

## Chapter 159

### EMERGENCY SERVICES REIMBURSEMENT

§ 159-1. Definitions.

§ 159-2. Administration.

§ 159-3. Emergency conditions.

§ 159-4. Litigation.

§ 159-5. Emergency services.

§ 159-6. Interpretation.

**[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 6-8-1999 by Ord. No. 99-620, approved 6-8-1999. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Fire Department — See Ch. 28.

Police Department — See Ch. 78.

#### § 159-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**EXTRAORDINARY EXPENSES** — Those expenses and those related costs and fees that are incurred by the Borough, local, state or federal department of agency, emergency services organization and from the private sector for actual costs or charges for labor, materials, and any other costs or charges for labor, materials, and any other costs associated with the use of specialized extinguishing or abatement agent, chemical neutralizer or similar equipment or material that is employed to monitor, extinguish, confine, neutralize, contain, clean, remove or dispose of any hazardous material that is or may be involved in a fire, or release into the air, ground or water or the potential threat of any release into the air, ground or water or the potential threat of any release or fire, any and all activities associated with the implementation of a protection action to protect the public health, safety and welfare.

#### **EXTRAORDINARY SERVICE** —

- A. A service performed by any Borough departments or employees, or any public or private sector organization, agency or company directly associated with mitigating the hazard or potential hazard or involved in providing services to implement a protection action.
- B. "Extraordinary service" may include, but is not limited to, the abatement and disposition of hazardous materials, spills, releases or the threat of spills or releases of hazardous materials, utility line breaks or leakages, and other imminent or perceived or potential threats to the health, safety and welfare of the public that may be detailed or contemplated in the definition of "extraordinary expense." The cost of labor shall include the actual wage rates including fringe benefits paid by the Borough of Johnsonburg to its employees and actual wage rates including benefits paid to volunteer fire fighters and ambulance personnel by their private employer together with overhead costs.

**HAZARDOUS MATERIAL** — Includes all of the following: petroleum, petroleum products and petroleum byproducts; and the following terms as defined at 35 P.S. § 6022.103:

"extremely hazardous substance," "hazardous chemical," "hazardous material," "hazardous substance" and "toxic chemical."

**RESPONSIBLE PARTY —**

- A. The owner of any such hazardous material.
- B. Any person or entity having possession, custody or control of any hazardous material.
- C. Any person or entity responsible for the transportation (including via pipeline) of any such hazardous material.

**§ 159-2. Administration.**

The Borough of Johnsonburg shall collect from the responsible party all fees as follow:

- A. Fees and costs (including overhead costs) shall encompass all personnel, equipment, fuel, materials and maintenance expenses in such a form as to insure for full reimbursement for charges from both the public and private sectors actually rendered. A particular costs or fee schedule need not be set forth in this section or elsewhere in the Borough ordinances or by further formal action by the Borough Council. The Borough Council's approval of this section shall constitute authorization for the Borough of Johnsonburg to collect all such fees and costs (including overhead costs) pursuant to the receipt of related expenditures or costs that are submitted to the Borough by affected public and private bureaus, agencies, departments or companies, including but not limited to the costs of all nonreusable materials and all contaminated or consumed materials, the reasonable hourly rate for the use of equipment, damage to equipment and reasonable attorney's fees and costs, including witness fees.
- B. Within 30 days of the date of the extraordinary or dangerous occurrence, giving rise to the extraordinary service, the affected public agencies, departments or private companies shall submit all of its then available extraordinary service-related costs, fees, charges and expenses to the Borough for review. If the affected public agencies, departments or private companies later determine that there are additional such costs, fees, charges and expenses the same shall be immediately forwarded to the Borough as soon as practicable after the same becomes available. At such time or times as all costs, fees, charges and expenses related to the extraordinary services have been collected and reviewed, but in any case not later than 60 days from the date of determining the combined costs of rendering extraordinary services, the Borough of Johnsonburg shall submit a bill for all costs, fees, charges and expenses, to the owner, agent or manager of the vehicle or fixed facility which caused the need for extraordinary services, with a demand that a full remittance be made within 30 days of receipt.
- C. In case of hardship, or where circumstances are such that a full remittance cannot be made to the Borough within the thirty-day period, the Borough of Johnsonburg shall hereby authorize the Borough Solicitor to enter into negotiations with the owner or his agent for an extended payback period of time not to exceed six months.

- D. All monies received under the provisions of this chapter shall be placed into the General Fund and reimbursement be made to all public and private sector departments, agencies who have submitted related costs, fees, charges and expenses for providing an extraordinary service as outlined herein.

**§ 159-3. Emergency conditions.**

In the event of a spill, leak or fire involving petroleum, chemicals and/or hazardous materials, if the shipper, carrier or owner of said products does not have a contract with a professional hazardous materials cleanup crew (DEREPA approved), and/or if such conditions warrant, the Borough of Johnsonburg or the designated deputy or the Borough of Johnsonburg Fire Chief or assistants shall have the authority to contact a private firm for cleanup, control, extinguishment and not limited to the disposal of said hazardous material. Nothing herein contained shall be construed to restrict, limit or impair the right of the Borough to respond appropriately and actual or potential hazard created by any such hazardous material and to collect the said extraordinary expenses from any and all responsible parties.

**§ 159-4. Litigation.**

The Borough may enforce the provisions of this chapter by civil action in a court of competent jurisdiction for the collection of any amounts due hereunder plus attorneys' fees or for any other relief that may be appropriate.

**§ 159-5. Emergency services.**

Nothing in this chapter shall authorize any Borough department, or personnel or staff members to refuse or delay an emergency service to any person, firm, organization or corporation, that has not reimbursed the Borough for extraordinary services. Furthermore, nothing in this section shall be construed to demand reimbursement, to the Borough for those municipal services that are normally provided to the Borough residents and others as a matter of the Borough's general operating procedure and for which the levying of taxes, or the demand for reimbursement is normally made.

**§ 159-6. Interpretation.**

Nothing contained in this chapter shall be construed or interpreted so as to place any requirement upon the Borough of Johnsonburg to collect for any state agency, federal agency, private agency, private enterprise or any other individual or organization any such extraordinary expense or other cost or expense incurred by any state-related agency or any federal-related agency for any such extraordinary services.



## **Chapter 166**

### **FEES**

#### **ARTICLE I Tax Collector Service Fees**

#### **§ 166-2. Service fee for returned checks.**

#### **§ 166-1. Service fee for wage attachment.**

**[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg as indicated in article histories. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Taxation: earned income — See Ch. 274, Art. I.  
Taxation: local services — See Ch. 274, Art. II.

Taxation: realty transfer — See Ch. 274, Art. III.  
Taxation: per capita — See Ch. 274, Art. IV.

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#### **ARTICLE I Tax Collector Service Fees [Adopted 2-11-1997 by Ord. No. 97-1, approved 2-11-1997]**

#### **§ 166-1. Service fee for wage attachment.**

- A. The Borough of Johnsonburg hereby imposes a fee of \$5 to be assessed and collected by the Johnsonburg Borough Tax Collector from any person, firm, company, or corporation from whom a wage attachment is levied for the collection of delinquent per capita or occupation taxes. This service fee shall be imposed in addition to the amount of delinquent taxes due and owing.
- B. Fees imposed and collected pursuant to Subsection A above shall be deposited into the Johnsonburg Borough's Tax Collector's General Fund.

#### **§ 166-2. Service fee for returned checks.**

- A. The Borough of Johnsonburg hereby imposes a fee of \$20 per check for any check which is returned to the Johnsonburg Borough Tax Collector without being honored by a bank or other financial institution for any reason, including, but not limited to, insufficient funds or closed account. This service fee imposed shall be in addition to the amount owed for the taxes paid to the Johnsonburg Borough Tax Collector.
- B. Fees imposed and collected pursuant to Subsection A above shall be deposited into the Johnsonburg Borough's Tax Collector's General Fund.



## **Chapter 180**

### **FLOODPLAIN MANAGEMENT**

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**§ 180-1. Responsibility to regulate.**

#### **ARTICLE II General Provisions**

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**§ 180-12. Placards.**

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#### **ARTICLE IV Identification of Floodplain Areas**

**§ 180-16. Identification.**

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**§ 180-31. Existing structures.**

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**§ 180-36. Definitions.**

ARTICLE X  
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**§ 180-37. Adoption.**

**[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 12-12-2011 by Ord. No. 2011-03. Amendments noted where applicable.]**

GENERAL REFERENCES

Planning Department and Planning Commission — See  
Ch. 71.

Uniform construction codes — See Ch. 138.

Subdivision and land development — See Ch. 265.

Trespassing on flood protection project — See Ch. 281.

Zoning — See Ch. 310.

ARTICLE I  
**Statutory Authorization**

**§ 180-1. Responsibility to regulate.**

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978,<sup>1</sup> 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 Johnsonburg Borough Council does hereby order as follows.

ARTICLE II  
**General Provisions**

**§ 180-2. Intent.**

The intent of this chapter is to:

- A. Promote the general health, welfare and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.

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1. Editor's Note: See 32 P.S. § 679.101 et seq.



- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with federal and state floodplain management requirements.

**§ 180-3. Applicability.**

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Borough of Johnsonburg unless a permit has been obtained from the floodplain administrator.
- B. A permit shall not be required for minor repairs to existing buildings or structures.

**§ 180-4. Abrogation and greater restrictions.**

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

**§ 180-5. Warning and disclaimer of liability.**

- A. The degree of flood protection sought by the provisions of this chapter 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 chapter does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas will be free from flooding or flood damages.
- B. This chapter shall not create liability on the part of the Borough of Johnsonburg or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**ARTICLE III  
Administration**

**§ 180-6. Designation of floodplain administrator.**

The Code Enforcement Officer within the Borough is hereby appointed to administer and enforce this chapter and is referred to herein as the floodplain administrator.

**§ 180-7. Permits required.**

A permit shall be required before any construction or development is undertaken within any area of the Borough of Johnsonburg.

**§ 180-8. Duties and responsibilities of floodplain administrator.**

- A. The floodplain administrator shall issue a permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- B. Prior to the issuance of any permit, the floodplain administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33 U.S.C. § 1344. No permit shall be issued until this determination has been made.
- C. 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.
- D. 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 chapter.
- E. 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 Borough Council for whatever action it considers necessary.
- F. The floodplain administrator shall maintain all records associated with the requirements of this chapter, including, but not limited to, permitting, inspection and enforcement.
- G. The floodplain administrator shall consider the requirements of the 34 Pa. Code and the 2009 IBC and the 2009 IRC, or latest revisions thereof.

**§ 180-9. Application procedures and requirements.**

- A. Application for such a permit shall be made, in writing, to the floodplain administrator on forms supplied by the Borough of Johnsonburg. Such application shall contain the following:
  - (1) Name and address of applicant.
  - (2) Name and address of owner of land on which proposed construction is to occur.
  - (3) Name and address of contractor.
  - (4) Site location, including address.

- (5) Listing of other permits required.
  - (6) Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred, where appropriate.
  - (7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for permits shall provide all the necessary information in sufficient detail and clarity to enable the floodplain administrator to determine that:
- (1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
  - (2) All utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage;
  - (3) Adequate drainage is provided so as to reduce exposure to flood hazards;
  - (4) Structures will be anchored to prevent flotation, collapse or lateral movement;
  - (5) Building materials are flood-resistant;
  - (6) Appropriate practices that minimize flood damage have been used; and
  - (7) Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the floodplain administrator to make the above determination:
- (1) A completed permit application form.
  - (2) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
    - (a) North arrow, scale and date;
    - (b) Topographic contour lines, if available;
    - (c) The location of all existing and proposed buildings, structures and other improvements, including the location of any existing or proposed subdivision and development;
    - (d) The location of all existing streets, drives and other accessways; and

- (e) The location of any existing bodies of water or watercourses, identified floodplain areas and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
- (3) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale, showing the following:
- (a) The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
  - (b) The elevation of the base flood; and
  - (c) Supplemental information as may be necessary under 34 Pa. Code, the 2009 IBC or the 2009 IRC.
- (4) The following data and documentation:
- (a) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
  - (b) Detailed information concerning any proposed floodproofing measures and corresponding elevations.
  - (c) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway (see § 180-17B), when combined with all other existing and anticipated development, will not increase the base flood elevation more than one foot at any point.
  - (d) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
  - (e) Detailed information needed to determine compliance with § 180-23F, Storage, including:<sup>2</sup>
    - [1] The amount, location and purpose of any materials or substances referred to in § 180-23F 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 during a base flood.
  - (f) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (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.

- D. 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.

#### **§ 180-10. 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.

#### **§ 180-11. 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 the floodplain administrator for consideration.

#### **§ 180-12. Placards.**

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

#### **§ 180-13. Start of construction.**

- A. Work on the proposed construction or development shall begin within 180 days after the date of issuance and shall be completed within 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 actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- B. Time extensions shall be granted only if a written request is submitted by the applicant which sets forth sufficient and reasonable cause for the floodplain administrator to approve such a request.

**§ 180-14. Enforcement.**

- A. Notices. Whenever the floodplain administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter, or of any regulations adopted pursuant thereto, the floodplain administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:
- (1) Be in writing;
  - (2) Include a statement of the reasons for its issuance;
  - (3) Allow a reasonable time, not to exceed a period of 30 days, for the performance of any act it requires;
  - (4) Be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this state; and
  - (5) Contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this chapter.
- B. Penalties. Any person who fails to comply with any or all of the requirements or provisions of this chapter or who fails or refuses to comply with any notice, order of direction of the floodplain administrator or any other authorized employee of the municipality shall be guilty of a misdemeanor and, upon conviction, shall pay a fine to the Borough of Johnsonburg of not less than \$25 nor more than \$1,000 plus costs of prosecution. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed 30 days. In addition to the above penalties, all other actions are hereby reserved, including an action in equity, for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of, or noncompliance with, this chapter shall not excuse the violation or noncompliance or permit it to continue, and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered or relocated in noncompliance with this chapter may be declared by Borough Council to be a public nuisance and abatable as such.<sup>3</sup>

**§ 180-15. Appeals.**

- A. Any person aggrieved by any action or decision of the floodplain administrator concerning the administration of the provisions of this chapter may appeal to Borough

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3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Council. Such appeal must be filed, in writing, within 30 days after the decision, determination or action of the floodplain administrator.

- B. Upon receipt of such appeal the Borough Council shall set a time and place, within not less than 10 or not more than 30 days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.
- C. Any person aggrieved by any decision of the Borough Council may seek relief therefrom by appeal to court, as provided by the laws of this state, including the Pennsylvania Flood Plain Management Act.<sup>4</sup>

#### ARTICLE IV

#### Identification of Floodplain Areas

##### **§ 180-16. Identification.**

- A. The identified floodplain area shall be:
  - (1) Any areas of the Borough of Johnsonburg, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated January 18, 2012, 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
  - (2) Any community identified flood hazard areas.
- B. The above-referenced FIS and FIRMs, and any subsequent revisions and amendments, are hereby adopted by the Borough of Johnsonburg and declared to be a part of this chapter.

##### **§ 180-17. Description and special requirements of identified floodplain areas.**

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

- A. The Floodway Area/District shall be those areas identified as "floodway" on the FIRM as well as those floodway areas which have been identified in other available studies or sources of information for those special floodplain areas where no floodway has been identified in the FIS. The floodway represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one foot at any point.
  - (1) 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.

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4. Editor's Note: See 32 P.S. § 679.101 et seq.

- (2) No new construction or development shall be allowed unless a permit is obtained from the Department of Environmental Protection's regional office.
- B. The AE Area/District without floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA and for which base flood elevations have been provided in the FIS but no floodway has been delineated.
- (1) In AE Area/District without floodway, no new development shall be permitted unless it can be demonstrated that the cumulative effect of all past and projected development will not increase the BFE by more than one foot.
  - (2) No permit shall be granted for any construction, development, use or activity within any AE Area/District without floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the BFE more than one foot at any point.
- C. 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 one-percent-annual-chance flood elevations have been provided. For these areas, elevation and floodway information from other federal, state or other acceptable source shall be used when available. Where other acceptable information is not available, the 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.
- D. The Shallow Flooding 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 one-percent-annual-chance shallow flooding, where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

#### **§ 180-18. Changes in identification of area.**

The identified floodplain area may be revised or modified by Borough Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the FEMA. Additionally, as soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data.



**§ 180-19. Boundary disputes.**

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

**§ 180-20. 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 44 CFR 60.3.

**ARTICLE V**  
**Technical Provisions**

**§ 180-21. General.****A. Alteration or relocation of watercourse.**

- (1) No encroachment, alteration or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Protection regional office.
- (2) No encroachment, alteration or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood-carrying capacity of the watercourse in any way.
- (3) In addition, the FEMA and Pennsylvania Department of Community and Economic Development shall be notified prior to any alteration or relocation of any watercourse.

