

- d. Yard Requirements:
  - Front Yard – forty (40) feet
  - Side Yard – thirty (30) feet
  - Rear Yard – thirty-five (35) feet

7. All Other Uses:

- a. Lot Requirements:
  - Minimum Lot Area with on-lot sewer and on-lot water – thirty thousand (30,000) square feet.
  - Minimum Lot Area with public sewer – twenty-one thousand (21,000) square feet.
  - Minimum Lot Area with public sewer and public water ten thousand (10,000) square feet.
  - Minimum Lot Width with on-lot sewer – one hundred twenty (120) feet.
  - Minimum Lot Width with on-lot sewer – eighty-five (85) feet.
- b. Maximum Building Height – thirty-five (35) feet.
- c. Maximum Lot Coverage – thirty percent (30%)
- d. Yard Requirements:
  - Front Yard – twenty-five (25) feet
  - Side Yard – twenty-five (25) feet
  - Rear Yard – twenty-five (25) feet

*[amended by Ord. 01-3-25-85, 3/25/85, §II.]*

**SECTION 306. NEIGHBORHOOD COMMERCIAL (NC)**

A. Intended Purpose

The regulations for this District are intended to serve the commercial needs of the surrounding residential village providing goods that meet the needs generally classified as convenience goods and services. New residential development is excluded from the District in order to reserve adequate area for commercial concentration.

B. Uses and Structures

1. Permitted
  - a. Retail business established for the sale or repair of goods such as, but not limited to, applicants, clothing, drugs, flowers, food, beverages, dry goods, furniture, hardware, household supplies, liquor, newspapers, garden supplies, stationery, and tobacco.
  - b. Personal or household services establishments such as, but not limited to, barber shops, beauty shops, restaurants, tavern, laundry and dry cleaning shops, banks and financial institutions, car washes, and tailor shops.
  - c. Professional business offices or studios. [*amended by Ord. No. 040907, 4/9/07, §3*]
  - d. Medical and Dental offices and clinics.
  - e. Church, cemeteries.
  - f. School.
  - g. Clubs and Lodges.
  - h. Fire House.
  - i. Child Day Care Center
  - j. Farms
  - k. Public utility and communication structures when absolutely necessary to be located in this District for public service purposes. [*added by Ord. 051198, 5/11/98, §11.*]
  - l. Forestry in accordance with the requirements of this Ordinance, including Article V, Section 540. [*added by Ord. 060903, §7, 6/9/03.*]
  - m. Municipal Parks [*added by Ord. No. 040907, 4/9/07, §3*]
  - n. Municipal Buildings [*added by Ord. No. 040907, 4/9/07, §3*]
  - o. Solar Energy Systems (Accessory and Principal) in accordance with requirements of this Ordinance, including Article V, Sections 543 and 544.
  - p. Geothermal Systems in accordance with requirements of this Ordinance including Article V, Section 548.

- q. Outdoor Hydronic Heaters shall be permitted as an accessory use in accordance with the requirements of this Ordinance including Article V, Section 549. *[added by Ord. 091211, §6.A, 9/12/11].*
- r. Customary accessory uses and structures incidental to the above permitted uses.

2. Special Exceptions

The following uses are permitted subject to the issuance of a Special Exception by the Zoning Hearing Board.

- a. Auto service station
- b. Shopping Center
- c. Hotels, motels, boarding houses, tourist houses
- d. Funeral Homes
- e. Automobile Sales Establishments
- f. Place of amusement, recreation or assembly, including but not limited to, outdoor or indoor theater, golf driving range, amusement parks, miniature golf course, arcade, etc.
- g. Other principal uses determined by the Zoning Hearing Board to be of the same general character as these Permitted and Special Exception uses and which will not be more detrimental than any permitted uses and structures.
- h. Customary accessory uses and structures incidental to the above.
- i. Business residences complying with the additional requirements or Section 530 hereof. *[Added by Ord. 01-3-25-85, 3/25/85, §II.]*
- j. Bed and Breakfast Inns. *[Added by Ord. 01-3-25-85, 3/25/85, §II.]*
- k. The Board of Supervisors of the Township of Clay finds that the commercial exploitation of explicit sexual conduct violating community standards results in a debasement and distortion of sensitive key relationships of human existence central to human life; community welfare, and the proper development of human personality; and
  - i. Studies conducted reveal that commercial exploitation of explicit sexual conduct interferes with the comfortable enjoyment of life and property by those not participating in the experience of the exploitation; and

- ii. Studies have shown that facilities whereby the commercial exploitation of explicit sexual conduct is marketed generally decrease property values and result in higher incidence of crime and other problems affecting adversely the health, safety, and welfare of the community; and
- iii. The Board of Supervisors further finds that the commercial exploitation of explicit sexual conduct tends to encourage other related crimes to appear in the area, such crimes generally relating to drugs, prostitution and gambling; and
- iv. The Board of Supervisors also finds that whenever an establishment is open for the delivery of the commercial exploitation of explicit sexual conduct it prevents other businesses from operating and may in fact drive the other stores out of the area, thus reducing the tax base and contributing to and increasing the problem associated with related crime; and
- v. Therefore, the Board of Supervisors finds that the facilities for the delivery of commercial exploitation of explicit sexual conduct need to be regulated so to reduce the negative impact of potential criminology upon the Township.

