e) The Township shall not grant the special permit until the 30 day review period has run. If the Township does not receive any communication from the DCED during the review period, it may issue a special permit to the applicant.
 - (f) If the DCED should decide to deny an application, it shall notify the Township and the applicant, in writing, of the reasons for the denial, and the Township shall not issue the special permit.
 4. Technical Requirements for Development Requiring a Special Permit. In addition to any other applicable requirements, the following provisions shall also apply to any structures or activities requiring a special permit. If there is any conflict between any of the following requirements and any otherwise applicable provisions, the more restrictive provision shall apply.
 - (a) No application for a special 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 fully protect the health and safety of the general public and any occupants of the structure.

- (b) At a minimum, all new structures shall be designed, located, and constructed so that:
 - 1) 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 equipment or contents below the BFE.
 - 2) The elevation of the bottom of the lowest floor is at least 1.5 feet above the BFE.
 - 3) 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.
- (c) The activity shall be conducted and the structure constructed and located so as to minimize any significant possibility of pollution, increased flood levels, increased flood flows, and the transportation of debris that could endanger life and property.
- (d) All hydrologic and hydraulic analysis shall be undertaken only by engineers licensed in Pennsylvania or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township and DCED.

5. Variance. Except for a possible vertical modification of the freeboard requirement involved, no variance shall be granted for any of the other requirements of this Subsection concerning the granting of a special permit.

i. Development Which May Endanger Human Life.

- 1. Concurrent Application of all Sections. The provisions of this Subsection shall be applicable, in addition to any other applicable provisions of this Part or any other statute, ordinance, code, rule, or regulation.
- 2. Uses and Structures Subject to this Section. In accordance with the Pennsylvania Floodplain Management Act, and the regulations adopted by DCED as required by the Act, uses and structures subject to this Subsection shall include any new or substantially improved structure which:
 - (a) Will be used for the production or storage of any of the materials and substances considered dangerous to human life listed below;

- (b) Will involve the production, storage or use of any amount of radioactive substances; or
- (c) Will be used for any activity requiring the maintenance, on the premises, of a supply of any of the materials and substances considered dangerous to human life listed below.

Such uses and structures shall be subject to the provisions of this Subsection, in addition to all other applicable provisions.

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

- Acetone
- Ammonia
- Benzene
- Calcium Carbide
- Carbon Disulfide
- Celluloid
- Chlorine
- Hydrochloric Acid
- Hydrocyanic Acid
- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel oil, etc.)
- Phosphorous
- Potassium
- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

4. Uses Prohibited in Floodway. Within any floodway and within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, any use or structure of the kind described in Subsection (2) above, shall be prohibited.

5. Uses Regulated in Floodplain. Where permitted within the Floodplain Overlay District, any new or substantially improved structure of the kind described in Subsection (2) above shall be:

- (a) Elevated or designed and constructed to remain completely dry to at least 1.5 feet above BFE.

- (b) Designed to prevent pollution from the structure or activity during the course of a base flood.
 - (c) Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry flood-proofing contained in the publication "Flood-proofing Regulations" (U.S. Army Corps of Engineer, June 1972 as amended March 1992), or with some other equivalent watertight standard.
6. Variance. Except for a possible vertical modification of the freeboard requirements involved, no variance shall be granted for any of the other requirements of this Subsection concerning development which may endanger human life.
- j. Buildings.
- 1. No new building or structure or any portion thereof shall be erected within the Floodplain Overlay District unless permitted as a special exception by the Zoning Hearing Board.
 - 2. The Floodplain Administrator shall keep a permanent record of the lowest floor elevation of each structure built within the Floodplain Overlay District.
 - 3. No first floor, basement floor, or cellar floor of any building shall be constructed at an elevation of less than 1.5 feet above the base flood elevations as herein defined.
 - 4. Before issuing a special exception to allow any development within the Floodplain Overlay District, the Zoning Hearing Board shall require compliance with all of the provisions of this Chapter and this Part.
- k. Existing Structures. When permitted as a special exception by the Zoning Hearing Board, any building existing within the Floodplain Overlay District at the time of enactment of this Part may be altered, expanded, or extended, provided:
- 1. The alteration, expansion, or extension conforms with all applicable regulations of this Chapter and this Part.
 - 2. Any increase in volume or area shall not exceed an aggregate of more than 25% of such volume or area during the life of the structure.
 - 3. No alteration, expansion, or extension of an existing structure shall be allowed within any identified floodway that would cause any increase in flood heights.

4. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of fifty percent (50%) or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Part.
1. Special Requirements for Manufactured Homes. Within the Floodplain Overlay District manufactured homes shall be prohibited. A variance to this prohibition may be obtained in accordance with the criteria in §27-1905 and Part 31 of this Chapter, so long as the following provisions are met:
 1. The manufactured home shall not be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
 2. The manufactured home and any improvements thereto, shall be:
 - (a) placed on a permanent foundation;
 - (b) elevated so that the bottom of the lowest floor of the manufactured home is at least 1.5 feet above base flood elevation;
 - (c) anchored to resist flotation, collapse, or lateral movement; and
 - (d) constructed with all ductwork and utilities, including HVAC/heat pump, elevated to the regulatory flood elevation.
 3. Installation and anchoring of the manufactured home shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the UCC and the applicable requirements of the latest version or revision of the "International Residential Building Code" or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing" shall apply.
- m. Special Requirements for Other Structures, Vehicles, and Equipment.
 1. Municipally-Owned Stormwater Structures – Permitted, so long as all necessary state and federal approvals and permits have been obtained and all applicable statutes, ordinances, codes, rules, and regulations have been met.
 2. Playgrounds/Playsets, etc. – Permitted, so long as not enclosed and properly anchored to the ground in accordance with the provisions of this Part.
 3. Fences – Permitted, so long as not more than 50% solid and properly anchored to the ground in accordance with the provisions of this Part.
 4. Walls – Prohibited.

5. Decks - Permitted, so long as the bottom of the deck flooring (including support beams) is elevated above the regulatory flood elevation; the area below the floor is not enclosed; and it is properly anchored to the ground in accordance with the provisions of this Part.
 6. Patios – Permitted, so long as no portion of the patio is more than six (6) inches above ground level.
 7. Vehicles and Equipment – All vehicles, including, but not limited to, automobiles, motorcycles, trucks, RVs, buses, trailers, boats, snow machines, ATVs, and construction equipment, are prohibited from being stored within the Floodplain Overlay District. This prohibition does not apply to boats and other watercraft docked or moored within a waterway or body of water.
 8. Temporary Structures – Prohibited.
- n. Special Requirements for Subdivisions and Land Development. All applications for subdivision and/or land development proposing at least 10 lots or involving at least 2 acres in identified floodplain areas where base flood elevation data are not available, shall submit to the Township hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. These analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision and Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.
- o. Special Requirements for Watercourses
1. 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.
 2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all required permits or approvals have been obtained from the DEP Regional Office.
 3. 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 applicant and proof of such notification shall be provided to the Township prior to the issuance of any permit.
 4. FEMA and DCED shall be notified by the applicant prior to any alterations or relocation of any watercourse and proof of such notification shall be provided to the Township prior to the issuance of any permit.
- p. Water and Sanitary Sewer Facilities and Systems. No part of any private sewage disposal system or private water system shall be constructed within the Floodplain Overlay

District, and no increase of any existing on-lot sewer system, located either wholly or partially in the Floodplain Overlay District, shall be permitted within the Overlay District. A variance to these prohibitions may be obtained in accordance with the criteria in §27-1905 and Part 31 of this Chapter, so long as the following provisions are met:

1. The new, expanded, or replacement water supply and/or sanitary sewer facility/system shall be located, designed, and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
 2. The sanitary sewer facility/system shall be designed to prevent the discharge of untreated sewage into flood waters.
 3. No part of any on-site waste disposal system shall be located within the Floodplain Overlay District except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
 4. The design and construction provisions of the UCC, FEMA #348, "Protecting Building Utilities From Flood Damages", and "The International Private Sewage Disposal Code" shall be utilized.
- q. Installation of Fill Materials. Fill may be placed within the Floodplain Overlay District only when allowed as a special exception by the Zoning Hearing Board. An application for special exception shall be accompanied by detailed plans, showing existing and proposed conditions. If a structure is to be placed on the fill, the plans shall show the structure as well. In considering the application for special exception, the Zoning Hearing Board shall determine whether the proposed fill meets the general standards for special exceptions set forth in this Chapter, the regulations of this Part, and the following additional standards:
1. Fill shall consist of soil or rock materials only. Sanitary landfills shall not be permitted in the Floodplain Overlay District.
 2. Fill shall extend laterally at least fifteen (15) feet beyond the exterior walls of any building constructed on the fill.
 3. Fill shall be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling.
 4. Fill slopes shall be no steeper than 1 vertical to 2 horizontal, unless substantiated data, justifying steeper slopes, are submitted to and approved by the Zoning Hearing Board.
 5. The Zoning Hearing Board shall require written evidence of approval of the proposed fill by DEP.