**B. Technical or scientific data shall be submitted by the applicant to FEMA for a Letter of Map Revision (LOMR) as soon as practicable but within six months of any new construction, development or other activity resulting in changes in the BFE. The situations when a LOMR or a Conditional Letter of Map Revision (CLOMR) are required are:**

- (1) Any development that causes a rise in the base flood elevations within the floodway; or
- (2) Any development occurring in Zones A1-30 and Zone AE without a designated floodway which will cause a rise of more than one foot in the base flood elevation; or

- (3) Alteration or relocation of a stream (including but not limited to installing culverts and bridges).
- C. 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 chapter and any other applicable codes, ordinances and regulations.
- D. Within any identified floodplain area (see § 180-17), no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse unless a permit is obtained from the Department of Environmental Protection regional office.

**§ 180-22. Elevation and floodproofing requirements.**

**A. Residential structures.**

- (1) In AE, A1-30 and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.
- (2) In A Zones, where there are no base flood elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation determined in accordance with § 180-17C of this chapter.<sup>5</sup>
- (3) In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
- (4) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC), or the most recent revisions thereof, and ASCE 24 and 34 Pa. Code (Chapters 401-405, as amended) shall be utilized.

**B. Nonresidential structures.**

- (1) In AE, A1-30 and AH Zones, any new construction or substantial improvement of a nonresidential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation or be designed and constructed so that the space enclosed below the regulatory flood elevation:
  - (a) Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water; and
  - (b) Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

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5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) 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 § 180-17C of this chapter.<sup>6</sup>
- (3) In AO Zones, any new construction or substantial improvement shall have its lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
- (4) Any nonresidential 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.
- (5) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC), or the most recent revisions thereof, and ASCE 24 and 34 Pa. Code (Chapters 401-405, as amended) shall be utilized.

C. Space below the lowest floor.

- (1) Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
- (2) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - (a) A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
  - (b) The bottom of all openings shall be no higher than one foot above grade.
  - (c) Openings may be equipped with screens, louvers, etc., or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

D. Historic structures.

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6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) See § 180-36 (definition of "substantial improvement") for requirements for the substantial improvement of any historic structures.<sup>7</sup>

**§ 180-23. Design and construction standards.**

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

**A. Fill.**

- (1) If fill is used, it shall:
  - (a) Extend laterally at least 15 feet beyond the building line from all points;
  - (b) Consist of soil or small rock materials only — sanitary landfills shall not be permitted;
  - (c) Be compacted to provide the necessary permeability and resistance to erosion, scouring or settling;
  - (d) Be no steeper than one vertical to two horizontal feet unless substantiated data justifying steeper slopes is submitted to, and approved by, the floodplain administrator; and
  - (e) Be used to the extent to which it does not adversely affect adjacent properties.

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

**C. Water and sanitary sewer facilities and systems.**

- (1) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
- (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
- (3) No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all state and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
- (4) The design and construction provisions of the UCC and FEMA #348, Protecting Building Utilities from Flood Damages, and the International Private Sewage Disposal Code shall be utilized.

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7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- D. Other utilities. All other utilities such as gaslines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
- E. Streets. The finished elevation of all new streets shall be no more than one foot below the regulatory flood elevation.
- F. Storage. All materials that are buoyant, flammable, explosive or in times of flooding could be injurious to human, animal or plant life shall be stored at or above the regulatory flood elevation or floodproofed to the maximum extent possible.<sup>8</sup>
- G. Placement of buildings and structures. All buildings and structures shall be designed, located and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwater.
- H. Anchoring.
  - (1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse or lateral movement.
  - (2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.
- I. Floors, walls and ceilings.
  - (1) Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain, without causing structural damage to the building.
  - (2) Plywood used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
  - (3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
  - (4) Windows, doors and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant material.
- J. Paints and adhesives.
  - (1) Paints and other finishes used at or below the regulatory flood elevation shall be of marine or water-resistant quality.
  - (2) Adhesives used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
  - (3) All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a marine or water-resistant paint or other finishing material.

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8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**K. Electrical components.**

- (1) Electrical distribution panels shall be at least three feet above the base flood elevation.
- (2) Separate electrical circuits shall serve lower levels and shall be dropped from above.

**L. Equipment.** Water heaters, furnaces, air-conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.**M. Fuel supply systems.** All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.**N. 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 subsections of this chapter to the extent that they are more restrictive and supplement the requirements of this chapter.

- (1) International Building Code (IBC) 2009, or the latest edition thereof: Sections 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
- (2) International Residential Building Code (IRC) 2009, or the latest edition thereof: Sections R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

**§ 180-24. Special requirements for subdivisions.**

All subdivision proposals and development proposals containing at least 50 lots or at least five 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 or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

**§ 180-25. Special requirements for manufactured homes.****A.** Where permitted within any identified floodplain area, all manufactured homes, and any improvements thereto, shall be:

- (1) Placed on a permanent foundation.
- (2) Elevated so that the lowest floor of the manufactured home is at least 1 1/2 feet above base flood elevation.
- (3) Anchored to resist flotation, collapse or lateral movement.

- B. 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 United States Department of Housing and Urban Development's "Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto, shall apply and 34 Pa. Code Chapters 401 through 405.
- C. Consideration shall be given to the installation requirements of the 2009 IBC and the 2009 IRC, or the most recent revisions thereto, 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 units' proposed installation.
- D. See § 180-36 (definition of "substantial improvement") for requirements for substantial improvement of any historic structures.

**§ 180-26. Special requirements for recreational vehicles.**

Recreational vehicles in Zones A, A1-30, AH and AE must either:

- A. Be on the site for fewer than 180 consecutive days;
- B. Be fully licensed and ready for highway use; or
- C. Meet the permit requirements for manufactured homes in § 180-25.

**ARTICLE VI**

**Activities Requiring Special Permits**

**§ 180-27. 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 Borough of Johnsonburg:

- A. The commencement of any of the following activities or the construction, enlargement or expansion of any structure used, or intended to be used, for any of the following activities:
  - (1) Hospitals.
  - (2) Nursing homes.
  - (3) Jails or prisons.
- B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision or substantial improvement to an existing manufactured home park or manufactured home subdivision.

**§ 180-28. Application requirements for special permits.**

Applicants for special permits shall provide five copies of the following items:

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



- (5) Cross-section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
- (6) Profile drawings for all proposed streets, drives and vehicular accessways, including existing and proposed grades; and
- (7) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

- (1) Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
- (2) 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;
- (3) 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;
- (4) 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;
- (5) 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;
- (6) The appropriate component of the Department of Environmental Protection's Planning Module for Land Development;
- (7) 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;
- (8) 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<sup>9</sup>
- (9) 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.

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9. Editor's Note: See the Flood Plain Management Act, 32 P.S. § 679.101 et seq.

**§ 180-29. Application review procedures.**

Upon receipt of an application for a special permit by Johnsonburg Borough the following procedures shall apply in addition to those of Article III:

- A. Within three working days following receipt of the application a complete copy of the application and all accompanying documentation shall be forwarded 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 Johnsonburg Borough Planning Commission and Johnsonburg Borough Engineer for review and comment.
- B. If an application is received that is incomplete, Johnsonburg Borough shall notify the applicant, in writing, stating in what respect the application is deficient.
- C. If Johnsonburg Borough decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- D. If Johnsonburg Borough 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 working days after the date of approval.
- E. Before issuing the special permit, Johnsonburg Borough shall allow the Department of Community and Economic Development 30 days after receipt of the notification by the Department to review the application and decision made by Johnsonburg Borough.
- F. If Johnsonburg Borough does not receive any communication from the Department of Community and Economic Development during the thirty-day review period, it may issue a special permit to the applicant.
- G. If the Department of Community and Economic Development should decide to disapprove an application, it shall notify Johnsonburg Borough and the applicant, in writing, of the reasons for the disapproval, and Johnsonburg Borough shall not issue the special permit.

**§ 180-30. Special technical requirements.**

- A. In addition to the requirements of Article V of this chapter, 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 Article V of this chapter or in any other code, ordinance or regulation, the more restrictive provision shall apply.
- B. 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:
  - (1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located and constructed so that:

- (a) The structure will survive inundation by waters of the base flood without any lateral movement or damage to either the structure itself or to any of its equipment or contents below the BFE.
  - (b) The lowest floor (including basement) will be elevated to at least 1 1/2 feet above base flood elevation.
  - (c) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood.
- (2) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.
- C. All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by Johnsonburg Borough and the Department of Community and Economic Development.

## ARTICLE VII

### Existing Structures in Identified Floodplain Areas

#### § 180-31. Existing structures.

The provisions of this chapter 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 § 180-32 shall apply.

#### § 180-32. Improvements.

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

- A. No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.
- B. No expansion or enlargement of an existing structure shall be allowed within AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one foot at any point.
- C. Any modification, alteration, reconstruction or improvement of any kind to an existing structure to an extent or amount of 50% or more of its market value shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this chapter.
- D. The above activity shall also address the requirements of 34 Pa. Code, as amended, and the 2009 IBC and the 2009 IRC.

**ARTICLE VIII**  
**Variances**

**§ 180-33. General.**

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

**§ 180-34. Variance procedures and conditions.**

A. Requests for variances shall be considered by Johnsonburg Borough in accordance with the procedures contained in § 180-15 and the following:<sup>10</sup>

- (1) No variance shall be granted for any construction, development, use or activity within any Floodway Area/District that would cause any increase in the BFE.
- (2) No variance shall be granted for any construction, development, use or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE than one foot at any point.
- (3) 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) (Article VI).<sup>11</sup>
- (4) If granted, a variance shall involve only the least modification necessary to provide relief.
- (5) In granting any variance, Johnsonburg Borough 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 chapter.
- (6) Whenever a variance is granted, Johnsonburg Borough shall notify the applicant in writing that:
  - (a) The granting of the variance may result in increased premium rates for flood insurance.
  - (b) Such variances may increase the risks to life and property.
- (7) In reviewing any request for a variance, Johnsonburg Borough 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.

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10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (c) That the granting of the variance will:
  - [1] Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense;
  - [2] Nor create nuisances, cause fraud on or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- (8) A complete record of all variance requests and related actions shall be maintained by Johnsonburg Borough. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.
- B. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent-annual-chance flood.

## ARTICLE IX

### Terminology

#### § 180-35. Word usage.

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

#### § 180-36. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**ACCESSORY USE OR STRUCTURE** — A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**BASE FLOOD** — A flood which has a one-percent chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood" or "one-percent-annual-chance flood").

**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).

**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 one-percent or greater chance of being equaled or exceeded in any given year.

**BASEMENT** — Any area of the building having its floor below ground level on all sides.

**BUILDING** — A combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

**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.

**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.

**EXISTING STRUCTURE** — A structure for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. "Existing structure" may also be referred to as "existing construction."

**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).

**FLOOD** — A temporary inundation of normally dry land areas.

**FLOOD INSURANCE RATE MAP (FIRM)** — The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

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

**FLOODPLAIN AREA** — A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

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

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

**HIGHEST ADJACENT GRADE** — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURES** — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the 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:
  - (1) By an approved state program as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

**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 chapter.

**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.

**MANUFACTURED HOME PARK OR SUBDIVISION** — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MINOR REPAIR** — The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress or rearrangement of parts of a structure affecting the exitway requirements; nor shall "minor repairs" include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after the January 18, 2012, and includes any subsequent improvements to such structures. Any construction started after September 12, 1978, and before January 18, 2012, is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

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

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

**POST-FIRM STRUCTURE** — A structure for which construction or substantial improvement occurred after December 31, 1974, or on or after the community's initial Flood Insurance Rate Map (FIRM) dated September 29, 1978, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

**PRE-FIRM STRUCTURE** — A structure for which construction or substantial improvement occurred on or before December 31, 1974, or before the community's initial Flood Insurance Rate Map (FIRM) dated September 29, 1978, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

**RECREATIONAL VEHICLE** — A vehicle which is:

- 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.

**REGULATORY FLOOD ELEVATION** — The base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of 1 1/2 feet.

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

**SPECIAL PERMIT** — A special approval which is required for hospitals, nursing homes, jails and new manufactured home parks and subdivisions, and substantial improvements to such existing parks, when such development is located in all or a designated portion of a floodplain.

**START OF CONSTRUCTION** — Includes substantial improvement and other proposed new development and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days from the date of the permit and shall be completed within 12 months after the date of issuance of the permit unless a time extension is granted, in writing, by the floodplain administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the



property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

**SUBDIVISION** — The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

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

**SUBSTANTIAL IMPROVEMENT** —

- A. Any reconstruction, rehabilitation, addition or other improvement of a structure the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- B. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this chapter 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.

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

VIOLATION — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided.

## ARTICLE X

### **Enactment**

#### **§ 180-37. Adoption.**

This chapter shall be effective on January 18, 2012, and shall remain in force until modified, amended or rescinded by the Borough of Johnsonburg, Elk County, Pennsylvania.

## **Chapter 187**

### **GRASS AND WEEDS**

**§ 187-1. Certain vegetation in excess of six inches in height prohibited.**

**§ 187-3. Notice to remove vegetation; removal by Borough; costs.**

**§ 187-2. Removal of prohibited vegetation.**

**§ 187-4. Violations and penalties.**

**[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 8-3-1965 by Ord. No. 530, approved 8-3-1965. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

**Shade Tree Commission — See Ch. 94.**

**Disorderly conduct and nuisances — See Ch. 152.**

**§ 187-1. Certain vegetation in excess of six inches in height prohibited.**

No person or persons, partnership, firm or corporation owning or occupying any property in the Borough of Johnsonburg, Elk County, Pennsylvania, shall permit any grass, weeds or any vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain on such premises so as to exceed a height of six inches, or to throw off any unpleasant or noxious odor, or to conceal any filthy deposit, or to create or produce pollen, or to create a fire hazard.

**§ 187-2. Removal of prohibited vegetation.**

The owner of any premises, as to vacant premises or premises occupied by the owner, and the occupant thereof, as to other premises, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining on such premises in violation of § 187-1.

**§ 187-3. Notice to remove vegetation; removal by Borough; costs.**

The Borough Council or any officer or employee of the Borough designated thereby for the purpose is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any premises whereon grass, weeds or other vegetation is growing or remaining in violation of the provisions of this chapter, directing and requiring such occupant to remove, trim or cut such grass, weeds or vegetation so as to conform to the requirements of this chapter within five days after issuance of such notice. In case any person, partnership, firm or corporation shall neglect, fail or refuse to comply with such notice within the period of time stated therein, the Borough authority may remove, trim or cut such grass, weeds or vegetation, and the cost thereof, together with any additional penalty authorized by law, may be collected by the Borough from such person, partnership, firm or corporation in the manner provided by law.

**§ 187-4. Violations and penalties. <sup>1</sup>**

Any person, partnership, firm or corporation who or which shall violate or fail, neglect or refuse to comply with any of the provisions of this chapter shall, in a summary proceeding before a Magisterial District Judge and upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs of prosecution and, in default of payment of such fine and costs, to undergo imprisonment for not more than 30 days. Each day's continuance of a violation of this chapter, after notice thereof as provided by § 187-3 hereof, shall constitute a separate offense.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

## **Chapter 194**

### **HEALTH ADMINISTRATION AND REGULATIONS**

**§ 194-1. Office of Health Officer created.**

**§ 194-2. Interpretation of regulations.**

**§ 194-3. Public eating and drinking  
places, clubs and food stores.**

**§ 194-4. Penalties for operation of  
establishment without proper  
health license.**

**§ 194-5. Penalties for nonrevocable  
offenses.**

**[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 9-14-1999  
by Ord. No. 1999-621, approved 9-14-1999. Amendments noted where applicable.]**

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**§ 194-1. Office of Health Officer created.**

- A. The office of Health Officer is hereby created in and for the Borough of Johnsonburg, to be regulated and governed and with the powers, duties and responsibilities vested in him by the Borough Code.<sup>1</sup> Appointment of the Health Officer shall be made by the Borough Council at a rate of pay established by Council.
- B. In addition to the powers and duties as prescribed by the laws of the commonwealth and rules and regulations of the Department of Environmental Protection and the Advisory Health Board of the commonwealth, the Health Officer shall have the following powers and duties:
- (1) Under the direction of the Borough Council, he shall enforce the health laws of the commonwealth and the laws and regulations of the Department of Environmental Protection, the Advisory Health Board of the commonwealth, and health ordinances and laws and regulations of the Board relating to the general welfare of the Borough and its inhabitants. In the performance of these duties, the Health Officer is hereby granted authority to enter in and upon private and public dwellings and premises. The Health Officer shall, upon request, present credentials furnished by the Board and attested by the Borough Solicitor. In the enforcement of the health laws, regulations and ordinances as hereinabove prescribed, it shall be the duty of the Health Officer to prosecute those in violation of the same by either filing an information on his own investigation or upon his information and belief, in the same manner as any other police officer who prosecutes such violation, before a Magisterial District Judge or any other proper court or tribunal as the law may prescribe.
  - (2) Maintain a permanent record of each investigation, quarantine and complaint in the manner and upon such forms as may be prescribed by the Council and to file such records with the Council.
  - (3) Inspection of food stores and also eating and drinking establishments as herein prescribed.