*[Added by Ord. 01-121487, 12/14/87, §II.]*

- vi. The Zoning Hearing Board may also permit, by special exception, an adult book store, adult theater, massage establishment, or other adult oriented retail, commercial service or entertainment establishment, provided that the following specific requirements are met by the applicant:
  - a) The lot or property line of such business shall not be located within five hundred (500) feet of any Residential or Agricultural Transition District.  
*[Amended by Ord. 060903, §2, 6/9/03]*
  - b) The lot or property line of such business shall not be located within five hundred (500) feet of the lot or property line of any religious structure, school, daycare facility or public library.

- c) The lot or property line of such business shall not be located within five hundred (500) feet of the lot or property line of another such business.
- d) There shall be no display of adult oriented materials that can be seen from the exterior of the building.
- e) Not more than one (1) such business or activity shall be permitted within any one (1) building or lot; and
- f) No unlawful sexual activity or conduct shall be performed or permitted.
- g) Buffer screening shall be provided, consisting of a planting strip with a minimum width of fifteen (15) feet. Required side and rear yards may be used for this purpose. The planting strips shall be landscaped its full width with a three (3) row planting of evergreen and densely branched deciduous vegetation. It shall be designed so that when the landscaping is mature, it will contain sufficient density so that it cannot be seen through at any time of year and sufficient height so as to constitute an effective visual protection to the abutting zoned district. Other similar species an varieties of plant material of similar size and effectiveness may be acceptable for screening and will be considered for approval upon the recommendation of professional nurserymen, arborists, or landscape architects.
- h) No building shall be located closer than one hundred (100) feet to any building used as a residence.
- i) There shall be a fifty (50) foot building set back line.
- j) The Zoning Hearing Board shall also determine that such business and building (1) is in general harmony with the immediate neighborhood; (2) does not create an atmosphere of enticement for

minors; and (3) will not be detrimental to the public health, public safety, or general welfare of the Township. The Zoning Hearing Board shall also review and approve all exterior signs for compatibility with adjacent uses. No such business or activity, except upon application to and approval by the Zoning Hearing Board as such change as a special exception subject to the criteria set forth herein. *[added by Ord. 01-121487, 12/14/87, §II.]*

- l. Communication Antenna Sites when absolutely necessary to be located in this District, as further governed by other regulations contained in this Ordinance. *[Added by Ord. 051198, 5/11/98, §12.]*
- m. Ground-Mounted/Free-Standing Solar Energy Systems, subject to the provisions of Article V, Section 545 and Article VI.

*[added by Ord. 091211, §6.B.,9/12/11]*

C. Lot, Yard and Height Requirements

1. Lot Requirements:

- a. Minimum Lot Area – None
- b. Minimum Lot Width – None
- c. Maximum Lot Coverage – fifty percent (50%)

2. Yard Requirements:

- a. Front Yard – twenty-five (25) feet
- b. Side Yard – ten (10) feet required except when adjacent to forest recreation or any residential district in which case a minimum side yard of twenty-five (25) feet is required.
- c. Rear Yard – ten (10) feet required except when adjacent to forest recreation or any residential district in which case twenty-five (25) feet is required.

3. Building Height

- a. Principal Building – thirty-five (35) feet
- b. Accessory Building – fifteen (15) feet
- c. Farm Structures – None

## **SECTION 307. LIMITED INDUSTRIAL (LI)**

### **A. Intended Purpose**

The purpose of the LI Limited Industrial District is to provide for limited, as opposed to heavy, industrial uses, to de-emphasize commercial activities, to prohibit additional residential uses, and to allow the continued practice or non-intensive agricultural activities.

The LI District is designed to accommodate manufacturing, fabricating, processing, development and warehousing activities in a carefully planned and restricted area serviced by public water and sewage facilities and which will retain a certain degree of aesthetic quality without detrimental effects to the environment and with adequate and suitable landscaping to blend with the rural characteristics of the Township. This section also encourages excellence in site planning and building design, stringent traffic control and attractive landscaping and screening.