- r. Storm Drainage. Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- s. Utilities. All permitted utilities within the Floodplain Overlay District, 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.
- t. New Streets. The finished elevation of all new streets shall be no more than one (1) foot below the regulatory flood elevation.
- u. Electrical Components. Electrical distribution panels shall be at least three (3) feet above the base flood elevation. Separate electrical circuits shall serve lower levels and shall be dropped from above.
- v. Fuel Supply System. All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharge from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.

§27-1905. Variances.

- a. Variance Procedures and Conditions. Requests for variances shall be considered by the Township Zoning Hearing Board in accordance with the procedures contained in the Pennsylvania Municipalities Planning Code, this Chapter, and the following:
 - 1. No variance shall be granted for any construction, development, use or activity within any floodway area (FW) that would cause any increase in the base flood elevation.
 - 2. No variance shall be granted for any construction, development, use, or activity within any floodplain area (outside of the floodway) that would, together with all other existing and anticipated development, increase the base flood elevation more than one (1) foot at any point.
 - 3. Except for a possible modification of the 1.5-foot freeboard requirement, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by special permit or development which may endanger human life.
 - 4. If granted, a variance shall involve only the least modification necessary to provide relief.

5. In granting any variance, the Township Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare and to achieve the objectives of this Part.
6. Whenever a variance is granted, the Township shall notify the applicant in writing that:
 - (a) The granting of the variance may result in increased premium rates for flood insurance.
 - (b) Such variances may increase the risks to life and property.
7. In reviewing any request for a variance, the Township Zoning Hearing Board shall consider, at a minimum, the following:
 - (a) That there is a good and sufficient cause.
 - (b) That the failure to grant the variance would result in exceptional hardship to the applicant.
 - (c) That the granting of the variance will 1) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense, 2) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
8. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the base flood.
9. The grant of any variance shall comply with the provisions found in Part 31 of this Chapter and the Pennsylvania Municipalities Planning Code.

§27-1906. Administration.

- a. Floodplain Administrator.
 1. The Zoning Officer is hereby appointed to administer and enforce this Part and is referred to herein as the Floodplain Administrator. Concerning this administration and enforcement, the Floodplain Administrator may:
 - (a) Fulfill the duties and responsibilities set forth in this Part.

- (b) Delegate the duties and responsibilities set forth in this Part to qualified technical personnel, plan examiners, inspectors, and other employees.
- (c) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations.

While the Floodplain Administrator can delegate his or her duties and responsibilities, the Administrator is ultimately responsible for the proper exercise and fulfillment of these duties and responsibilities.

2. In the absence of a designated Floodplain Administrator, the Administrator's duties are to be fulfilled by the Township Manager.
3. In the discharge of his/her duties, the Floodplain Administrator, upon presentation of proper credentials, can seek to enter any building, structure, premises or development in the Floodplain Overlay District at any reasonable hour to enforce the provisions of this Part. Where the property owner/occupant refuses to allow the Administrator entry, the Administrator may obtain an administrative warrant to inspect the building, structure, premises or development for compliance with this Part.
4. The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of this Part, including, but not limited to, finished construction elevation data, permitting, inspection, and enforcement.
5. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning the Township's participation in the National Flood Insurance Program.
6. The Floodplain Administrator shall consider the requirements of the UCC, the IBC, and the IRC, in addition to the requirements of this Part, when fulfilling his or her duties and making determinations.

b. Permit Application Requirements.