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1. Editor's Note: See 8 Pa.C.S.A. § 101 et seq.

- (4) Perform such other duties as may be required by the Borough Council for the protection of the health and welfare of the Borough and its inhabitants.

**§ 194-2. Interpretation of regulations.**

The following regulations shall be in conjunction with and in addition to the state laws and regulations governing the subject matter of the various sections of this chapter, and where anything in this chapter shall be duplication of a provision of the state law or in a regulation promulgated by authority of law, it was included herein merely to give a better overall understanding of the applicable regulations, and any violation of any such provision shall be prosecuted under the applicable law and not under this chapter. Where any regulation in this chapter shall be stricter than a state law or regulation on the same subject, the stricter provision of this chapter shall apply, but where there shall be a state law or regulation that is stricter than a corresponding provision of this chapter, the stricter provision of the state law or regulation shall apply.

**§ 194-3. Public eating and drinking places, clubs and food stores.**

- A. All kitchens, dining rooms, cellars, ice boxes, refrigerators and any place where food is sold, handled or possessed in connection with public eating and drinking places, clubs and food stores must be clean and sanitary at all times when they are engaged in conducting the said business or when selling or handling food in such establishment.
- B. The clothing, hands and bodies of the person in charge and of all employees of public eating or drinking places, clubs and food stores must be clean and sanitary at all times when they are engaged in conducting the said business or when selling or handling food in such establishment.
- C. No proprietor shall furnish any towel or napkin to any person of a public eating or drinking place or club unless such towel or napkin be laundered or discarded after each individual use thereof.
- D. Water-flushed toilets with an approved system of sewage disposal shall be provided for the use of employees, and all toilets on the premises shall be maintained in a clean and sanitary condition. Toilet facilities provided for the public shall be separate for men and women. The doors of all toilet rooms shall be self-closing. No toilet shall open directly off the kitchen nor shall be so located that flies would have ready access from the toilet to the food.
- E. Adequate and convenient hand-washing facilities, including hot water, soap and approved sanitary towels, shall be provided for employees. The use of a common towel is prohibited.
- F. All utensils in any public eating or drinking place or club or food stores used in the preparation, service and sale of any food or drink; cups, saucers and glasses used in the preparation, service and sale of any food or drink intended for human consumption shall be properly cleansed after being used, and no such utensil or knife, fork, spoon, plate, dish, cup, saucer or glass shall, under any circumstances, be reused unless it shall have

been, after the previous use thereof, so cleansed. In such cleansing the use of water which has become unsanitary by previous use thereof is prohibited. The term "properly cleansed" as herein used shall be taken to mean the cleansing after each use of all utensils, including knives, forks, spoons, plates, dishes, cups, saucers or glasses used in the preparation, service or sale of any food or drink intended for human consumption, in hot water to which has been added the proper amount of an approved bactericide, followed by a thorough rinsing with clean hot water or immersion in clean hot water; by sterilization with live steam; or by some other equally effective method approved by the Board of Health.

- G. The effectiveness of the method used to cleanse the utensils used in the preparation, service and sale of any food or drink shall determined by standard tests approved by the Health Officer.
- H. All stationary equipment shall be kept in a clean and sanitary condition.
- I. Garbage receptacles shall be thoroughly cleansed with scalding water after each emptying.
- J. All foods, excepting whole fruits and vegetables, on display for distribution or sale must be kept under glass or other coverage approved by the Health Officer for protection against dust, dirt, flies and vermin.
- K. No domestic pets, animals or rodents shall be permitted where food is prepared, handled, sorted, stored or offered for sale.
- L. No room where food is prepared, kept, sold, served or offered for sale shall be used for sleeping or living quarters.
- M. Discarded containers or wrappings shall be disposed of promptly.
- N. Every employee of any public eating or drinking establishment or club and all persons engaged in the handling of food and drink of any kind whatsoever that is sold or distributed in the Borough of Johnsonburg shall obtain a certificate from a licensed physician of the Borough of Johnsonburg, certifying that such employee or person is free from any communicable disease, including tuberculosis and venereal disease, and no such employee or person shall be employed or permitted to work in such public eating or drinking establishment or club or handle such food or drink without having first obtained such a certificate. All such employees and persons shall be thereafter examined and certified semiannually. Said certificate or certificates shall be in such form as to meet the requirements of the Department of Environmental Protection of Pennsylvania and the Board of Health of the Borough of Johnsonburg and shall be filed with the Health Officer within five days from the date of said medical examination. Said certificate shall be valid for six months from the date of issue and may be revoked by the Health Officer at any time prior thereto, if the employee named therein shall, within said period, contract a communicable disease.
- O. No proprietor shall work or permit any employee to work in a public eating or drinking place or club or food store if such employee or employees shall have had typhoid fever, for a period of 60 days after the attending physician has certified that he has completely

recovered and that at least the three consecutive series of feces and urine specimens collected five days apart have been reported as negative by a laboratory approved by the Health Officer. No carrier of typhoid fever or dysentery of any type shall be allowed to work in a public eating or drinking place or club or food store after a notice that such employee is a carrier has been served in writing upon him by a physician or the Health Officer.

- P. No proprietor shall work or permit any employee to work in a public eating or drinking place or club or food store, if such employee or himself has been declared to be a carrier, except on the receipt from the Health Officer in writing of information that the carrier's condition has cleared up and the employee is no longer a public health menace; provided, however, that no person declared to be a chronic typhoid carrier shall ever be allowed to return to employment in a public eating or drinking place or club or food store, except on written permit from the Health Officer or the Pennsylvania Department of Environmental Protection.
- Q. No food, fruit or vegetables shall be displayed on any portion of the public sidewalks or streets, and all such foods, fruits and vegetables which are displayed for sale on private property shall be elevated at least two feet above the ground level, provided this shall not apply to food which is peeled before using or to fruits or vegetables enclosed in watertight containers.
- R. It shall be unlawful for any person to sell, handle or possess, except as garbage, any unwholesome or decayed food.
- S. No persons, firms or corporations shall commence the sale or distribution of food from food stores or food-processing or -preparation establishments, nor prepare food or drink in public eating or drinking establishments and clubs, until after first having received a certificate permitting same from the Board of Health. Application for such certificate shall be made in such a manner and upon such forms provided by the Board of Health. Upon receipt of the application, the Health Officer shall immediately investigate said premises and make a report of his investigation to the Board. The Board shall either pass favorably upon the application and issue its certificate of authority or shall advise the applicant in writing of its reason for refusing such certificates. The Board may also take such other action as it deems necessary under the circumstances.
- T. In addition to the above required initial application investigation and certificate, the Health Officer shall make semiannual inspections of all food stores and public eating and drinking and club establishments within the Borough. All such food stores and public eating or drinking and club establishments shall be required to obtain an annual license from the Board of Health. Such annual license shall be revocable by the Board of Health upon violation of any of the provisions of this chapter, health laws of the commonwealth, rules and regulations of the Department of Environmental Protection or Advisory Health Board of the commonwealth dealing with such establishments. Prior to renewal date of said annual license, the Health Officer shall inspect each such establishment. This inspection report must be submitted by the Health Officer in person to the Board for review and approval or rejection. If approved by the Board, a license shall be issued for operation of the establishment for one year only. In case of rejection, the Board shall advise the applicant in writing of its reason or reasons for refusal. Operation of a public



eating or drinking or club establishment within the Borough without an approved license shall be unlawful and punishable as hereinafter prescribed.

- U. Each initial application for certification as hereinabove required shall be accompanied by an application fee in the sum as established from time to time by resolution by Borough Council, and in addition to this initial application fee, each such establishment shall be required to pay an annual renewal fee in the sum as established from time to time by resolution by Borough Council, which shall be payable at the time of the annual inspection prior to the issuance of the annual license. The annual license year shall extend from July 1 to June 30.

**§ 194-4. Penalties for operation of establishment without proper health license. [Added 10-8-2002 by Ord. No. 2002-2, approved 10-8-2002]**

- A. It shall be unlawful for a public eating establishment, restaurant, licensed drinking establishment, or public dining hall to operate its business without a current, valid and unexpired license issued by the Board of Health through the Health Officer for the Borough of Johnsonburg.
- B. It shall be unlawful for a public eating establishment, restaurant, licensed drinking establishment, or public dining hall to operate its business without conspicuously displaying and posting the health license issued by the Health Officer on the premises of the licensed public eating establishment, restaurant, licensed drinking establishment or public dining hall.
- C. Any individual, corporation, officer, director or other entity found in violation of Subsection A or B above shall be guilty of a summary offense and, upon conviction, be sentenced to pay a fine of not more than \$1,000 plus costs of prosecution and, in default of payment thereof, to imprisonment of not more than 30 days. Each day such violation continues shall constitute a separate violation.<sup>2 3</sup>

**§ 194-5. Penalties for nonrevocable offenses. [Added 10-8-2002 by Ord. No. 2002-2, approved 10-8-2002]**

- A. In the event that the Johnsonburg Borough Health Officer makes any periodic inspection of a public eating establishment, restaurant, licensed drinking establishment, or public dining hall and determines that any of the provisions of this chapter are being violated, but such violation does not warrant the revocation of the establishment's health license, the following shall occur:
  - (1) The Health Officer shall issue a written list or lists of violations that he/she has located. The Health Officer shall include on the list or lists of violations a time period when the violation or violations shall be corrected.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Original Subsection D, which provided a separate penalty for Subsection B, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) The owner of the establishment shall acknowledge receipt of the list or lists of violations in writing by signing the Health Officer's copy of the list or lists of violations. In the event that an owner refuses to sign the list or lists of violations, the Health Officer shall note the refusal on the list or lists of violations.
  - (3) The Health Officer shall return to the establishment within the time period provided to the owner and shall reinspect to determine if the list or lists of violations have been corrected. In the event that the list or lists of violations are not corrected at the time of reinspection by the Health Officer, the public eating establishment, restaurant, licensed drinking establishment or public dining hall shall be subject to the penalties as hereinafter provided.
- B. Any individual, corporation, officer, director or other entity found in violation of Subsection A(3) shall be guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000 plus costs of prosecution and, in default of payment thereof, to imprisonment of not more than 30 days, provided each day such violation continues shall constitute a separate violation.<sup>4</sup>

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4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

## **Chapter 200**

### **HOUSING STANDARDS**

#### **ARTICLE I** **Purpose; Applicability; Definitions**

- § 200-1. Declaration of need.**
- § 200-2. Applicability of regulations.**
- § 200-3. Conflict with other ordinances.**
- § 200-4. Definitions.**

#### **ARTICLE II** **Minimum Standards**

- § 200-5. Basic equipment and facilities.**
- § 200-6. Light, ventilation and heating.**
- § 200-7. Safety from fire.**
- § 200-8. Space, use and location.**
- § 200-9. Safe and sanitary maintenance.**

- § 200-10. Unsafe structures and equipment.**
- § 200-11. Cooking equipment.**
- § 200-12. Responsibilities of owners and occupants.**
- § 200-13. Rooming houses.**

#### **ARTICLE III** **Administration and Enforcement**

- § 200-14. Code Enforcement Officer.**
- § 200-15. Board of Appeals.**
- § 200-16. Notices and appeals.**
- § 200-17. Abatement of violations.**
- § 200-18. Violations and penalties.**

**[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 8-8-1967 by Ord. No. 545, approved and effective 8-8-1967. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Building construction — See Ch. 138.  
Grass and weeds — See Ch. 187.  
Administration of health laws — See Ch. 194.

Solid waste — See Ch. 248.  
Water and sewage service — See Ch. 303.  
Zoning — See Ch. 310.

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#### **ARTICLE I** **Purpose; Applicability; Definitions**

##### **§ 200-1. Declaration of need.**

It is hereby declared that the inadequate provision for light and air, insufficient protection against fire, insanitary conditions, improper heating, overcrowding, dilapidation and disrepair of dwellings and premises and the occupancy or existence of dwellings unfit for human habitation in the Borough of Johnsonburg endanger the health, safety, morals and welfare of the community, and that the establishment and maintenance of proper housing standards and procedures for requiring the rehabilitation, repair or compulsory demolition of housing are essential to the public health, safety and welfare.

**§ 200-2. Applicability of regulations.**

Every portion of a building or premises used or intended to be used for any dwelling purpose, except temporary housing, shall comply with the provisions of this chapter, irrespective of when such building shall have been constructed, altered or repaired and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or premises, for the construction or repair of the building or for the installation or repair of equipment or facilities prior to the effective date of this chapter. This chapter establishes minimum standards for the initial and continued occupancy of all buildings and does not replace or modify standards otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities, except as provided in § 200-3.

**§ 200-3. Conflict with other ordinances.**

In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, electrical, plumbing, fire, safety or health ordinance,<sup>1</sup> or any regulation adopted pursuant thereto, or any other ordinance, code or regulation of the Borough of Johnsonburg, the provision which establishes the highest standard shall prevail.

**§ 200-4. Definitions.**

For the purpose of this chapter, the terms used herein are defined as follows:

**APPROVED** — In accordance with and acceptable to the authority having jurisdiction.<sup>2</sup>

**BASEMENT** — A portion of any dwelling located partly underground but having less than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

**BOARD** — The Board of Appeals of the Borough of Johnsonburg, Pennsylvania.

**CELLAR** — A portion of any dwelling having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

**CODE ENFORCEMENT OFFICER** — The authorized public officer empowered to enforce and administer provisions of this chapter.<sup>3</sup>

**DWELLING** — A building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants.

**DWELLING UNIT** — A room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating. The term includes apartments.<sup>4</sup>

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1. Editor's Note: See Ch. 194, Health Administration and Regulations; Ch. 138 Construction Codes, Uniform; Ch. 248, Solid Waste; Ch. 303, Water and Sewage Service; and Ch. 310, Zoning.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**EXTERMINATION** — The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the Code Enforcement Officer.

**HABITABLE ROOM** — A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, foyers, pantries, communicating corridors, stairways, closets and storage spaces.

**MULTIFAMILY DWELLING** — Any dwelling or part thereof containing three or more dwelling units.

**OCCUPANT** — Any person (including an owner or operator) over one year of age living and sleeping in a dwelling unit or rooming unit.

**OPENABLE AREA** — The part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

**OPERATOR** — Any person having charge, care, management or control of any dwelling or part of it in which dwelling units or rooming units are let.

**OWNER** — Any person who, alone, jointly or severally with others, holds legal or equitable title to any dwelling, rooming house, dwelling unit or rooming unit.

**PERSON** — An individual, firm, corporation, association or partnership.

**PLUMBING or PLUMBING FIXTURES** — Gas pipes and gas-burning equipment, water-heating facilities, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents and other similar supplied fixtures, together with all connections to water, sewer and gas lines.

**PREMISES** — A lot, plot or parcel of land, including the buildings and structures thereon.

**ROOMING HOUSE** — Any dwelling or that part of any dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons.

**ROOMING UNIT** — Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping but not for cooking or eating purposes, except that a light housekeeping unit is included in this definition if there is not more than one occupant.

**SUPPLIED** — Installed, furnished or provided by the owner or operator at his expense.

**YARD** — All ground, lawn, court, walk, driveway or other open space constituting part of the same premises as a dwelling.

ARTICLE II  
**Minimum Standards**

**§ 200-5. Basic equipment and facilities.**

No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling, rooming house, dwelling unit or rooming unit which does not comply with the following minimum standards for basic equipment and facilities:

- A. Every dwelling unit shall contain within its walls a room, separate from the habitable rooms, which affords privacy and which is equipped with an operable flush water closet and an operable lavatory basin.<sup>5</sup>
- B. Every dwelling unit shall contain within its walls a room, separate from the habitable rooms, which affords privacy to a person in the room and which is equipped with an operable bathtub or shower.<sup>6</sup>
- C. Every dwelling unit shall contain within its walls a kitchen sink.
- D. Every kitchen sink, lavatory basin and bathtub or shower required by this chapter shall be properly connected with both hot and cold waterlines. The hot waterlines shall be connected with supplied water-heating facilities which are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin and bathtub or shower at a temperature of not less than 120° F. even when the dwelling heating facilities required by § 200-6E of this chapter are not in operation.
- E. All plumbing fixtures required by this section shall be properly connected to an approved water system and to an approved sewerage or sewage disposal system.
- F. Every dwelling unit shall have approved garbage and rubbish storage or disposal facilities. In every multifamily dwelling, such facilities shall be placed in an approved location.