### **B. Uses Permitted by Right**

The following principal uses are permitted by right in LI District if the lot yard and height regulations and all other applicable requirements of this Ordinance are satisfied:

1. Farms and agriculture, but specifically excluding intensive agricultural production facilities.
2. Wholesale businesses, warehouses, and similar non-processing storage and distribution uses, but specifically excluding trucking terminals and bulk storage of chemicals, fertilizer, petroleum products and other flammable, explosive or noxious materials.
3. Offices for administrative, executive, professional, sales and other similar uses – but only as an accessory use incidental to and/or an integral part of a permitted principal or special exception use.
4. Laboratories for scientific, agricultural or industrial research and development, but excluding all projects with the potential of creating an environmental or genetic hazard.
5. Uses of a limited industrial nature. Specifically excluded are auto plants, ferrous materials processing, precast and block plants, vehicle storage, depots, sawmills, and lumber yards, and similar or related heavy industrial uses.

6. Public utilities and communication uses, such as electric substations, storage of materials and trucks, repair facilities, accessory offices, pump stations, and generating plants.
7. Day care/training facilities – but only when accessory to a permitted or special exception principal use.
8. Retail sales of products or equipment produced on site as an accessory use to the permitted or special exception principal use, but not to exceed ten (10) percent of the total gross floor area of the principal building.
9. Assembly of electronic equipment including computer hardware.
10. Development of computer software packages and related marketing and training facilities.
11. Industrial Park.
12. Public Utility Structures when absolutely necessary to be located in this District for public service purposes. [Added by Ord. 051198, 5/11/98, § 13.]
13. Display and sale of farm products, provided that:
  - a. At least half of all products sold (measured by dollar of gross sales) must be raw food or other farm products. At least a third of all products sold (measured by dollar of gross sales) must be produced in the other districts of the Township providing for farming operations.
  - b. Any structure which is used for the display or sale of farm products shall be at least fifty (50) feet from any property line and legal right-of-way line of any street.
  - c. Off-street parking must be provided for all employees and customers.[Ord. 101298-A, 10/12/98, §3.]
14. Facilities for the commercial processing of agricultural products. [Ord. 101298-A, 10/12/98, §3.]
15. Facilities for the warehousing, sales and service of agricultural equipment, vehicles, feed, or supplies. [Ord. 101298-A, 10/12/98, §3.]
16. Commercial grain or feed mills. [Ord. 101298-A, 10/12/98, §3.]
17. Veterinary offices or animal hospitals. [Ord. 101298-A, 10/12/98, §3.]
18. Kennels. [Ord. 101298-A, 10/12/98, §3.]



19. Forestry in accordance with the requirements of this Ordinance, including Article V, Section 540. *[Added by Ord. 060903, §8, 6/9/03.]*
20. Municipal Parks [added by Ord. No. 040907, 4/9/07, §3]
21. Municipal Buildings [added by Ord. No. 040907, 4/9/07, §3]
22. Customary accessory uses and structures incidental to the above permitted uses. [Ord. 101298-A, 10/12/98, §4.]
23. Solar Energy Systems (Accessory and Principal) in accordance with requirements of this Ordinance, including Article V, Sections 543 and 544.
24. Geothermal Systems in accordance with requirements of this Ordinance including Article V, Section 548.
25. Accessory Wind Energy Systems in accordance with the requirements of this Ordinance including Article V, Section 550 Accessory wind energy systems.
26. Outdoor Hydronic Heaters shall be permitted as an accessory use in accordance with the requirements of this Ordinance including Article V, Section 549.  
*[added by Ord. 091211; §7.A.; 9/12/11]*

C. Uses permitted by Special Exception

1. Photographic finishing/developing plants
2. Operations and storage terminals for general contractors or regional building trade contractors, but excluding outside storage unless located in a three-sided building where items stored are not visible from the street.
3. Outdoor advertising signs, only to be located on secondary or tertiary roads.
4. Business residences, but only in currently existing residential structures.
5. Training facilities incidental to a permitted or special exception principal use.
6. Communication Antenna Sites when absolutely necessary to be located in this District, as further governed by other regulations contained in this Ordinance. *[Added by Ord. 051198, 5/11/98, § 14.]*
7. Commercial stock yards and/or feed lots.*[Ord. 101298-A, 10/12/98, §4.]*
8. Rendering plants. *[Ord. 101298-A, 10/12/98, §4.]*
9. The assembly, repair, or manufacture of predominantly farm related machinery or equipment. *[Ord. 101298-A, 10/12/98, §4.]*
10. Bed and Breakfast Inns *[Added by Ord.01-3-25-85, 3/25/85, §II.]*