1. If any proposed construction or development is located entirely or partially within the Floodplain Overlay District, applicants for zoning or building permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
 - (a) The proposal is consistent with the need to minimize flood damage and conform with the requirements of this Part and all other applicable statutes, ordinances, codes, rules, and regulations.

- (b) All utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage.
 - (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
 - (d) Structures will be anchored to prevent floatation, collapse, or lateral movement;
 - (e) Building materials are flood-resistant;
 - (f) Appropriate construction methods/practices that minimize flood damage have been used; and
 - (g) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
2. In addition to other applicable requirements, all applications for zoning and/or building permits involving activities within the Floodplain Overlay District shall contain the following:
- (a) An engineered plan of the entire site showing the location of any existing bodies of water or watercourses, identified floodplain areas, soil delineations, and information pertaining to the floodway and the flow of water, including direction and velocities.
 - (b) Engineered plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - 1) The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988.
 - 2) The elevation of the base flood.
 - 3) Information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with a base flood.
 - 4) Detailed information concerning any proposed floodproofing measures.
 - 5) Any supplemental information as may be necessary under the UCC, the IBC, and the IRC.
 - (c) A document, certified by a registered professional engineer, showing that the cumulative effect of any proposed development within the Floodplain

Overlay District, when combined with all other existing and anticipated development, will not increase the elevation of the base flood.

- (d) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact, and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
- (e) Detailed information needed to determine compliance with the subsections concerning Storage and Materials and Development Which May Endanger Human Life, including:
 - 1) The amount, location, and purpose of any materials or substances considered dangerous to human life and stored or otherwise maintained on site.
 - 2) A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances considered dangerous to human life during a base flood.
- (f) The appropriate component of DEP's "Planning Module for Land Development."
- (g) Where any excavation or grading is proposed, an erosion and sedimentation control plan meeting the requirements of DEP.
- (h) Where required, proof of grant of Special Exception for the proposed building, structure, development, or activity.

c. Issuance of Zoning and/or Building Permits.

- 1. Zoning and building permits shall be required for any proposed construction or development within the Floodplain Building District. Zoning permits shall be required for the establishment of any activity with the Floodplain Building District.
- 2. The Floodplain Administrator shall issue a zoning or building permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Part and all other applicable statutes, codes, ordinances, rules, and regulations.

3. When a special exception is required by this Part, the Floodplain Administrator shall issue a zoning or building permit only after such special exception has been granted and all of conditions of the granting of this exception have been met.
4. Prior to the issuance of any zoning or building permit, the Floodplain Administrator shall review the permit application to determine if all other necessary governmental permits required by State and Federal laws, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Dam Safety and Encroachments Act (Act 1978-325, as amended); the U.S. Clean Water Act, Section 404, 33 U.S.C. §1334; have been obtained and the Pennsylvania Clean Streams Act (Act 1937-394, as amended). No permit shall be issued until this determination has been made.
5. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable statutes, ordinances, codes, rules, and regulations. He/she shall make as many inspections during and upon completion of the work as are necessary.
6. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable statutes, ordinances, codes, rules, and regulations, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator may revoke the zoning and/or building permit and any other Township approvals granted to the project and take any other allowable actions against the applicant to bring the project into compliance.
7. The applicant shall be responsible for submission of any and all technical or scientific data to the Township.

§27-1907. Warning and Disclaimer of Liability

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

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NEW BRITAIN TOWNSHIP
ZONING AMENDMENT – FLOODPLAIN REGULATIONS
Ordinance No. 2015-01-01

ARTICLE III. **Repealer**

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

ARTICLE IV. **Severability**

If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

ARTICLE V. **Effective Date**

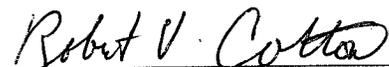
This Ordinance shall become effective on March 16, 2015 or five (5) days after final enactment, whichever is later.

ENACTED and *ORDAINED* this 5 day of January, 2015.

NEW BRITAIN TOWNSHIP
BOARD OF SUPERVISORS



John A. Boddén, Sr., Chair



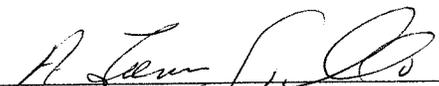
Robert V. Cotton, Vice Chair



Helen B. Haun, Chair



William B. Jones, III, Vice Chair



A. James Scanzillo