**§ 200-6. Light, ventilation and heating.**

No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling, rooming house, dwelling unit or rooming unit which does not comply with the following minimum standards for light, ventilation and heating:

- A. Every habitable room shall have a window or skylight opening directly to the outdoors. The total area of such window or skylight shall not be less than 10% of the floor area of such room for sleeping rooms and 7% to all other habitable rooms. All windows and skylights shall be enclosed with glass and shall be provided with suitable hardware and made to open to the extent of 5% of the floor area. In the absence of natural ventilation, every habitable room shall be ventilated by approved mechanical means affording equivalent ventilation.

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5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. Every bathroom and water closet compartment shall have at least one window facing to the outdoors and having a minimum openable area of 4% of the floor area of such room, except where there is supplied some other approved device affording equivalent mechanical ventilation.
- C. Every laundry room shall have a window with a minimum openable area of at least two square feet, except where there is supplied some other approved device affording equivalent mechanical ventilation.
- D. Every dwelling shall be supplied with electricity if within 300 feet of available service from power lines. Within such dwelling:
  - (1) Every habitable room shall contain at least two separate floor- or wall-type electric convenience outlets, or one such convenience outlet and one supplied ceiling-type electric light fixture.
  - (2) Every water closet compartment, bathroom, laundry room, furnace room and public hall shall contain at least one supplied ceiling- or wall-type electric light fixture.
  - (3) Every outlet and fixture shall be properly installed and maintained in good and safe working condition.
- E. Every dwelling shall have heating facilities which are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments within its walls to a temperature of at least 70° F. at a location three feet above floor level when the outside temperature is 10° F.
- F. All fuel-burning heating facilities shall be permanent installations attached to approved fuel. No portable room-heating units using liquid fuel shall be permitted in any dwelling unit.<sup>7</sup>

#### **§ 200-7. Safety from fire.**

No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling, rooming house, dwelling unit or rooming unit which does not comply with the following minimum standards for safety from fire:

- A. No dwelling unit or rooming unit shall be located within a building containing any establishment handling, dispensing or storing flammable liquids in any quantity which endangers the lives of the occupants.
- B. Every dwelling unit and every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level.
- C. Every hallway, stairway, corridor, exit, fire escape door and other means of egress shall be kept clear at all times.

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7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- D. Storage rooms and storage lockers or closets shall not be used for storage of junk, rubbish, wastes or inflammable material.
- E. There shall be at least two means of egress available for all multifamily houses exceeding two stories above the basement, and every two-story multifamily house having more than six apartments or having more than 2,500 square feet in area on each floor shall have at least two separate exits.
- F. There shall be a battery-operated smoke detector installed in each bedroom and in the area immediately outside each bedroom.<sup>8</sup>

**§ 200-8. Space, use and location.**

No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling, rooming house, dwelling unit or rooming unit which does not comply with the following minimum standards for space, use and location:

- A. Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable floor area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant.
- B. In every dwelling unit and every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 45 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.
- C. Floor area shall be calculated on the basis of habitable room area. However, closet area and hall area within the dwelling unit, where provided, may count for not more than 10% of the required habitable floor area. At least 1/2 of the floor area of every habitable room shall have a ceiling height of at least seven feet, and the floor area of any part of any room where the ceiling height is less than 4 1/2 feet shall not be considered as part of the floor area in computing the total floor area of the room to determine maximum permissible occupancy.
- D. No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a sleeping room can be had only by going through a bathroom or a water closet compartment.
- E. No sleeping room shall be occupied by more than two adults, except that one child under eight years of age in addition to the two adults may be permitted, and except that rooms occupied by persons of the same sex or by children under five years of age may be occupied by more than two persons where space permits.
- F. No cellar shall be used as a habitable room or dwelling unit.
- G. No basement shall be used as a habitable room or dwelling unit unless:

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8. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



- (1) The floors and walls are substantially watertight.
- (2) The total window area, total openable area and ceiling height are in accordance with this chapter.
- (3) The required minimum window area of every habitable room is entirely above the grade of the ground adjoining such window area, not including stairwells or accessways.

**§ 200-9. Safe and sanitary maintenance.**

No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling, rooming house, dwelling unit or rooming unit which does not comply with the following minimum standards for safe and sanitary maintenance:

- A. Every foundation, exterior wall and exterior roof shall be substantially weathertight, watertight and rodentproof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
- B. Every floor, interior wall and ceiling shall be substantially rodentproof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
- C. Every window, exterior door and basement or cellar door and hatchway shall be substantially weathertight, watertight and rodentproof and shall be kept in sound working condition and good repair.
- D. Every inside and outside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair. Guards shall be located along open-sided porches, decks, stairways and other appurtenances greater than 30 inches above the floor or grade below.<sup>9</sup>
- E. Every plumbing fixture shall be properly installed and maintained in sanitary working condition, free from defects, leaks and obstructions, and in accordance with the plumbing requirements of the Borough of Johnsonburg.
- F. Every water closet compartment shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
- G. Every supplied facility, piece of equipment or utility which is required under this chapter and every chimney and smoke pipe shall be so constructed and installed that it will function safely and effectively and shall be maintained in sound working condition.
- H. Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

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9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- I. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement or cellar which might provide an entry for rodents, shall be supplied with a screen or other device which will effectively prevent their entrance.

#### **§ 200-10. Unsafe structures and equipment. <sup>10</sup>**

Existing residential and nonresidential structures or existing equipment that do not meet the conditions of the chapter or hereafter become unsafe, unsanitary or deficient because of inadequate maintenance, or which constitute a fire hazard, health hazard or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the Code Enforcement Officer deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

- A. The Code Enforcement Officer shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition. In order to protect the occupants and the general public, the Code Enforcement Officer may order the unsafe building, structure or equipment to be vacated.
- B. The structure or equipment determined to be unsafe by the Code Enforcement Officer is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with the requirements of the Pennsylvania Uniform Construction Code.
- C. It shall be unlawful to occupy or to allow the occupancy of a building, structure or equipment deemed to be unsafe within the Borough of Johnsonburg.

#### **§ 200-11. Cooking equipment.**

No owner, operator or occupant shall furnish or use any cooking equipment which does not comply with the following minimum standards:

- A. Every piece of cooking equipment shall be so constructed and installed that it will function safely and effectively and shall be maintained in sound working condition.
- B. Portable cooking equipment employing flame is prohibited unless employing a fuel with low flash content as approved by the Board of Appeals. The use of gasoline as fuel for cooking is prohibited.

#### **§ 200-12. Responsibilities of owners and occupants.**

Where in this chapter the obligation for observance is not otherwise clearly designated, the respective responsibility of owner, operator and occupant is as follows:

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10. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- A. Every occupant of a dwelling, dwelling unit or rooming house shall maintain in a clean and sanitary condition that part of the dwelling, dwelling unit and yard which he occupies and controls.
- B. Every owner or operator of a two-family dwelling, multifamily dwelling or rooming house shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and yard.
- C. Waste disposal.
  - (1) Every occupant of a dwelling or dwelling unit shall dispose of all rubbish, ashes, garbage and other organic wastes in a clean and sanitary manner by placing it in approved storage or disposal facilities and shall maintain them in a clean and sanitary manner.
  - (2) The owner or operator of a multifamily dwelling shall furnish common storage or disposal facilities and shall be responsible for the clean and sanitary maintenance of them. Every owner or operator of every rooming house shall dispose of all rubbish in a clean and sanitary manner by placing it in approved storage or disposal facilities which are safe and sanitary.
- D. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests in it or in the yard. In a two-family dwelling or a multifamily dwelling, the occupant shall be responsible for such extermination whenever his dwelling unit is the only one infested. When, however, infestation is caused by failure of the owner or operator to maintain a dwelling in a rodentproof or substantially insectproof condition, extermination shall be the responsibility of the owner or operator.
- E. Every owner or operator shall be responsible for extermination of any insects, rodents or other pests whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public area of any two-family dwelling or any multifamily dwelling.
- F. Every owner or operator of a rooming house shall be responsible for the extermination of any insects, rodents or other pests in it or in the yard.
- G. Every occupant of a dwelling unit shall keep all plumbing fixtures in it in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation.
- H. Every owner or operator of a building who permits to be occupied any dwelling unit or rooming unit therein under an agreement, express or implied, to supply or furnish heat to the occupants thereof shall supply heat adequate to maintain therein from September 15 to June 15 of the following year a minimum inside temperature of 70° F., based on outside design temperature, in all habitable rooms, bathrooms, shower rooms and toilet rooms or compartments, between the hours of 6:30 a.m. and 11:00 p.m., and not less than 60° F. between the hours of 11:00 p.m. and 6:30 a.m. in all such rooms. The provisions of this subsection shall not apply where failure of compliance is caused by a general shortage of fuel, negligent or malicious act of the occupant, necessary repairs or

alterations, or any cause beyond the control of the owner or occupant. Temperature requirements shall be measured 36 inches from the floor at approximately the center of the room.

- I. Every occupant of a dwelling or dwelling unit shall give the owner thereof or his agent or employee access to any part of such dwelling or dwelling unit or its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this chapter.

### **§ 200-13. Rooming houses.**

No person shall operate a rooming house or shall let to another for occupancy any rooming unit unless such rooming house or rooming unit complies with the following minimum standards:

- A. Every rooming house and every rooming unit shall be in compliance with the minimum standards set forth by the following sections of this chapter:
  - (1) Section 200-5D, Basic equipment and facilities.
  - (2) Section 200-6, Light, ventilation and heating.
  - (3) Section 200-7, Safety from fire.
  - (4) Section 200-9, Safe and sanitary maintenance.
  - (5) The subsections of § 200-12 which set forth responsibilities of an owner or operator of a rooming house.
- B. Every rooming house shall be equipped with at least one flush water closet, one lavatory basin and one bathtub or shower for each six persons or fraction thereof within the rooming house, including members of the family of the owner or operator if they share the use of the facilities. In a rooming house in which rooms are let only to males, flush urinals may be substituted for not more than 1/2 the required number of water closets. All such facilities shall be properly connected to approved water and sewage systems. No such facilities located in a basement or cellar shall count in computing the number of facilities required by this subsection, except when approved by the Board of Appeals.
- C. Every flush water closet, flush urinal, lavatory basin and bathtub or shower required by Subsection B shall be located within the rooming house in a room or rooms which:
  - (1) Afford privacy and are separated from the habitable rooms.
  - (2) Are accessible from a common hall and without going outside the rooming house.
  - (3) Are not more than one story removed from the rooming unit of any occupant intended to share the facilities.

- D. Where bedding, bed linen or towels are supplied, the owner or operator shall maintain the bedding in a clean and sanitary manner, and he shall furnish clean bed linen and towels at least once each week and prior to the letting of any room to any occupant.

### ARTICLE III

#### Administration and Enforcement

##### **§ 200-14. Code Enforcement Officer.**

- A. The administration and enforcement of this chapter shall be carried out by the Code Enforcement Officer, whose office was created in the Building Code of the Borough of Johnsonburg.<sup>11</sup>
- B. Right of entry: Where it is necessary to make an inspection to enforce the provisions of this chapter, or where the Code Enforcement Officer has probable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this chapter which makes the structure or premises unsafe, dangerous or hazardous, the Code Enforcement Officer or designee is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if such structure or premises be occupied credentials be presented to the occupant and entry requested. If such structure or premises be unoccupied, the Code Enforcement Officer shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Code Enforcement Officer shall have recourse to the remedies provided by law to secure entry.<sup>12</sup>
- C. The Code Enforcement Officer shall, when requested by proper authority or when the public interest so requires, make investigations in connection with matters referred to in this chapter and render written reports on the same.
- D. The Code Enforcement Officer, member of the Board of Appeals or any employee charged with the enforcement of the chapter, while acting for the Borough of Johnsonburg in good faith and without malice in the discharge of the duties required by this chapter or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to person or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provision of this chapter shall be defended by legal representative of the Borough of Johnsonburg until the final termination of the proceedings. The Code Enforcement Officer or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this chapter.<sup>13</sup>

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11. Editor's Note: See Ch. 138, Construction Codes, Uniform.

12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

13. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 200-15. Board of Appeals.**

- A. The Board of Appeals established in the Building Code adopted by the Borough of Johnsonburg, Pennsylvania, on August 8, 1967,<sup>14</sup> is hereby given the responsibility for the interpretation of this chapter and for adopting and making available to the public rules necessary for the proper enforcement and administration of this chapter.
- B. The Board shall hear and decide all appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Code Enforcement Officer.

**§ 200-16. Notices and appeals.**

- A. When the Code Enforcement Officer determines that there exists a violation of any provision of this chapter, he shall give written notice of such violation to the violator. The notice of violation shall specify the violation which exists and a reasonable time within which to correct it. The notice may also describe a course of remedial action which will effect compliance with this chapter.
- B. Any person aggrieved by a decision or an action of the Code Enforcement Officer may appeal to the Board of Appeals for a review of the decision in accordance with the procedures prescribed by the Board. If this appeal is filed within 10 days after receipt of notice of the decision or action of the Officer, compliance with a notice of violation shall not be required when the appeal is pending before the Board or before a court except as provided in Subsection E.
- C. The Board may modify any notice so as to authorize a variance from the terms of this chapter when, because of special conditions, undue hardship would result from literal enforcement and when such variance substantially meets the spirit of this chapter.
- D. After the expiration of the time for compliance as stated on the notice of violation, a reinspection shall be made to determine compliance. If the violation has not been corrected and no appeal is pending, the Code Enforcement Officer shall order the violation corrected as specified in § 200-17 of this chapter or shall institute prosecution for the violation, or both. However, the Board may grant a reasonable extension of time for compliance in cases of hardship.
- E. Whenever the Code Enforcement Officer finds that there exists any violation of this chapter which creates an emergency requiring immediate correction to protect the health or safety of any occupant of a dwelling or the public, he may issue a notice of violation reciting the existence of the emergency and requiring necessary action to be taken immediately. Any person to whom such notice is directed shall comply immediately even though an appeal is taken to the Board. Any person aggrieved by such notice of violation may appeal to the Board as provided in Subsection B. The Board shall give priority to such appeal.

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14. Editor's Note: The Building Code referred to was repealed on 9-21-1971 by Ord. No. 382, which adopted the BOCA Basic Building Code/1970. See Ch. 138, Construction Codes, Uniform. The powers and duties of the Board of Appeals may be found in Section 127.0 of the BOCA Basic Building Code/1970, a copy of which is available for examination in the office of the Borough Secretary.

- F. A person aggrieved by a decision of the Board, whether previously a party to the proceeding or not, or an officer or board may, within 15 days after the filing of such decision in the office of the Code Enforcement Officer, apply to the appropriate court to correct errors of law in such decisions.

**§ 200-17. Abatement of violations.**

- A. When, upon reexamination after the expiration of the time for compliance, the Code Enforcement Officer finds that the violation has not been corrected, then he is authorized to cause such dwelling to be repaired, altered or improved or to be vacated or closed.
- B. Whenever the Code Enforcement Officer finds that any dwelling constitutes a serious hazard to the health or safety of the occupants or to the public because it is dilapidated, insanitary, vermin-infested or lacking in the facilities required by this chapter, he shall designate such dwelling unfit for human habitation and shall cause to be posted on the main entrance of any dwelling so closed a placard with the following words "This building is unfit for human habitation; the use or occupancy of this building for human habitation is prohibited and unlawful." If the owner fails to comply with an order to remove or demolish the dwelling, the Code Enforcement Officer may cause such dwelling to be removed or demolished.
- C. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition, when done by the Code Enforcement Officer, shall be a liability of the person or persons whose responsibility it is to effect compliance with the provisions of this chapter for the sum of money representing the expenditures made or costs sustained by the Borough of Johnsonburg in the abatement of the violation, and the same shall be recoverable in an action in assumpsit or, at the option of the Borough, by the filing of a claim for the amount thereof in the office of the Prothonotary of Elk County in the same form and collected in the same manner as municipal claims are filed and collected. If the dwelling is removed or demolished by the Code Enforcement Officer, he shall sell the materials of such dwelling and shall credit the proceeds of such against the cost of removal or demolition, and any balance remaining shall be deposited with the Borough Treasurer by the Code Enforcement Officer, shall be secured in such manner as may be directed by such court and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court; provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.
- D. Complaints or orders issued by the Code Enforcement Officer pursuant to this chapter shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the Code Enforcement Officer in the exercise of reasonable diligence, and the Code Enforcement Officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two consecutive weeks in a newspaper of general circulation in the Borough of Johnsonburg. A copy of such complaint or order shall be posted in a conspicuous place on the

premises affected by the complaint or order. A copy of such complaint or order shall be duly recorded or lodged for record with the County Clerk of Elk County.

**§ 200-18. Violations and penalties. <sup>15</sup>**

Any person violating any of the provisions of this chapter shall, upon summary conviction thereof in a summary proceeding before a Magisterial District Judge, be sentenced to pay a fine of not more than \$1,000 and costs and, in default of the payment of such fine and costs, be imprisoned in the county jail for a period not exceeding 30 days. Each and every day upon which any person violates or continues to violate the provisions of the chapter shall constitute a separate offense.