11. Fire Houses *[added by Ord. No. 040907, 4/9/07, §3]*
12. Concentrated Animal Feeding Operations. *[added by Ord. No. 061107, 6/11/07, §3]*
13. Concentrated Animal Operations. *[added by Ord. No. 061107, 6/11/07, §3]*
14. Manure Management Facilities. *[added by Ord. No. 061107, 6/11/07, §3]*
15. Other principal uses determined by the Zoning Hearing Board to be of the same general character as these Permitted and Special Exception uses and which will not be more detrimental than any permitted uses and structures. *[Ord. 101298-A, 10/12/98, §4.]*

*[Former §307.C.8 added per Ord. 101298-A, 10/12/98, §4, was later deleted per Ord. No. 061107, 6/11/07, §2]*

16. Ground-Mounted/Free-Standing Solar Energy Systems, subject to the provisions of Article V, Section 545 and Article VI. *[added by Ord. 091211; §7.B.; 9/12/11]*

D. Conditional Uses

1. Principal Manure Digester subject to the provisions of Article V, Section 547 and Article XII.
2. Principal Wind Energy System subject to the provisions of Article V, Section 550 and Article VI.

*[added by Ord. 091211; §7.C.; 9/12/11]*

E. Lot, Yard and Height Requirements

1. Lot Requirements:
  - a. Minimum Lot Area – None
  - b. Minimum Lot Width – None
  - c. Maximum Lot Coverage – sixty (60%) percent
2. Yard Requirements:
  - a. Minimum Front Yard Depth – fifty (50) feet.
  - b. Minimum Side Yard Width – thirty (30) feet required except when adjacent to any agricultural district or lot in residential use, in which case fifty (50) feet is required. *[Amended by Ord. 04-13-92A, 4/13/92, §2.]*

- c. Minimum Rear Yard Depth – thirty (30) feet required except when adjacent to any agricultural district or lot in residential use, in which case fifty (50) feet is required. [Amended by Ord. 04-13-92A, 4/13/92, §3.]
- 3. Height Requirements:
  - a. Thirty-five (35) feet for any structure in which people are housed.
  - b. All other structures – no restriction.
- 4. Design Requirements:

All proposed used in the Limited Industrial District shall be subject to the requirements relating to Accessory Buildings and Structures (Section 510), signs (Section 504), Off-Street Parking and Loading (Section 505), Storage of Explosives (Section 506), Storage-Industrial (Section 517), and any other applicable requirements of this Ordinance. In addition, all relevant design requirements of the Clay Township Subdivision and Land Development Ordinance shall apply.
- 5. Multiple uses of a building are permitted only where all such uses are permitted by right or Special Exception in the LI District and where all lot, yard, and height requirements for each such use are met.

[Ord. 071095A, 7/10/95, §IV.]

## **SECTION 308. FLOODPLAIN (FP) ZONING DISTRICT**

### **A. Application**

The following regulations shall apply to all uses and structures in the FloodPlain (FP) Zoning District. The FloodPlain Zoning District shall include areas of the Township subject to flooding as shown in the Zoning Map of Clay Township and defined in this Section.

### **B. Intent**

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Board of Supervisors of Clay Township adopts the Floodplain provisions of Section 308 with the intent as follows:

1. Promote the general health, welfare, and safety of the community.
2. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
3. Minimize danger to public health by protecting water supply and natural drainage.
4. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
5. Comply with federal and state floodplain management requirements.

### **C. Prohibited Conduct**

1. It shall be unlawful for any person, undertake, or cause to be undertaken, any construction or development anywhere within the Township of Clay Floodplain (FP) Zoning District, unless a Permit has been obtained from the Township's Zoning Officer.

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

### **D. Abrogation and Greater Restrictions**

This ordinance supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive, including but not limited to the Subdivision and Land Development Ordinance of the Township of Clay, ("SALDO"), the Clay

Township Stormwater Management Ordinance (“SWMO”) and the other provisions of this Code of Zoning Ordinances. If there is any conflict between any of the provisions of this Section with the remainder of the Code of Zoning Ordinances of the Township of Clay, the more restrictive shall apply.

E. Severability

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

F. Warning and Disclaimer of Liability

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on 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.

The granting of a permit or making of any other administrative decision under this Section, shall not constitute a representation, guarantee, or warranty of any kind by the Township, or by any official, agent or employee thereof of the practicability or safety of any structure, use or other plan proposed with respect to damage from flood or otherwise, and shall create no liability or cause of action against the Township, its agents or employees.

G. Designation of the Floodplain Administrator

The Township’s Zoning Officer and any assistant Zoning Officer are hereby appointed to administer and enforce this ordinance and are 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 Section of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

In the absence of the Zoning Officer, the duties are to be fulfilled by the assistant Zoning Officer.