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15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



## **Chapter 207**

### **INSURANCE**

#### **ARTICLE I Fire Loss Claims**

##### **§ 207-1. Designated officer.**

##### **§ 207-2. Payment of claim.**

##### **§ 207-3. Payment procedure.**

##### **§ 207-4. Adoption of procedures and regulations.**

**[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I Fire Loss Claims [Adopted 9-13-1994 by Ord. No. 94-674, approved 9-13-1994]**

##### **§ 207-1. Designated officer.**

The Borough Manager or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

##### **§ 207-2. Payment of claim. <sup>1</sup>**

No insurance company, association or exchange (hereinafter the "insuring agent") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Borough of Johnsonburg (hereinafter the "municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500 unless the insuring agent is furnished by the Municipal Treasurer with a municipal certificate pursuant to Section 508(b) of Act 98 of 1992<sup>2</sup> and unless there is compliance with Section 508(c) and (d) of Act 98 of 1992<sup>3</sup> and the provisions of this article.

##### **§ 207-3. Payment procedure. [Amended 11-11-1997 by Ord. No. 97-2, approved 11-11-1997]**

- A. Where pursuant to Section 1 of Act 1993 of 1994<sup>4</sup> the Municipal Treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the insuring agent shall pay the claim of the named insured; provided, however, that if the loss agreed upon by the named insured and the insuring agent equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building restructure, the following must be followed:

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
  2. Editor's Note: See 40 P.S. § 638(b).
  3. Editor's Note: See 40 P.S. § 638(c) and (d).
  4. Editor's Note: 40 P.S. § 638.

- (1) The insuring agent shall transfer from the insurance proceeds to the designated officer of the municipality in the aggregate of \$2,000 for each \$15,000 and each fraction of that amount of a claim.
- (2) If at the time of a loss report agreed to between the named insured and the insuring agent the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insuring agent shall transfer to the municipality from the proceeds the amount specified in the estimate.<sup>5</sup>
- (3) The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the building or other structure.
- (4) After the transfer, the named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, and the designated officer shall return the amount of funds transferred to the municipality in excess of the estimate to the named insured, if the municipality has not commenced to remove, repair or secure the building or other structure.
- (5) Upon receipt of proceeds under this subsection, the municipality shall do the following:
  - (a) The designated officer shall place the proceeds in a separate fund to be used solely as security against the total costs of removing, repairing or securing the building or structure which are incurred by the municipality. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the municipality in connection with such removal, repair or securing of the building or any proceedings related thereto.
  - (b) It is the obligation of the insuring agent, when transferring the proceeds, to provide the municipality with the name and address of the named insured. Upon receipt of the transferred funds and the name and address of the named insured, the municipality shall contact the named insured, certify that the proceeds have been received by the municipality and notify the named insured as to procedures to be followed under Act 93 of 1994 and this article.
  - (c) When repairs, removal or securing of the building or other structure has been completed in accordance with all applicable regulations and orders of the municipality, and the required proof of such completion has been received by the designated officer, and if the municipality has incurred costs for repairs, removal or securing of the building or other structure, the costs shall be paid from the fund and, if excess funds remain, the municipality shall transfer the remaining funds to the named insured.
  - (d) To the extent that interest is earned on proceeds held by the municipality pursuant to this article and the Act, and not returned to the named insured, such interest shall belong to the municipality. To the extent that proceeds are

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5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

returned to the named insured, interest earned on such proceeds shall be distributed to the named insured at the time that proceeds are returned.

- B. Nothing in this section shall be construed to limit the ability of the municipality to recover any deficiency. Furthermore, nothing in this section shall be construed to prohibit the municipality and the named insured from entering into an agreement that permits the transfer of funds to the named insured if some other reasonable disposition of the damaged property has been negotiated.

**§ 207-4. Adoption of procedures and regulations.**

The Borough of Johnsonburg may by resolution adopt procedures and regulations to implement Act 98 of 1992<sup>6</sup> and this article and may by resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992 and this article, including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

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6. Editor's Note: See 40 P.S. § 638.



## **Chapter 214**

### **NOISE**

#### **ARTICLE I Engine Brake Retarders**

#### **§ 214-2. Regulation.**

#### **§ 214-3. Exceptions.**

#### **§ 214-4. Violations and penalties.**

#### **§ 214-1. Title.**

**[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg as indicated in article histories. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Vehicles and traffic general provisions — See Ch. 292,  
Part 1.

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#### **ARTICLE I Engine Brake Retarders [Adopted 2-12-2014 by Ord. No. 2014-01]**

#### **§ 214-1. Title.**

This article shall be known as the "Borough of Johnsonburg Engine Brake Ordinance."

#### **§ 214-2. Regulation.**

No gasoline- or diesel-powered motor vehicle shall be operated on Center Street (S.R. 219) from East Center Street (S.R. 1009) to Powers Avenue (S.R. 255) and Powers Avenue (S.R. 255) from Johnsonburg Borough Line to Center Street (S.R. 219) or any other Borough street approved by PennDOT for this restriction within the Borough of Johnsonburg, Elk County, Pennsylvania, utilizing in said operation an engine brake, with or without exhaust mufflers, or with defective or modified exhaust mufflers permitting excessive noise to be created by said motor vehicle.

#### **§ 214-3. Exceptions.**

This article shall not apply to emergency driving situations requiring the utilization of an engine brake to protect the safety and property of the residents of Johnsonburg Borough, other motor vehicle operators, pedestrians, and the operator and passengers of the motor vehicle involved in said emergency situation.

#### **§ 214-4. Violations and penalties. <sup>1</sup>**

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Any person who shall violate the provisions of this chapter shall, in a summary proceeding before a Magisterial District Judge and upon conviction thereof, be sentenced to pay a fine of not more than \$1,000, plus costs of prosecution, and, in default of payment of such fine and costs, to undergo imprisonment for not more than 30 days.

## Chapter 218

### PEDDLING AND SOLICITING

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|---|---|
| § 218-1. Definitions.   | § 218-7. License nontransferable.                             |
| § 218-2. Hours of solicitation and peddling.                            | § 218-8. Prohibited use of noise.                             |
| § 218-3. License required.  | § 218-9. Exempted persons and organizations.                  |
| § 218-4. Application for license.                                       | § 218-10. Delivery routes excepted from license requirements. |
| § 218-5. Investigation of applicant; issuance of license; restrictions. | § 218-11. Revocation of license.                              |
| § 218-6. License fee.   | § 218-12. Violations and penalties.                           |

[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 9-8-1970 by Ord. No. 567, approved 9-8-1970. Amendments noted where applicable.]

#### GENERAL REFERENCES

Amusements — See Ch. 124.

Health administration and regulations — See Ch. 194.

Disorderly conduct and nuisances — See Ch. 152.

#### § 218-1. Definitions.

The following definitions shall govern the interpretation of this chapter. Words in the singular shall include the plural. The word "shall" is always mandatory.

**PEDDLE** — To go from house to house, from place to place, or from street to street to sell or offer for sale any goods, wares, merchandise, food or other provisions.

**PEDDLER** — Any person traveling by foot, wagon, automobile or other type of conveyance from place to place, house to house, or from street to street, selling or offering for sale any goods, wares, merchandise, food or other provisions, and includes any person who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automobile or other type of conveyance or from the person or from a temporary store, room or other structure. A person offering rides or transportation on any portable device known as a carousel, whip or other ride for amusement shall be deemed a "peddler."

**PERSON** — Natural persons, corporations, partnerships, unincorporated associations or any other organization.

#### § 218-2. Hours of solicitation and peddling. [Added 9-10-2007 by Ord. No. 2007-02]

No person, while conducting the activities of a peddler, solicitor or charitable organization, whether licensed or unlicensed, shall enter upon any private property, knock on doors, or otherwise disturb persons in their residences on Sundays and between the hours of 6:00 p.m. and 9:00 a.m., Monday through Saturday.

**§ 218-3. License required.**

It shall be unlawful for any person to peddle or be a peddler within the Borough of Johnsonburg without first having obtained a license from the Johnsonburg Borough Secretary as provided herein.

**§ 218-4. Application for license.**

Applicants for a peddler's license or renewal thereof shall file with the Borough Secretary a signed and verified application, in duplicate, upon a form supplied by the Borough Secretary, which shall contain questions concerning, but not limited to, the applicant's personal qualifications, employer, type of business, criminal record, if any, past business affiliations, questions concerning the particular wares and merchandise to be sold in order to enable the Secretary to determine whether the same are safe and harmless, and such other questions as are deemed necessary by the Borough Secretary to enable the Borough to protect the public health, safety and welfare of its citizens.

**§ 218-5. Investigation of applicant; issuance of license; restrictions.**

- A. Upon receipt of the application, the Borough Secretary shall make such investigation of the applicant's business and moral character as he deems necessary for the protection of the public good.
- B. If after such investigation the applicant's character is found to be satisfactory, the Secretary shall endorse his approval on the application and issue a license to the applicant upon payment of the required fee. In issuing the license the Secretary may impose such restrictions upon the applicant as he deems necessary for the protection of the public health and welfare. The license shall contain the signature and seal of the Borough Secretary, shall show the name and address of the licensee, the date of issuance, the term of the license, the type of goods to be sold, and the fee paid. The Borough Secretary shall keep a permanent record of all licenses issued.

**§ 218-6. License fee. <sup>1</sup>**

The fee for a license under this chapter is as set by resolution of Borough Council for each month or fraction thereof.

**§ 218-7. License nontransferable.**

No license issued under this chapter shall be transferred to or used by any person other than the one to whom it is issued.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



**§ 218-8. Prohibited use of noise.**

No peddler shall shout, cry out, blow a horn, ring a bell or use any sound-amplifying device in the Borough of Johnsonburg where sound of sufficient volume is produced as to be plainly heard on the streets or other public places for the purpose of attracting attention to any goods, wares or merchandise, including food or food products.

**§ 218-9. Exempted persons and organizations.**

- A. Religious, educational and charitable institutions or organizations, no part of whose net earnings benefits any private shareholder or person, shall not be required to obtain a license under this chapter.
- B. Organizations or persons in the military or naval forces of the United States, National Guard organizations, posts or associations of war veterans or auxiliary units of such posts or organizations, no part of whose earnings benefits any private shareholder or person, shall not be required to obtain a license under this chapter.
- C. The local Rotary Club, Chamber of Commerce, Johnsonburg area schools, and Johnsonburg volunteer fire and ambulance companies shall not be required to obtain a license under this chapter.<sup>2</sup>
- D. All persons and organizations exempted from a license under this section shall nevertheless be required to notify the Borough Secretary in writing at least 24 hours in advance of beginning any solicitation or sale program.

**§ 218-10. Delivery routes excepted from license requirements.**

Persons maintaining a regular daily or weekly delivery route in the Borough shall not be required to obtain a license under this chapter.

**§ 218-11. Revocation of license.**

The Johnsonburg Borough Secretary may revoke without notice or refuse to issue a license:

- A. For misrepresentation or false statements on the application.
- B. For misrepresentation or false statements made in the course of carrying on the business of peddling.
- C. For violation of this chapter.
- D. For conviction of any crime or misdemeanor involving moral turpitude.
- E. For conducting the business of peddling in such manner as to constitute a breach of the peace, disorderly conduct or a menace to the health, safety and general welfare of the public.

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

F. For offering for sale or selling defective or dangerous goods or products.

**§ 218-12. Violations and penalties.<sup>3</sup>**

Any person failing to obtain a license as required by this chapter or violating any of the provisions of this chapter shall, upon conviction before a Magisterial District Judge, be sentenced to pay a fine of not more than \$1,000 and costs of prosecution and, in default of payment of such a fine and costs, to imprisonment in the county jail for not more than 30 days.

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3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

## Chapter 248

### SOLID WASTE

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|---|--|
| § 248-1. Definitions and word usage.  | § 248-11. Vehicles required for public contract carrier.           |
| § 248-2. Prohibited disposal.   | § 248-12. Authorization of collector; revocation of authorization. |
| § 248-3. Prohibited accumulation.   | § 248-13. Outflowings from garbage vehicles.                       |
| § 248-4. Preparation of garbage for collection; containers.                 | § 248-14. Unauthorized collections.                                |
| § 248-5. Preparation of rubbish for collection.                             | § 248-15. Frequency of collections; special contracts.             |
| § 248-6. Accumulation of refuse produced outside Borough.                   | § 248-16. Materials excluded from disposal site.                   |
| § 248-7. Permitted methods of disposal.                                     | § 248-17. Disposal of certain apparel and bedding.                 |
| § 248-8. Removal of refuse to disposal site.                                | § 248-18. Fees for collection and disposal.                        |
| § 248-9. Conveyance of garbage by householder persons; containers required. | § 248-19. Performance bond of collector.                           |
| § 248-10. Conveyance of refuse by commercial persons; vehicles required.    | § 248-20. Rules and regulations authorized.                        |
|   | § 248-21. Violations and penalties.                                |

**[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 8-4-1964 by Ord. No. 514, approved 8-4-1964, effective 10-1-1964. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Disorderly conduct and nuisances — See Ch. 152.  
Grass and weeds — See Ch. 187.

Housing standards — See Ch. 200.  
Streets and sidewalks — See Ch. 259.

#### **§ 248-1. Definitions and word usage.**

- A. The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

**COMMERCIAL PERSON** — A person engaged in a trade or business who is a producer of refuse upon commercial premises, or the owner or person in control of commercial premises upon which refuse is produced.

**DISPOSAL SITE** — The disposal site approved by the Pennsylvania Department of Health and the Borough of Johnsonburg, which is owned or leased by the Borough-authorized public contract carrier.

GARBAGE — All solid, animal and vegetable matter, offal from meat, fish and fowl, vegetable and fruit and parts thereof, and other articles and materials ordinarily used for food and which have become unfit for such use and which are, for any reason, discarded.

HOUSEHOLDER PERSON — The producer of refuse upon residential premises, or the owner or person in control of residential premises upon which refuse is produced.

INDUSTRIAL PERSON — A person engaged in manufacturing who is a producer of refuse upon industrial premises, or the owner or person in control of industrial premises upon which refuse is produced.

PERSON — Any natural person, association, partnership, firm or corporation.

REFUSE — All solid wastes included in the terms "garbage" and "rubbish."

RUBBISH — All solid waste except garbage, sewage, night soil, highly inflammable and explosive materials, or hot coals or burning ashes.

- B. In this chapter, the singular shall include the plural, and the masculine shall include the feminine and neuter.

#### **§ 248-2. Prohibited disposal.**

No person shall throw or deposit, or cause to be thrown or deposited, any refuse, garbage, rubbish, sewage, night soil or highly inflammable or explosive materials on any street, alley or public ground in the Borough, or in any stream running through or adjacent to the Borough.

#### **§ 248-3. Prohibited accumulation.**

No person shall accumulate refuse upon private property in the Borough except in the manner hereinafter provided and in such limited quantities and for such a limited period of time as shall ensure that no annoyance, nuisance, health or fire hazard shall be created thereby.

#### **§ 248-4. Preparation of garbage for collection; containers.**

Any householder or commercial person accumulating garbage on property in the Borough shall drain the same of liquid before disposal and place same in sanitary, watertight, rust-resistant, nonabsorbent, easily washable, covered containers of not more than twenty-gallon capacity, with handles and closely fitted covers, and of such shape and construction that the container can be emptied by one person. No more than two such twenty-gallon containers shall be maintained by any householder person who is a customer of the Borough-authorized public contract carrier. All containers shall be cleaned weekly and shall be replaced when no longer in good condition.

**§ 248-5. Preparation of rubbish for collection.**

Any person accumulating rubbish on private property in the Borough shall box, basket, bundle or package the same securely in such a manner that it does not exceed 50 pounds in weight, can be conveniently handled and will not be disseminated by wind or otherwise.

**§ 248-6. Accumulation of refuse produced outside Borough.**

No person shall accumulate in the Borough any garbage, rubbish or refuse produced outside the Borough.

**§ 248-7. Permitted methods of disposal.**

No person shall dispose of any garbage, refuse or rubbish produced in the Borough except in Borough-approved standard and manufactured garbage disposal units or Borough-approved indoor incinerators or by conveyance to the Borough-approved refuse disposal site.

**§ 248-8. Removal of refuse to disposal site.**

Refuse that has been produced in the Borough may be removed to the Borough-approved refuse disposal site by the following persons only:

- A. A householder person removing refuse produced by him upon residential premises or from residential premises owned by him.
- B. A commercial person removing refuse produced by him upon commercial premises or from commercial premises owned by him.
- C. An industrial person removing refuse produced by him upon industrial premises or from industrial premises owned by him.
- D. A public contract carrier or contract carrier that has entered into an agreement with the Borough to collect refuse in the Borough.<sup>1</sup>

**§ 248-9. Conveyance of garbage by householder persons; containers required.**

No householder person shall remove, haul or convey garbage through or upon any of the streets or alleys of the Borough except in sanitary, watertight, rust-resistant, nonabsorbent; washable, covered containers, not larger than twenty-gallon capacity, provided with handles and closely fitted covers, and of such type that the containers can be conveniently emptied by one person. No householder shall remove, haul or convey any rubbish through or upon any streets or alleys of the Borough unless the same is assembled, boxed, basketed or securely bundled in the vehicle conveying same in such a manner as it can be handled conveniently and will not be disseminated by wind or otherwise.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 248-10. Conveyance of refuse by commercial persons; vehicles required.**

No commercial person or industrial person shall remove, haul or convey any refuse through or upon any of the streets or alleys of the Borough except in watertight, tanker-type trucks or watertight, steel-welded, dump-type trucks, with metal covers in place, or in watertight metal containers securely covered.

**§ 248-11. Vehicles required for public contract carrier. <sup>2</sup>**

The public contract carrier that the Borough has entered into an agreement with shall have and use only watertight, flyproof, compactor-type trucks equipped with rear-end compacting devices or similar devices to ensure sanitary collection, transportation and disposal of refuse.

**§ 248-12. Authorization of collector; revocation of authorization. <sup>3</sup>**

No person shall collect, remove, haul or convey any refuse as a public contract carrier or contract carrier through or upon any of the streets or alleys of the Borough except the Borough-authorized refuse collector. The Borough-authorized collector shall be authorized for a period of five years and shall be chosen by the Borough Council based upon the applicant's personal qualifications, his experience, finances, ownership of equipment, ownership of an approved disposal site, his method of disposal, which must be approved by the Pennsylvania Department of Health, the charges he proposes for the services and such other qualifications as Council shall from time to time require. No person shall be authorized if vehicles do not comply with § 248-11 of this chapter. The Borough Manager may revoke the authorization granted to any authorized person who fails to comply with the provisions of this chapter relating to him.

**§ 248-13. Outflowings from garbage vehicles.**

No person shall permit any outflowings from any conveyance of garbage or rubbish operated by him to lie upon any of the streets or alleys of the Borough.

**§ 248-14. Unauthorized collections.**

No person shall permit any unlicensed collector to take any refuse from the premises owned or occupied by him.

**§ 248-15. Frequency of collections; special contracts.**

The licensed collector shall collect refuse from each person at least once each week. Commercial persons and industrial persons, hotels, restaurants and institutions may, as they deem it necessary, enter into an agreement for more frequent collections. Where necessary to

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

protect the public health, the Borough Manager or, in his or her absence, the Borough Council may require the licensed collector to make more frequent collections from the customers.

**§ 248-16. Materials excluded from disposal site.**

Highly inflammable or explosive materials, night soil, junked automobiles or parts thereof and other objectionable materials as prescribed by Council shall not be conveyed to or deposited at the Borough Sanitary Disposal Site.

**§ 248-17. Disposal of certain apparel and bedding.**

The removal of wearing apparel, bedding and other refuse from homes or other places where highly infectious diseases have prevailed shall be performed under the supervision and direction of Health Officers. Such refuse shall not be conveyed to the Borough Sanitary Disposal Site.

**§ 248-18. Fees for collection and disposal.**

The licensed public contract carrier shall, subject to the approval of Council, set its own fees for all services to be rendered under this chapter, including fees to be charged householder persons, commercial and industrial persons for allowing them to dump at the refuse disposal site.

**§ 248-19. Performance bond of collector.**

The licensed collector of refuse shall, before entering upon his duties, deliver to the Secretary a performance bond in the sum of \$5,000 each year, with corporate surety to be approved by the Secretary and in form approved by the Solicitor of the Borough. Such bond shall be maintained and enforced by the licensee so long as his license remains in effect.

**§ 248-20. Rules and regulations authorized.**

The collection of refuse in the Borough and the disposal thereof shall be subject to such rules and regulations as may be made by Council, provided that such rules and regulations are not contrary to the provisions of this chapter. Any aggrieved persons shall have the right of appeal against any regulations made by Council to the Council, which may confirm, modify or revoke any such regulation.

**§ 248-21. Violations and penalties. <sup>4</sup>**

Any person, whether as principal, agent or employee, violating or assisting in the violation of any of the provisions of this chapter or of any regulations made by Council under the provisions hereof shall, upon conviction thereof, pay a fine of not more than \$1,000 and costs of prosecution and, in default of payment of such fine and costs of prosecution, shall be

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4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

imprisoned in the county jail for a period of not more than 30 days. After notice, each day's neglect to comply with this chapter or any such regulation shall be deemed a separate offense, and separate proceedings may be instituted and separate penalties imposed for each day's offense after the first conviction.



## **Chapter 254**

### **STORMWATER MANAGEMENT**

#### **ARTICLE I General Provisions**

- § 254-1. Short title.
- § 254-2. Statement of findings.
- § 254-3. Purpose.
- § 254-4. Statutory authority.
- § 254-5. Applicability.
- § 254-6. Compatibility with other ordinance requirements.

#### **ARTICLE II Definitions**

- § 254-7. Word usage.
- § 254-8. Terms defined.

#### **ARTICLE III Stormwater Management Standards**

- § 254-9. General requirements.
- § 254-10. Exemptions.
- § 254-11. Waivers.
- § 254-12. Volume controls.
- § 254-13. Rate controls.
- § 254-14. Calculation methods.
- § 254-15. Other requirements.

#### **ARTICLE IV SWM Site Plan and Report Requirements**

- § 254-16. Plan and report contents.
- § 254-17. Plan submission.
- § 254-18. Plan review.

- § 254-19. Modification of plans.
- § 254-20. Resubmission of disapproved SWM site plans.
- § 254-21. Record drawings and final inspection.

#### **ARTICLE V Operation and Maintenance**

- § 254-22. Responsibilities.
- § 254-23. Operation and maintenance agreements.

#### **ARTICLE VI Fees and Expenses**

- § 254-24. General.

#### **ARTICLE VII Prohibitions**

- § 254-25. Prohibited discharges and connections.
- § 254-26. Roof drains.
- § 254-27. Alteration of BMPs.

#### **ARTICLE VIII Enforcement and Penalties**

- § 254-28. Right of entry.
- § 254-29. Inspection.
- § 254-30. Enforcement.
- § 254-31. Suspension and revocation.
- § 254-32. Violations and penalties.
- § 254-33. Appeals.

**ARTICLE IX**  
**References**

**§ 254-34. Information on references.**

**[HISTORY: Adopted by the Borough Council of the Borough of Johnsonburg 4-11-2011 by Ord. No. 2011-02. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Floodplain management — See Ch. 180.  
Streets and sidewalks — See Ch. 259.

Subdivision and land development — See Ch. 265.  
Zoning — See Ch. 310.

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**ARTICLE I**  
**General Provisions**

**§ 254-1. Short title.**

This chapter shall be known and may be cited as the "Johnsonburg Borough Stormwater Management Ordinance."

**§ 254-2. Statement of findings.**

The governing body of the municipality finds that:

- A. Inadequate management of accelerated runoff of stormwater resulting from development throughout a watershed increases flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control stormwater, undermines floodplain management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases non-point source pollution of water resources.
- B. A comprehensive program of stormwater management, including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety and welfare and the protection of people of the commonwealth, their resources and the environment.
- C. Stormwater is an important water resource, which provides groundwater recharge for water supplies and base flow of streams, which protects and maintains surface water quality.
- D. Federal and state regulations require certain municipalities to implement a program of stormwater controls. These municipalities are required to obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES).

**§ 254-3. Purpose.**

The purpose of this chapter is to promote health, safety and welfare within the municipality and its watershed by minimizing the harms and maximizing the benefits described in § 254-2 of this chapter through provisions designed to:

- A. Meet legal water quality requirements under state law, including regulations at 25 Pa. Code Chapter 93 to protect, maintain, reclaim and restore the existing and designated uses.
- B. Preserve the natural drainage systems as much as possible.
- C. Manage stormwater runoff close to the source.
- D. Provide the minimum procedures and performance standards for stormwater planning and management.
- E. Maintain groundwater recharge, to prevent degradation of surface water and groundwater quality and to otherwise protect water resources.
- F. Prevent scour and erosion of stream banks and streambeds.
- G. Provide proper operations and maintenance of all permanent stormwater management best management practices (BMPs) implemented within the municipality.
- H. Provide standards to meet NPDES permit requirements.

**§ 254-4. Statutory authority.**

- A. Primary authority. The municipality is empowered to regulate these activities by the authority of the Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. § 680.1 et seq., as amended, the "Storm Water Management Act" and the Borough Code.<sup>1</sup>
- B. Secondary authority. The municipality is empowered to regulate land use activities that affect runoff by the authority of the Act of July 31, 1968, P.L. 805, No. 247, the Pennsylvania Municipalities Planning Code, as amended.<sup>2</sup>

**§ 254-5. Applicability.**

All regulated activities and all activities that may affect stormwater runoff, including land development or earth disturbance, are subject to regulation by this chapter.

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1. Editor's Note: See 8 Pa.C.S.A. § 101 et seq.

2. Editor's Note: See 53 P.S. § 10101 et seq.

**§ 254-6. Compatibility with other ordinance requirements.**

Approvals issued and actions taken under this chapter do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other code, law, regulation or ordinance.

**ARTICLE II  
Definitions****§ 254-7. Word usage.**

For the purposes of this chapter, certain terms and words used herein shall be interpreted as follows:

- A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.
- B. The word "includes" or "including" shall not limit the term to the specific example but is intended to extend its meaning to all other instances of like kind and character.
- C. The words "shall" and "must" are mandatory; the words "may" and "should" are permissive.
- D. The words "used or occupied" include the words "intended, designed, maintained, or arranged to be used or occupied."

**§ 254-8. Terms defined.**

As used in this chapter, the following terms shall have the meanings indicated:

**ACCELERATED EROSION** — The removal of the surface of the land through the combined action of man's activity and the natural processes of a rate greater than would occur because of the natural process alone.

**AGRICULTURAL ACTIVITY** — The work of producing crops including tillage, land clearing, plowing, disking, harrowing, planting, harvesting crops, or pasturing and raising of livestock and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

**ALTERATION** — As applied to land, a change in topography because of the moving of soil and rock from one location or position to another; also the changing of surface conditions by causing the surface to be more or less impervious; land disturbance.

**APPLICANT** — A landowner, developer or other person who has filed an application for approval to engage in any regulated earth disturbance activity at a project site in the municipality.

**BANKFULL** — The channel at the top-of-bank or point where water begins to overflow onto a floodplain.

**BASE FLOW** — Portion of stream discharge derived from groundwater; the sustained discharge that does not result from direct runoff or from water diversions, reservoir releases, piped discharges, or other human activities.

**BIORETENTION** — A stormwater retention area that utilizes woody and herbaceous plants and soils to remove pollutants before infiltration occurs.

**BMP (BEST MANAGEMENT PRACTICE)** — Activities, facilities, designs, measures or procedures used to manage stormwater impacts from regulated activities, to meet state water quality requirements, to promote groundwater recharge and to otherwise meet the purposes of this chapter. BMPs include but are not limited to infiltration, filter strips, low-impact design, bioretention, wet ponds, permeable paving, grassed swales, forested buffers, sand filters and detention basins. Structural SWM BMPs are permanent appurtenances to the project site.

**CARBONATE BEDROCK (AREAS)** — Rock consisting chiefly of carbonate minerals, such as limestone and dolomite; specifically a sedimentary rock composed of more than 50% by weight of carbonate minerals that underlies soil or other unconsolidated, superficial material.

**CHANNEL** — A drainage element in which stormwater flows with an open surface. Open channels include, but shall not be limited to, natural and man-made drainageways, swales, streams, ditches, canals and pipes flowing partly full.

**CHANNEL EROSION** — The widening, deepening and headward cutting of small channels and waterways caused by stormwater runoff or bankfull flows.

**CISTERN** — An underground reservoir or tank for storing rainwater.

**CONSERVATION DISTRICT** — A conservation district, as defined in § 3(c) of the Conservation District Law [3 P.S. § 851(c)], which has the authority under a delegation agreement executed with the Department to administer and enforce all or a portion of the erosion and sediment control program in this commonwealth.

**CULVERT** — A structure with appurtenant works which carries water under or through an embankment or fill.

**DAM** — An artificial barrier, together with its appurtenant works, constructed for the purpose of impounding or storing water or another fluid or semifluid, or a refuse bank, fill or structure for highway, railroad or other purposes which does or may impound water or another fluid or semifluid.

**DELINEATION** — The process of determining a wetland's physical boundaries.

**DESIGN STORM** — The magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence (e.g., a five-year storm) and duration (e.g., 24 hours), used in the design and evaluation of stormwater management systems. (See "return period.")

**DESIGNEE** — The agent of the Elk County Planning Commission, Elk County Conservation District and/or agent of the governing body involved with the administration, review or enforcement of any provisions of this chapter by contract or memorandum of understanding.

DETENTION — The volume of runoff that is captured and released into the waters of this commonwealth at a controlled rate.

DETENTION BASIN — An impoundment designed to collect and attenuate stormwater peak runoff by temporarily storing the runoff and releasing it at a predetermined rate. Detention basins are designed to drain completely shortly after any given rainfall event and are dry until the next rainfall event.

PA DEP — The Pennsylvania Department of Environmental Protection.

DEVELOPMENT — See "earth disturbance activity." The term includes redevelopment.

DISCHARGE — To release water from a project, site, aquifer, drainage basin or other point of interest (verb). The rate and volume of flow of water such as in a stream, generally expressed in cubic feet per second (volume per unit of time) (noun). See also "peak discharge."

DISCHARGE POINT — The point to which stormwater flows.

DISCONNECTED IMPERVIOUS AREA (DIA) — An impervious or impermeable surface that is disconnected from any stormwater drainage or conveyance system and is redirected or directed to a pervious area, which allows for infiltration, filtration and increased time of concentration as specified in Appendix G, Disconnected Impervious Area.<sup>3</sup>

DISTURBED AREA — An unstabilized land area where an earth disturbance activity is occurring or has occurred.

DITCH — See "channel."

DOWNSLOPE PROPERTY LINE — That portion of the property line of the lot, tract or parcels of land being developed located such that overland or pipe flow from the site would flow towards it.

DRAINAGE EASEMENT — A right granted by a landowner to a grantee, allowing the use of private land for stormwater management purposes.

EARTH DISTURBANCE ACTIVITY — A construction or other human activity which disturbs the surface of the land, including, but not limited to, clearing and grubbing, grading, excavations, embankments, road maintenance, building construction and the moving, depositing, stockpiling or storing of soil, rock or earth materials.

EMERGENCY SPILLWAY — A conveyance area that is used to pass peak discharge greater than the maximum design storm controlled by a stormwater management facility.

ENCROACHMENT — A structure or activity that changes, expands or diminishes the course, current or cross section of a watercourse, floodway, floodplain or body of water.

EPHEMERAL STREAM — A stream with flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral streambeds are located above

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3. Editor's Note: Appendix G is on file in the Borough offices.

the water table year round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

**EROSION** — The natural process by which the surface of the land is worn away by water, wind or chemical action.

**EROSION AND SEDIMENT POLLUTION CONTROL PLAN** — A plan for a project site which identifies BMPs to minimize accelerated erosion and sedimentation.

**EXCEPTIONAL VALUE WATERS** — Surface waters of high quality which satisfy Pennsylvania Code Title 25, Environmental Protection, Chapter 93, Water Quality Standards, § 93.4b(b) (relating to antidegradation).

**EXISTING CONDITION** — The dominant land cover during the five-year period immediately preceding a proposed regulated activity.

**EXTENDED DETENTION VOLUME (EDV)** — Release of detained runoff in excess of permanently removed volume (PRV) over a period of time not less than 24 and not more than 72 hours.

**FELLING** — The process of cutting down standing trees.

**FLOOD** — A temporary condition of partial or complete inundation of land areas from the overflow of streams, rivers and other waters of this commonwealth.

**FLOODPLAIN** — Any land area susceptible to inundation by water from any natural source or delineated by applicable Federal Emergency Management Agency (FEMA) maps and studies as being a special flood hazard area. Also included are areas that comprise Group 13 Soils, as listed in Appendix A of the Pennsylvania Department of Environmental Protection (PA DEP) Technical Manual for Sewage Enforcement Officers (as amended or replaced from time to time by PA DEP).

**FLOODWAY** — The channel of the watercourse and those portions of the adjoining floodplain that is reasonably required to carry and discharge the one-hundred-year flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the one-hundred-year floodway, the floodway includes floodplain areas within 50 feet of the top of each stream bank and the stream channel itself.