As used hereinbefore and hereafter, anywhere the term “Floodplain Administrator” appears, it shall be considered the same as the Zoning Officer and the assistant Zoning Officer.

H. Permits Required

A Permit shall be required before any construction or development is undertaken within any area of the Township of Clay in the Floodplain (FP) Zoning District.

I. Duties and Responsibilities of the Floodplain Administrator

1. 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.

2. 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 (and all Ordinances of the Township) 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.

3. In the case of existing structures, prior to the issuance of any development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss concerns can be addressed before the permit is issued. (If chosen, be sure to include 308.II. and the repetitive loss definition in 308.MM.)

4. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.

5. 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.

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

7. 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.

8. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program.

9. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the floodplain administrator/manager.

10. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or the latest edition thereof adopted by the Commonwealth of Pennsylvania.

J. Application Procedures and Requirements

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

- a. Name and address of applicant.
- b. Name and address of all owners of land on which proposed construction is to occur.
- c. Name and address of all contractors.
- d. Site location including address.
- e. Listing of other permits required.
- f. 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.
- g. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

2. 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 determine that:

- a. 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;
- 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 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.

3. 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:

- a. A completed Permit Application Form.
  - b. 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:
    - i. North arrow, scale, and date;
    - ii. Topographic contour lines, if available;
    - iii. The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
    - iv. The location of all existing streets, drives, and other access ways;
- and
- v. 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.



c. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:

i. The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;

ii. The elevation of the base flood;

iii. Supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC or latest edition thereof adopted by the Commonwealth of Pennsylvania.

d. The following data and documentation:

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

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

iii. Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within any Identified Floodplain Area (See Section 308.R) when combined with all other existing and anticipated development, will not cause any increase in the base flood elevation.

iv. 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.

v. Detailed information needed to determine compliance with Section 308.Y.6., Storage, and Section 308.Z., Development Which May Endanger Human Life, including:

(1) The amount, location and purpose of any materials or substances referred to in Sections 308.Y.6. and 308.Z. which are intended to be used, produced, stored or otherwise maintained on site.

(2) A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 308.Z during a base flood.

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

vii. Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

4. 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 deposits as described in Section 308.NN and 308.OO. hereof.

K. Review by County Conservation District

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

L. Review of Application by Others

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

M. Changes

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.

N. Placards

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

O. Start of Construction

Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The issuance of development permit does not confer Zoning, SWMO, UCC or SALDO approval.

The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a 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.

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.

P. Enforcement

1. Notices

Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall be in drafted and served in conformance with the PMPC and the other provisions of this Code of Zoning Ordinances of the Township of Clay.

2. Penalties

Any violation of this provisions of this Section, shall be a violation of the Code of Zoning Ordinances of the Township of Clay and the Floodplain Administrator will utilize the administration and enforcement remedies of the Code of Zoning Ordinances of the Township of Clay.

Q. Appeals

1. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Ordinance, may appeal to the Zoning Hearing Board pursuant to the PMPC and this the Code of Zoning Ordinances of the Township of Clay.

2. Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with the PMPC.

3. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to Court, as provided by the PMPC.

4. Granting of a municipal appeal will not relieve a landowner from the obligation to comply with the minimum requirements of the National Flood Insurance Program. Landowners that fail to meet the Program's minimum requirements, notwithstanding any appellate decision to the contrary, are in violation of the National Flood Insurance Program and remain subject to the accompanying penalties.

R. Identification of Floodplain Areas

The identified floodplain area shall be:

A. Any areas of the Township of Clay, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated April 5, 2016 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 the Zoning Map of Clay Township.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by the Township of Clay and declared to be a part of this ordinance. To the extent that the FIS or FIRMS are inconsistent with the Zoning Map of Clay Township, the FIS and FIRMS shall prevail.

S. Description and Special Requirements of Identified Floodplain Areas

The identified floodplain 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.

a. 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.

b. Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

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.

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

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 flood waters around and away from structures on slopes.

T. Changes in Identification of Area

The Identified Floodplain Area may be revised or modified by the Township Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify

FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See 308.W.2. for situations where FEMA notification is required.

U. Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Zoning Officer 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.

V. Jurisdictional Boundary Changes

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

W. Technical Provisions - General

1. Alteration or Relocation of Watercourse

a. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.

b. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.

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

2. When the Township of Clay proposes to permit the following encroachments:

a. any development that causes a rise in the base flood elevations within the floodway; or

b. 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

c. 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):

i. apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.

ii. Upon receipt of the Administrator's conditional approval of map change and prior to approving the proposed encroachments, Clay Township 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.

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

3. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.

#### X. Elevation and Floodproofing Requirements

Within any Identified Floodplain Area any new construction or substantial improvements shall be prohibited. If a variance is obtained for new construction or substantial improvements in the Identified Floodplain Area in accordance with the criteria in Section 308.JJ and 308.KK, then the following provisions apply:

##### 1. Residential Structures

a. In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation.

b. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation determined in accordance with Section 308.S.3 of this Ordinance.

c. 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.

d. The design and construction standards and specifications contained in the 2009 and 2012 International Building Code (IBC) and International Residential Code (IRC) or the latest edition thereof adopted by the Commonwealth of Pennsylvania shall be utilized.

## 2. Non-residential Structures

a. In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation, or be designed and constructed so that the space enclosed below the Regulatory Flood Elevation:

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

ii. 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 lowest floor (including basement) elevated or completely floodproofed up to, or above, the Regulatory Flood Elevation determined in accordance with Section 308.S.3. of this Ordinance.

c. 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.

d. Any non-residential structure, or part thereof, made watertight below the Regulatory Flood Elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.

e. The design and construction standards and specifications contained in the 2009 and 2012 International Building Code (IBC) and International Residential Code (IRC) or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

## 3. Space below the lowest floor

a. Fully enclosed space below the lowest floor (including basements) is prohibited

b. Partially 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.

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

i. 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.

ii. The bottom of all openings shall be no higher than one (1) foot above grade.

iii. 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 ordinance, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

#### Y. Design and Construction Standards

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

##### 1. Fill

Within any Identified Floodplain Area the use of fill shall be prohibited. If a variance is obtained in accordance with the criteria in Sections 308.JJ and 308.KK, then the following provisions apply:

If fill is used, it shall:

a. Extend laterally at least fifteen (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 (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
- e. Be used to the extent to which it does not adversely affect adjacent properties.

## 2. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall 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.

## 3. 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 UCC and FEMA #348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.

## 4. Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

5. Streets

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

6. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 308.Z, titled, "Development Which May Endanger Human Life", shall be stored at or above the Regulatory Flood Elevation or flood proofed to the maximum extent possible.

7. Placement of Buildings and Structures

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

8. Anchoring

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

b. 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.

9. Floors, Walls and Ceilings

a. 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.

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

c. 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.

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

10. Paints and Adhesives

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

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

c. 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.

#### 11. Electrical Components

a. Electrical distribution panels shall be at least three (3) feet above the base flood elevation.

b. Separate electrical circuits shall serve lower levels and shall be dropped from above.

#### 12. Equipment

Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

#### 13. Fuel Supply Systems

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

#### 14. Uniform Construction Code Coordination

The Standards and Specifications contained in 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this ordinance, to the extent that they are more restrictive and supplement the requirements of this ordinance.

International Building Code (IBC) 2009 and 2012 or the latest edition thereof adopted by the Commonwealth of Pennsylvania:

Secs. 801, 1202, 308.C., 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2009 or 2012 or the latest edition thereof adopted by the Commonwealth of Pennsylvania:

Secs. R104, R105, R109, R322, Appendix E, and Appendix J.

Z. Development Which May Endanger Human Life

Within any Identified Floodplain Area, any structure of the kind described in Subsection 1., below, shall be prohibited. If a variance is obtained in accordance with the criteria in Sections 308.JJ and 308.KK, then the following provisions apply: (2, 3 & 4) (note: if no variance for this activity is allowed, do not list 2, 3 & 4)

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

a. Will be used for the production or storage of any of the following dangerous materials or substances; or

b. 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

c. Will involve the production, storage, or use of any amount of radioactive substances; shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

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

2. Within any Floodway Area, any structure of the kind described in Subsection A., above, shall be prohibited. Where permitted within any Identified Floodplain Area, any new or substantially improved residential structure of the kind described in Section 308.Z.1., above, shall be elevated to remain completely dry up to at least one and one half (1 ) feet above base flood elevation and built in accordance with Sections 308.W., 308.X. and 308.Y.

3. Where permitted within any Identified Floodplain Area, any new or substantially improved non-residential structure of the kind described in Section 308.Z.1. above, shall be built in accordance with Sections 308.W., 308.X. and 308.Y. including:

a. Elevated, or designed and constructed to remain completely dry up to at least one and one half (1½) feet above base flood elevation, and

b. Designed to prevent pollution from the structure or activity during the course of a base flood.

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

AA. Special Requirements for Subdivisions and Development

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are 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 and Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

BB. Special Requirements for Manufactured Homes

1. Within any Identified Floodplain Area manufactured homes shall be prohibited. If a variance is obtained in accordance with the criteria in Sections 308.JJ and 308.KK, then the following provisions apply:

2. Where permitted within any Identified Floodplain Area, all manufactured homes, and any improvements thereto, shall be:

a. Placed on a permanent foundation;

- b. Elevated so that the lowest floor of the manufactured home is at least one and one half (1½) feet above base flood elevation;
- c. And anchored to resist flotation, collapse, or lateral movement.
- d. And have all duct work and utilities including HVAC/heat pump elevated to the Regulatory Flood Elevation.

3. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 "International Residential Building Code" or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 PA Code Chapter 401-405 shall apply.

4. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the latest edition thereto adopted by the Commonwealth of Pennsylvania, and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

#### CC. Special Requirements for Recreational Vehicles

Within any Identified Floodplain Area recreational vehicles shall be prohibited. If a variance is obtained in accordance with the criteria in Section 308.JJ and 308.KK, then the following provisions apply:

- 1. Recreational vehicles in Zones A, A1-30, AH and AE must either:
  - a. Be on the site for fewer than 180 consecutive days, and
  - b. Be fully licensed and ready for highway use; or
  - c. Meet the permit requirements for manufactured homes in Section 308.BB.

#### DD. Activities Requiring Special Permits - General

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any Identified Floodplain Area unless a Special Permit has been issued by the Township of Clay:

- 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
- 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.

EE. Application Requirements for Special Permits

Applicants for Special Permits shall provide five copies of the following items:

1. A written request including a completed Permit Application Form.
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; and
  - 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; and

g. Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

5. The following data and documentation:

a. 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;

b. 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;

c. 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;

d. 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;

e. 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;

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

g. Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control;

h. Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and

i. 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.

FF. Application Review Procedures

Upon receipt of an application for a Special Permit by the Zoning Officer the following procedures shall apply in addition to those of Section 308 G through Q:

1. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded by the Applicant to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Township of Clay Planning Commission and Township of Clay Engineer and Solicitor for review and comment.

2. If an application is received that is incomplete, the Zoning Officer shall notify the applicant in writing, stating in what respect the application is deficient.

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

4. If the Zoning Officer approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by registered or certified mail, within five (5) working days after the date of approval.

5. Before issuing the Special Permit, the Zoning Officer shall allow the Department of Community and Economic Development thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the Zoning Officer.

6. If the Zoning Officer does not receive any communication from the Department of Community and Economic Development during the thirty (30) day review period, it may issue a Special Permit to the applicant.

7. If the Department of Community and Economic Development should decide to disapprove an application, it shall notify the Zoning Officer and the Applicant, in writing, of the reasons for the disapproval, and the Zoning Officer shall not issue the Special Permit.

GG. Special Technical Requirements

1. In addition to the requirements of Sections 308.W through CC. of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Sections 308.W through CC. of this Ordinance or in any other code, ordinance, or regulation, the more restrictive provision shall apply.

2. 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:

a. 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:

i. 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.

ii. The lowest floor (including basement) will be elevated to at least one and one half (1½) feet above base flood elevation.

iii. 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.

b. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

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 Township of Clay and the Department of Community and Economic Development.

HH. Existing Structures

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 308.II. shall apply.

II. Improvements

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

1. No expansion or enlargement of an existing structure shall be allowed within any Identified Floodplain Area that would cause any increase in BFE. In A Area/District(s), BFEs are determined using the methodology in Section 308.S.3.
2. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of fifty percent (50%) or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
3. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009 IBC and the 2009 IRC or most recent revision thereof adopted by the Commonwealth of Pennsylvania.
4. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than fifty percent (50%) of its market value, shall be elevated and/or flood proofed to the greatest extent possible.
5. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “repetitive loss” shall be undertaken only in full compliance with the provisions of this ordinance.

JJ. Variance - General

If compliance with any of the requirements of this Ordinance would result in a hardship as described in Section 910.2 of the PMPC to a prospective builder, developer or landowner, the Zoning Hearing Board may, upon request and in conformance with Section 910.2 of the PMPC, grant relief from the strict application of the requirements.

KK. Variance - Procedures and Conditions

Requests for variances shall be considered by the Zoning Hearing Board in accordance with the procedures contained in the PMPC and the following:

1. No variance shall be granted within any Identified Floodplain Area that would cause any increase in BFE. In A Area/District, BFEs are determined using the methodology in Section 308.S.3.

2. Except for a possible modification of the Regulatory Flood Elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit (or Prohibited Activities) (Section 308.DD. et seq.) or to Development Which May Endanger Human Life (Section 308.Z.).

3. If granted, a variance shall involve only the least modification necessary to provide relief.

4. 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, and to achieve the objectives of this Ordinance.

5. Whenever a variance is granted, the Township of Clay shall notify the applicant in writing that:

a. The granting of the variance may result in increased premium rates for flood insurance.

b. Such variances may increase the risks to life and property.