**FOREST MANAGEMENT/TIMBER OPERATIONS** — Planning and activities necessary for the management of forestland. These include timber inventory and preparation of forest management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, site preparation and reforestation.

**FREEBOARD** — A vertical distance between the elevation of the design high-water elevation and the top of a dam, levee, tank, basin, swale or diversion berm. The space is required as a safety margin in a pond or basin.

**GRADE** — A slope, usually of a road, channel or natural ground, specified in percent and shown on plans as specified herein. (To) grade means to finish the surface of a roadbed, top of embankment or bottom of excavation.

**GRASSED WATERWAY** — A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to convey surface water.

**GROUNDWATER** — Water beneath the earth's surface, often between saturated soil and rock that supplies wells and springs.

**GROUNDWATER RECHARGE** — Replenishment of existing natural underground water supplies without degrading groundwater quality.

**HARVESTING** — The felling, skidding, loading and transporting of timber products.

**HIGH QUALITY WATERS** — Surface waters having quality which exceeds levels necessary to support propagation of fish, shellfish and wildlife and recreation in and on the water by satisfying Pennsylvania Code Title 25, Environmental Protection, Chapter 93, Water Quality Standards, § 93.4b(a).

**HYDRIC SOILS** — Soils that are characterized by the presence of water.

**HYDROGRAPH** — A graph of stormwater or runoff discharge versus time for a selected point in the drainage system.

**HYDROLOGIC SOIL GROUP (HSG)** — Infiltration rates of soils vary widely and are affected by subsurface permeability as well as surface intake rates. Soils are classified into four HSGs (A, B, C and D) according to their minimum infiltration rate, which is obtained for bare soil after prolonged wetting. The Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture defines the four groups and provides a list of most of the soils in the United States and their group classification. The soils underlying the project site may be identified from a soil survey report that can be obtained from local NRCS offices or conservation district offices. Soils become less pervious as the HSG varies from A to D.

**HYDROPHYTIC VEGETATION** — Plant life that is adapted to living in wet conditions.

**IMPERVIOUS SURFACE (IMPERVIOUS AREA)** — A surface that prevents the infiltration of water into the ground. Impervious surfaces (or covers) shall include, but not be limited to:

- A. Roofs, additional indoor living spaces, patios, garages, storage sheds and similar structures.
- B. New streets or sidewalks, decks, parking areas, and driveway areas using traditional paved surfaces that prevent infiltration into the ground. New decks, parking areas, and driveways are not defined as impervious areas if they are designed to allow long-term infiltration.
- C. Existing gravel parking areas, driveways and roads shall be treated as slightly pervious and shall be analyzed using the appropriate SCS curve number based on their HSG; proposed gravel parking areas, driveways and roads shall be treated as impervious areas for all calculations.

**IMPOUNDMENT** — A retention or detention basin designed to retain stormwater runoff and release it at a controlled rate.



**INFILTRATION** — Movement of surface water into the soil, where it is absorbed by plant roots, evaporates into the atmosphere, or percolates downward to recharge groundwater.

**INFILTRATION STRUCTURES** — A structure designed to direct runoff into the groundwater (e.g., french drains, seepage pits and seepage trench).

**INLET** — The upstream end of any structure through which water may flow.

**INTERMITTENT STREAM** — A stream with flowing water during certain times of the year when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

**KARST** — A type of topography or landscape characterized by surface depressions, sinkholes, rock pinnacles/uneven bedrock surface, underground drainage and caves. Karst is formed on carbonate rocks, such as limestone or dolomite.

**LAND DEVELOPMENT (DEVELOPMENT)** — Inclusive of any or all of the following meanings: (i) the improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving: a) a group of two or more buildings; or b) the division or allocation of land or space between or among two or more existing or prospective occupants by means of or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features; (ii) any subdivision of land; (iii) development in accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code.<sup>4</sup>

**LANDING (or DECK)** — A place where logs or tree-length materials are assembled for loading and transport.

**LITTER LAYER** — The layer of fallen leaves, twigs and decaying woody material that provides a sponge-like mat covering forest soils.

**LOT** — A part of a subdivision or a parcel of land used as a building site or intended to be used for building purposes, whether immediate or future, which would not be further subdivided.

**MAIN STEM (MAIN CHANNEL)** — Any stream segment or other runoff conveyance facility used as a reach in the hydrologic model.

**MANNING EQUATION (MANNING FORMULA)** — A method for calculation of velocity of flow (e.g., feet per second) and flow rate (e.g., cubic feet per second) in open channels based upon channel shape, roughness, depth of flow and slope. "Open channels" may include closed conduits so long as the flow is not under pressure.

**MUNICIPAL ENGINEER** — A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency or joint planning commission.

**MUNICIPALITY** — Johnsonburg Borough, Elk County, Pennsylvania.

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4. Editor's Note: See 53 P.S. § 10503(1.1).

**NATURAL RECHARGE AREA** — Undisturbed surface area or depression where stormwater collects and a portion of which infiltrates and replenishes the underground water and groundwater.

**NON-POINT SOURCE POLLUTION** — Pollution that enters a water body from diffuse origins in the watershed and does not result from discernible, confined or discrete conveyances.

**NONSTRUCTURAL BEST MANAGEMENT PRACTICES (BMPs)** — Methods of controlling stormwater runoff quantity and quality, such as innovative site planning, impervious area and grading reduction, protection of natural depression areas, temporary ponding on site and other techniques.

**NPDES** — National Pollutant Discharge Elimination System, the federal government's system for issuance of permits under the Clean Water Act, which is delegated to PA DEP in Pennsylvania.

**NRCS** — Natural Resources Conservation Service (previously SCS).

**OUTFALL** — "Point source" as described in 40 CFR 122.2 at the point where the municipality's storm sewer system discharges to surface waters of the commonwealth.

**OUTLET** — Points of water disposal to a stream, river, lake, tidewater or artificial drain.

**PA DOT** — Pennsylvania Department of Transportation.

**PARENT TRACT** — The parcel of land from which a land development or subdivision originates, determined from the date of municipal adoption of this chapter.

**PARKING LOT STORAGE** — The use of parking areas as temporary impoundments with controlled release rates during rainstorms.

**PEAK DISCHARGE** — The maximum rate of stormwater runoff from a specific storm event.

**PERMANENTLY REMOVED VOLUME (PRV)** — The volume of runoff that is permanently removed from the runoff and not released into surface waters of this commonwealth during or after a storm event.

**PERVIOUS SURFACE (PERVIOUS AREA)** — Any area or ground surface not defined as impervious and that may be vegetated or unvegetated.

**PIPE** — A culvert, closed conduit or similar structure (including appurtenances) that conveys stormwater.

**PLANNING COMMISSION** — The municipal or county planning commission authorized under the Pennsylvania Municipalities Planning Code.

**POINT SOURCE** — Any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel or conduit from which stormwater is or may be discharged, as defined in state regulations at 25 Pa. Code § 92a.2.<sup>5</sup>

**POST CONSTRUCTION** — Period after construction where disturbed areas are stabilized, stormwater controls are in place and functioning, and all proposed improvements in the approved land development plan are completed.

**PREDEVELOPMENT** — Undeveloped/natural condition.

**PRETREATMENT** — Techniques employed in stormwater BMPs to provide storage or filtering to trap coarse materials and other pollutants before they enter the system.

**PROJECT SITE** — The specific area of land where any regulated activities in the municipality are planned, conducted or maintained.

**QUALIFIED PROFESSIONAL** — A professional engineer licensed by the Pennsylvania Department of State or otherwise qualified by law to perform the engineering work required by the chapter.

**RECHARGE** — The replenishment of groundwater through the infiltration of rainfall or stormwater runoff.

**RECORD DRAWINGS** — Those drawings maintained by the applicant, applicant's contractor or applicant's agent as the applicant's project is constructed, and upon which is documented the actual locations of the building components and changes to the original contract documents. These, or a copy of same, are turned over to the municipality at the completion of the project.

**REDEVELOPMENT** — The demolition, construction, reconstruction, alteration or improvement exceeding 2,000 square feet of land disturbance performed on sites where existing land use is commercial, industrial, institutional or multifamily residential. Maintenance activities such as top-layer grinding and repaving are not considered redevelopment. Interior remodeling projects and tenant improvements are also not considered redevelopment. Utility trenches in streets are not considered redevelopment unless more than 50% of the street width is removed and repaved.

**REGULATED ACTIVITIES** — All activities involving land development or earth disturbance activity that may affect stormwater runoff.

**REGULATED EARTH DISTURBANCE ACTIVITY** — Activity involving earth disturbance subject to regulation under 25 Pa. Code Chapter 102 or the Clean Streams Law.<sup>6</sup>

**RELEASE RATE** — The percentage of existing conditions peak rate of runoff from a site or subarea to which the post-development peak rate of runoff must be reduced to protect downstream areas.

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5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**RETENTION BASIN** — A structure in which stormwater is stored and not released during the storm event. Retention basins do not function without operational intervention to release stored stormwater unless designed as infiltration-only basins.

**RETENTION/REMOVED** — The volume of runoff that is captured and not released directly into the surface waters of this commonwealth during or after a storm event.

**RETURN PERIOD** — The interval, in years, within which a storm event of a given magnitude can be expected, on average, to recur. For example, the twenty-five-year return period rainfall would be expected, on average, to recur every 25 years. The probability of a twenty-five-year storm occurring in any one year is 0.04 or 4%.

**RISER** — A vertical pipe extending from the bottom of a pond that is used to control the discharge rate from the pond for a specified design storm.

**ROAD MAINTENANCE** — Earth disturbance activities within the existing road cross section, such as grading and repairing existing unpaved road surfaces, cutting road banks, cleaning or clearing drainage ditches and other similar activities.

**ROOF DRAINS** — A drainage conduit or pipe that collects water runoff from a roof and leads it away from the structure.

**ROOFTOP DETENTION** — Temporary ponding and gradual release of stormwater falling directly onto flat roof surfaces by incorporating controlled-flow roof drains into building designs.

**RUNOFF** — Any part of precipitation that flows over the land.

**SALDO** — Subdivision and Land Development Ordinance.<sup>7</sup>

**SCS** — Soil Conservation Service (now known as NRCS, Natural Resources Conservation Service). Also a commonly referred to method ("SCS Method") for the hydrologic computation and estimation of runoff from rainfall information that has been developed by the United States Department of Agriculture.

**SEDIMENT** — Soils or other materials transported by surface water as a product of erosion.

**SEDIMENT BASIN** — A barrier, dam, retention or detention basin located and designed to retain rock, sand, gravel, silt or other material transported by water during construction.

**SEDIMENT POLLUTION** — The placement, discharge or any other introduction of sediment into the waters of the commonwealth.

**SEDIMENTATION** — The process by which mineral or organic matter is accumulated or deposited by the movement of water or air.

**SEEPAGE PIT/SEEPAGE TRENCH** — An area of excavated earth filled with loose stone or similar coarse material into which surface water is directed for infiltration into the groundwater.

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7. Editor's Note: See Ch. 265, Subdivision and Land Development.

**SEPARATE STORM SEWER SYSTEM** — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) primarily used for collecting and conveying stormwater runoff.

**SHALLOW CONCENTRATED FLOW** — Stormwater runoff flowing in shallow, defined rills prior to entering a defined channel or waterway.

**SHEET FLOW** — A flow process associated with broad, shallow water movement on sloping ground surfaces that is not channelized or concentrated.

**SKID ROAD/HAUL ROAD** — Those roads, trails or other openings upon which trees, logs, equipment or vehicles are moved within the site of the work.

**SKIDDING** — Moving of logs or felled trees along the surface of the ground from the stump to the point of loading.

**SLASH** — Unusable woody material such as large limbs, tops, cull logs and stumps that remain after timber harvesting.

**SOIL-COVER-COMPLEX METHOD** — A method of runoff computation developed by the NRCS that is based on relating soil type and land use/cover to a runoff parameter called curve number (CN).

**SPECIAL GEOLOGIC FEATURES** — Carbonate bedrock features, including but not limited to closed depressions, existing sinkholes, fracture traces, lineaments, joints, faults, caves and pinnacles, which may exist and must be identified on a site when stormwater management BMPs are being considered.

**SPILLWAY** — A conveyance that is used to pass the peak discharge of the maximum design storm controlled by the stormwater facility.

**STATE WATER QUALITY REQUIREMENTS** — The regulatory requirements to protect, maintain, reclaim and restore water quality under Pennsylvania Code Title 25 and the Clean Streams Law.

**STORAGE INDICATION METHOD** — A reservoir-routing procedure based on solution of the continuity equation (inflow minus outflow equals the change in storage) with outflow defined as a function of storage volume and depth.

**STORM FREQUENCY** — The number of times that a given storm "event" occurs or is exceeded on the average in a stated period of years. See "return period."

**STORM SEWER** — A system of pipes and/or open channels that conveys intercepted runoff and stormwater from other sources but excludes domestic sewage and industrial wastes.

**STORMWATER** — Drainage runoff from the surface of the land resulting from precipitation or snow or ice melt.

**STORMWATER MANAGEMENT BMPS** — Abbreviated as SWM BMPs throughout this chapter.

**STORMWATER MANAGEMENT FACILITY** — Any structure, natural or man-made that, due to its condition, design or construction, conveys, stores or otherwise affects stormwater runoff. Typical stormwater management facilities include, but are not limited to, detention and retention basins, open channels, storm sewers, pipes and infiltration structures.

**STORMWATER MANAGEMENT PLAN** — The plan for managing stormwater runoff adopted by the County of Elk as required by the Act of October 4, 1978, P.L. 864, (Act 167), as amended, and known as the "Storm Water Management Act".

**STORMWATER MANAGEMENT SITE PLAN** — The plan prepared by the applicant or his representative indicating how stormwater runoff will be managed at the project site in accordance with this chapter. "Stormwater management site plan" will be designated as "SWM site plan" throughout this chapter.

**STREAM** — A natural watercourse.

**STREAM ENCLOSURE** — A bridge, culvert or other structure in excess of 100 feet in length upstream to downstream that encloses a regulated water of this commonwealth.

**SUBAREA (SUBWATERSHED)** — The smallest drainage unit of a watershed for which stormwater management criteria have been established in the stormwater management plan.

**SUBDIVISION** — The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development. (Refer to the Pennsylvania Municipalities Planning Code, current version.)

**SURFACE WATERS OF THE/THIS COMMONWEALTH** — Any and all rivers, streams, creeks, rivulets, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs and all other bodies or channels of conveyance of surface, or parts thereof, whether natural or artificial, within or on the boundaries of this commonwealth.

**SWALE** — A low-lying stretch of land that gathers or carries surface water runoff.

**TIMBER OPERATIONS** — See "forest management."

**TIME-OF-CONCENTRATION (TC)** — The time for surface runoff to travel from the hydraulically most distant point of the watershed to a point of interest within the watershed. This time is the combined total of overland flow time and flow time in pipes or channels, if any.

**TOP-OF-BANK** — Highest point of elevation in a stream channel cross section at which a rising water level just begins to flow out of the channel and over the floodplain.

**USACE** — United States Army Corps of Engineers.

**VERNAL POND** — Seasonal depressional wetlands that are covered by shallow water for variable periods from winter to spring but may be completely dry for most of the summer and fall.

**WATERCOURSE** — A channel or conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

**WATERS OF THE/THIS COMMONWEALTH** — Rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs and other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this commonwealth.

**WATERSHED** — Region or area drained by a river, watercourse or other body of water, whether natural or artificial.

**WET BASIN** — A detention basin that is designed to detain stormwater and which always contains water.

**WETLAND** — Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, fens and similar areas.

### ARTICLE III

#### Stormwater Management Standards

##### **§ 254-9. General requirements.**

- A. Written approval of a SWM site plan must be issued by the municipality prior to commencement of regulated activities unless exempt from this requirement under § 254-10.
- B. SWM site plans approved by the municipality shall be on site throughout the duration of the regulated activity.
- C. The municipality may, after consultation with the PA DEP, approve measures for meeting the state water quality requirements other than those in this chapter, provided they meet the minimum requirements of, and do not conflict with, state law, including but not limited to the Clean Streams Law.
- D. For all regulated activities, implementation of peak rate controls and preparation of a SWM site plan are required, unless exempted by § 254-10 of this chapter.
- E. Impervious areas.
  - (1) The measurement of impervious areas shall include all of the impervious areas in the total proposed development even if development is to take place in stages.
  - (2) For development taking place in stages, the entire development plan must be used in determining conformance with this chapter.
  - (3) For projects that add impervious area to a parcel, the total impervious area on the parcel is subject to the requirements of this chapter, unless the project is otherwise deemed exempt from stormwater management provisions per the criteria set forth in § 254-10.