6. In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:

a. That there is good and sufficient cause.

b. That failure to grant the variance would result in exceptional hardship to the applicant.

c. That the granting of the variance will

i. Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,

ii. Nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

d. Other requirements for Variances under Section 910.2 of the PMPC.

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

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

LL. Definitions - General

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

MM. Specific Definitions

The following definitions shall apply to this Section 308 et seq. only. To the extent that these definitions are inconsistent with other definitions in Article X of the Code of Zoning Ordinances of the Township of Clay, the following definitions shall control within the Floodplain (FP) Zoning District:

1. Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. Base flood - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100year flood" or one-percent (1%) annual chance flood).
3. Base flood discharge - the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).
4. 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.
5. Basement - any area of the building having its floor below ground level on all sides.
6. 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.
7. Development - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and

other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

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

9. 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).

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

11. 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.

12. 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.

13. Floodplain Administrator - The Clay Township Zoning Officer or the assistant Zoning Officer.

14. 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.

15. 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.

16. 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.

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

18. Historic structures - any structure that is:

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

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

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

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

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

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

19. Identified Floodplain Area - this term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the Township. See Sections 308.R. and 308.S. for the specifics on what areas the Township has included in the Identified Floodplain Area.

20. 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.

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

22. Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

23. 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.

24. New construction - structures for which the start of construction commenced on or after the effective start date of this floodplain management ordinance and includes any subsequent improvements to such structures. Any construction started after December 10, 1980 and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

25. New manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

26. Pennsylvania Municipalities Planning Code (PMPC) - 53 P.S. §10101 et seq.

27. 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.

28. Post-FIRM Structure - is a structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the Township's initial Flood Insurance Rate Map (FIRM) dated 11/10/1980, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

29. Pre-FIRM Structure - is a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the Township's initial Flood Insurance Rate Map (FIRM) dated 11/10/1980, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

30. Recreational vehicle - a vehicle which is:

- a. built on a single chassis;
- b. not more than 400 square feet, measured at the largest horizontal projections;

- c. designed to be self-propelled or permanently towable by a light-duty truck,
- d. not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

31. 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 (1½) feet.

32. Repetitive loss - flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

33. Special permit - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks/ subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.

34. Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1A30, AE, A99, or, AH.

35. 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 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.

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

37. 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.

38. 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.

39. Substantial improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" or "repetitive loss" (keep when a repetitive loss provision is used, delete "or repetitive loss" above if not) 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.

40. Uniform Construction Code (UCC) - The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

41. Variance - A grant of relief by a community from the terms of a floodplain management regulation administered and according to the statements of the PMPC.

42. Violation - means 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.

43. Watercourse –

#### NN. Fees, Costs and Deposits

New Applications for permits shall not be deemed to have been submitted until the fee and all escrow deposits have been paid, which fee and escrow schedules shall be adopted from time to time, by Resolution of Township Board of Supervisors.

The Township Board of Supervisors may, by Resolution from time to time, establish review, filing fees, and escrows associated with the same, consistent with law.

OO. Expenses Covered by Fees

1. The Township Board of Supervisors shall be entitled to set a filing fee, from time to time, by Resolution of Board of Supervisors, which shall cover the initial administrative costs of receiving and processing the paperwork from the applicant. No application shall be deemed complete without payment of such filing fee.

2. The Township shall also be entitled to set review fees, from time to time, by Resolution of Board of Supervisors. The review fee shall be established by the Township by Resolution (meeting all requirements of the PMPC and administered consistent with the PMPC) to defray review costs incurred directly or indirectly by the Township and the Township's agents.

3. All review and filing fees shall be paid by the Applicant at the time of filing any application. No application shall be deemed complete without payment of such fees and deposits.

4. The fees required by these provisions shall at a minimum cover:

- a. The review of the Plan by the Township and its agents.
- b. The development site inspection.
- c. The inspection of facilities improvements during construction.
- d. The final inspection upon completion of the facilities improvements presented in the Plan, and review of the as-built Plans and calculations for compliance.
- e. Any additional work required to enforce any permit provisions regulated by these provisions, correct violations, and assure proper completion of stipulated remedial actions.
- f. Defray administration and clerical costs.

5. a. The Township Board of Supervisors may set, from time to time by Resolution, an Escrow Deposit schedule based upon the estimated cost of fees described in subsections B. and D. above. Such escrow deposit shall be deposited with the Township at the time of any filing. No application shall be deemed complete without payment of such Escrow Deposit.

b. The Township Zoning Officer, from time to time, may require replenishment of the Escrow Deposit to insure that it is not exhausted by reasonably estimated current and future costs and fees as described herein.

*[Entire Section 308 Added by Ord. 032216; 03/22/16; §II.]*