- (4) Existing gravel parking areas, driveways and roads shall not be considered impervious. These areas shall be treated as semipervious and shall be analyzed using the appropriate SCS curve number based on the appropriate HSG underlying the gravel areas, which is defined as:
    - (a) HSG A — Gravel Area Curve Number shall be 76.
    - (b) HSG B — Gravel Area Curve Number shall be 85.
    - (c) HSG C — Gravel Area Curve Number shall be 89.
    - (d) HSG D — Gravel Area Curve Number shall be 91.
  - (5) Proposed gravel parking areas, driveways and roads shall be considered impervious.
- F. Stormwater discharges onto adjacent property shall not be created, increased, decreased or relocated, or otherwise altered, without permission of the adjacent property owner(s). Such discharges shall be subject to the requirements of this chapter.
- G. All regulated activities shall include such measures as necessary to:
- (1) Protect health, safety and property;
  - (2) Meet the water quality goals of this chapter by implementing measures to:
    - (a) Minimize disturbance to floodplains, wetlands, natural slopes over 15%, and existing native vegetation.
    - (b) Minimize thermal impacts to waters of the commonwealth.
    - (c) Preserve and maintain trees and woodlands. Maintain or extend riparian buffers and protect existing forested buffer. Provide trees and woodlands adjacent to impervious areas.
    - (d) Establish and maintain nonerosive flow conditions in natural flow pathways.
    - (e) Minimize soil disturbance and soil compaction. Cover disturbed areas with topsoil having a minimum depth of four inches. Use tracked equipment for grading.
    - (f) Disconnect impervious surfaces by directing runoff to pervious areas.
  - (3) Implement volume controls in § 254-12.
  - (4) Incorporate the techniques described in Appendix A of this chapter (Low-Impact Development Practices) whenever practical.<sup>8</sup>
  - (5) The applicant must demonstrate that the following BMPs are being used to the maximum extent practicable to receive consideration for the exemptions in § 254-10:

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8. Editor's Note: Appendix A is on file in the Borough's offices.



- (a) Design around and limit disturbance of floodplains, wetlands, natural slopes over 15%, existing native vegetation, and other sensitive and special value features.
  - (b) Maintain riparian and forested buffers.
  - (c) Limit grading and maintain nonerosive flow conditions in natural flow paths.
  - (d) Maintain existing tree canopies near impervious areas.
  - (e) Minimize soil disturbance and reclaim disturbed areas with topsoil and vegetation.
  - (f) Direct runoff to pervious areas.
- (6) The applicant must demonstrate that the proposed development/additional impervious area will not adversely impact the following:
  - (a) Capacities of existing drainageways and storm sewer systems.
  - (b) Velocities and erosion.
  - (c) Quality of runoff if direct discharge is proposed.
  - (d) Existing known problem areas.
  - (e) Safe conveyance of the additional runoff.
  - (f) Downstream property owners.
- H. The design of all facilities over karst shall include an evaluation of measures to minimize adverse effects.
- I. Infiltration BMPs shall be spread out, made as shallow as practicable, and located to maximize use of natural on-site infiltration features, while still meeting the other requirements of this chapter.
- J. Storage facilities shall completely drain both the volume control and rate control capacities over a period of time not less than 24 hours and not more than 72 hours from the end of the design storm.
- K. The design storm volumes to be used in the analysis of peak discharge rates shall be obtained from the Precipitation-Frequency Atlas of the United States, Atlas 14, Volume 2, United States Department of Commerce, National Oceanic and Atmospheric Administration, National Weather Service, Hydrometeorological Design Studies Center, Silver Spring, Maryland 20910. NOAA's Atlas 14 can be accessed at Internet address: <http://hdsc.nws.noaa.gov/hdsc/pfds/>.
- L. The municipality and its engineer may require that regulated activities maintain a minimum distance between proposed impervious areas/stormwater management facility outlets and downslope property line(s).

- M. SWM BMPs for all regulated activities shall be designed, implemented, operated and maintained to meet the purposes and requirements of this chapter and to meet all requirements under Title 25 of the Pennsylvania Code, the Clean Streams Law, and the Storm Water Management Act.
- N. For all regulated earth disturbance activities, erosion and sediment control BMPs shall be designed, implemented, operated and maintained during the regulated earth disturbance activities (e.g., during construction) to meet the purposes and requirements of this chapter and to meet all requirements under Title 25 of the Pennsylvania Code and the Clean Streams Law. Various BMPs and their design standards are listed in the Erosion and Sediment Pollution Control Program Manual (E&S Manual), No. 363-2134-008 (April 15, 2000), as amended and updated.

**§ 254-10. Exemptions.**

- A. Under no circumstance shall the applicant be exempt from implementing such measures as necessary to:
  - (1) Meet special requirements for projects within high quality (HQ) and exceptional value (EV) watersheds (§ 254-15G).
- B. The applicant must demonstrate that the following BMPs are being used to the maximum extent practicable to receive consideration for the exemptions:
  - (1) Design around and limit disturbance of floodplains, wetlands, natural slopes over 15%, existing native vegetation, and other sensitive and special value features.
  - (2) Maintain riparian and forested buffers.
  - (3) Limit grading and maintain nonerosive flow conditions in natural flow paths.
  - (4) Maintain existing tree canopies near impervious areas.
  - (5) Minimize soil disturbance and reclaim disturbed areas with topsoil and vegetation.
  - (6) Direct runoff to pervious areas.
- C. The applicant must demonstrate that the proposed development/additional impervious area will not adversely impact the following:
  - (1) Capacities of existing drainageways and storm sewer systems.
  - (2) Velocities and erosion.
  - (3) Quality of runoff if direct discharge is proposed.
  - (4) Existing known problem areas.
  - (5) Safe conveyance of the additional runoff.
  - (6) Downstream property owners.

- D. An applicant proposing regulated activities, after demonstrating compliance with § 254-10A, B and C, may be exempted from various submission requirements of this chapter according to the following table:

<b>New Impervious Area</b>	<b>Applicant Submission Requirements</b>
0 square feet $\leq$ new impervious area < 1,000 square feet	No submission required
1,000 square feet $\leq$ new impervious area < 2,500 square feet	Small Project SWM Application <sup>1</sup> (see Appendix F <sup>9</sup> )
2,500 square feet $\leq$ new impervious area < 5,000 square feet	Volume Control (§ 254-12) and Small Project SWM Application (see Appendix F)
5,000 square feet $\leq$ new impervious area	Peak rate control (§ 254-13), volume control (§ 254-12), and Stormwater Management Site Plan (Article IV)

- <sup>1</sup> The municipality can require the applicant to provide supplemental and additional information beyond the Small Project SWM Application if there is a threat to property, health or safety.

All regulated activities must comply with the state water quality requirements.

- E. New single-family residential activities on a single lot are exempt from the requirements of § 254-12, Volume control, § 254-13, regarding peak rate control, and from the submission of a Small Project SWM Application, provided the construction:
- (1) Complies with § 254-10A, B and C; and
  - (2) Has building setbacks of at least 75 feet from downslope property lines; and
  - (3) Driveways:
    - (a) Runoff must discharge onto pervious surface with a gravel strip or other spreading device.
    - (b) No more than 1,000 square feet of paved surface may discharge to any one point.
    - (c) For each discharge point, the length of flow on the pervious surface must exceed the length of flow on the paved surface.
- F. The municipality may, after consultation with the PA DEP, approve alternative stormwater management controls for meeting the state water quality requirements other

9. Editor's Note: Appendix F is on file in the Borough's offices.

than those in this chapter, provided they meet the minimum requirements of and do not conflict with state law, including but not limited to the Clean Streams Law, and provided that:

- (1) The alternative controls are documented to be acceptable to PA DEP (or delegated authority), for NPDES requirements pertaining to post-construction stormwater management requirements.
  - (2) The alternative controls comply with all other sections of this chapter, including but not limited to §§ 254-9C and 254-10A through C.
- G. Agricultural activities are exempt from the rate and SWM site plan preparation requirements of this chapter, provided the activities are performed according to the requirements of 25 Pa. Code Chapter 102.
- H. Forest management and timber operations are exempt from the rate and volume control and SWM site plan preparation requirements of this chapter, provided the activities are performed according to the requirements of 25 Pa. Code Chapter 102.<sup>10</sup>
- I. Exemptions from any provisions of this chapter shall not relieve the applicant from the requirements in § 254-9D, F, G, H, I, J and K.
- J. Proposed municipal projects are bound to the following requirements and criteria:

<b>Type of Project</b>	<b>Description</b>	<b>Requirements</b>
<b>Roadway Restoration</b>		
Alignments*	Change the roadway by either reducing or eliminating horizontal and vertical curves, or changing the roadway's superelevation	BMP implementation that uses nonstructural and restoration practices, such as:
Pull-offs*	New, as part of a larger project or by itself	• Street sweeping
Widening*	Increase the width of the existing travel lanes (no new lanes added) and shoulders, or extension of acceleration/deceleration ramps in existing shoulder areas	• Impervious disconnection
		• Slope roughening
		• Pavement width reduction
		• Riparian buffers
		• Vegetative restoration (including roadside swales)
		• Soil amendments
Intersection*	Nominal channelization of intersections and addition of turning lanes	Minor practices and BMP implementation that uses low-impact practices, such as:

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Type of Project	Description	Requirements
Pavement	Replace portions, overlay, or mill and resurface the roadway's surface	<ul style="list-style-type: none"> <li>• Preservation of existing vegetation</li> <li>• Minimization of soil compaction</li> </ul>
Shoulders	Resurface, stabilize, upgrade (dirt or gravel to paved) or widen the existing shoulders within the existing footprint	<ul style="list-style-type: none"> <li>• Maintenance of erosion control and any PCSM BMPs</li> </ul>
Other	Replace and/or repair guide rail, signs, traffic signals and drainage systems to their original specifications; various minor safety improvements	Restoration and stabilization of staging areas
<b>New Construction</b>		
Major widening*	Addition of one or more travel lanes, including acceleration and deceleration lanes, to an existing road	Peak rate control (§ 254-13), volume control (§ 254-12), and stormwater management site plan
New alignment*	New roadway corridor	
Interchange*	Reconfiguration of ramps, lane modification within interchange area, etc.	
Municipal facilities	New stockpile sites, buildings or other structures or facilities not otherwise addressed by the requirements of this section	

\* Projects falling into the noted categories and that have the potential to discharge into surface waters that have existing or designated HQ or EV uses (including EV wetlands), have impairments due to stormwater, are connected to combined sewer systems, or have the potential to have an adverse effect on threatened or endangered species or critical habitat for such species are subject to additional stormwater management requirements beyond the requirements listed in the table. The additional BMP measures that must be considered and implemented for projects occurring in these areas are as follows:

Constructed wetlands/wet ponds	Significant detention of peak flow rates is needed and the contributing drainage area is large; retrofit existing detention basins are feasible.
Permeable pavement	Parking lots only.
Manufactured products: subsurface storage, water quality inlets, etc.	Subsurface storage products are designed to attenuate peak runoff events through infiltration and/or discharge rate reduction. Storm sewer inlet structures or inserts are designed to minimize the discharge of solids, floatables, and oil/grease pollutants. Regular maintenance of these products is necessary.

Projects occurring in the areas listed above and not previously bound to such requirements (roadway restoration projects) are also required to achieve the following targeted outcomes:

1. For project areas within a release rate district, reduce the post-construction runoff peak rate as required by the release rate district in this chapter. For project areas not within a release rate district, reduce the post-construction runoff peak rate to the preconstruction peak rate for the one-year through one-hundred-year storm events.
2. Reduce the post-construction runoff volume to the preconstruction runoff volume for the two-year twenty-four-hour storm event and smaller.

#### **§ 254-11. Waivers.**

- A. The provisions of this chapter are the minimum standards for the protection of the public.
- B. Waivers shall not be issued from implementing such measures as necessary to:
  - (1) Meet state water quality standards and requirements.
  - (2) Protect health, safety and property.
  - (3) Meet special requirements for high quality (HQ) and exceptional value (EV) watersheds.
- C. If an applicant demonstrates to the satisfaction of the governing body of the municipality that any mandatory provision of this chapter is unreasonable or causes unique or undue unreasonableness or hardship as it applies to the proposed project, or that an alternate design may result in a superior result within the context of §§ 254-2 and 254-3 of this chapter, the governing body of the municipality, upon obtaining the comments and recommendations of the Municipal Engineer and Conservation District, may grant a waiver or relief so that substantial justice may be done and the public interest is secured, provided that such waiver will not have the effect of nullifying the intent and purpose of this chapter.

- D. The applicant shall submit all requests for waivers in writing and shall include such requests as a part of the plan review and approval process. The applicant shall state in full the facts of unreasonableness or hardship on which the request is based, the provision or provisions of the chapter that are involved, and the minimum waiver or relief that is necessary. The applicant shall state how the requested waiver and how the applicant's proposal shall result in an equal or better means of complying with the intent or purpose and general principles of this chapter.
- E. The municipality shall keep a written record of all actions on waiver requests. The municipality may charge a fee for each waiver request, which shall be used to offset the administrative costs of reviewing the waiver request. The applicant shall also agree to reimburse the municipality for reasonable and necessary fees that may be incurred by the Municipal Engineer in any review of a waiver request.
- F. In granting waivers, the municipality may impose reasonable conditions that will, in its judgment, secure substantially the objectives of the standards or requirements that are to be modified.
- G. The municipality may grant applications for waivers when the following findings are made, as relevant:
  - (1) That the waiver shall result in an equal or better means of complying with the intent of this chapter.
  - (2) That the waiver is the minimum necessary to provide relief.
  - (3) That the applicant is not requesting a waiver based on cost considerations.
  - (4) That existing downgradient stormwater problems will not be exacerbated.
  - (5) That runoff is not being diverted to a different drainage area.
  - (6) That increased flooding or ponding on off-site properties or roadways will not occur.
  - (7) That potential icing conditions will not occur.
  - (8) That increases in peak flow or volume from the site will not occur.
  - (9) That erosive conditions due to increased peak flows or volume will not occur.
  - (10) That adverse impact to water quality will not result.
  - (11) That increased one-hundred-year floodplain levels will not result.
  - (12) That increased or unusual municipal maintenance expenses will not result from the waiver.
  - (13) That the amount of stormwater generated has been minimized to the greatest extent allowed.
  - (14) That infiltration of runoff throughout the proposed site has been provided where practicable and predevelopment groundwater recharge protected.

- (15) That peak flow attenuation of runoff has been provided.
- (16) That long-term operation and maintenance activities are established.
- (17) That the receiving streams and/or water bodies will not be adversely impacted in flood-carrying capacity, aquatic habitat, channel stability and erosion and sedimentation.

#### **§ 254-12. Volume controls.**

The low-impact development practices provided in the PA BMP Manual shall be used for all regulated activities to the maximum extent practicable. Water volume controls shall be implemented using the Design Storm Method in Subsection A or the Simplified Method in Subsection B below. For regulated activity areas equal or less than one acre that do not require hydrologic routing to design the stormwater facilities, this chapter establishes no preference for either methodology; therefore, the applicant may select either methodology on the basis of economic considerations, the intrinsic limitations on applicability of the analytical procedures associated with each methodology, and other factors.

- A. The Design Storm Method [CG-1 in the PA BMP Manual (current version)] is applicable to any size of regulated activity. This method requires detailed modeling based on site conditions.
  - (1) Do not increase the post-development total runoff volume for all storms equal to or less than the two-year twenty-four-hour duration precipitation.
  - (2) For modeling purposes:
    - (a) Existing (predevelopment) nonforested pervious areas must be considered meadow or its equivalent.
    - (b) Twenty percent of existing impervious area, when present, shall be considered meadow in the model for existing conditions.
- B. The Simplified Method [CG-2 in the PA BMP Manual (current version)] provided below is independent of site conditions and shall be used if the Design Storm Method is not followed. This method is not applicable to regulated activities that disturb greater than one acre or for projects that require design of stormwater storage facilities. For new impervious surfaces:
  - (1) Stormwater facilities shall be sized to capture at least the first two inches of runoff from all new impervious surfaces.
  - (2) At least the first one inch of runoff from new impervious surfaces shall be permanently removed from the runoff flow, i.e., it shall not be released into the surface waters of this commonwealth. Removal options include reuse, evaporation, transpiration and infiltration.
  - (3) Wherever possible, infiltration facilities shall be designed to accommodate infiltration of the entire permanently removed runoff; however, in all cases, at least the first 0.5 inch of the permanently removed runoff shall be infiltrated.



- (4) This method is exempt from the requirements of § 254-13, Rate controls.

### § 254-13. Rate controls.

- A. Areas not covered by a release rate map from an approved Act 167 stormwater management plan. Post-development discharge rates shall not exceed the predevelopment discharge rates for the one-, two-, ten-, twenty-five-, fifty- and one-hundred-year storms. If it is shown that the peak rates of discharge indicated by the post-development analysis are less than or equal to the peak rates of discharge indicated by the predevelopment analysis for one-, two-, ten-, twenty-five-, fifty- and one-hundred-year twenty-four-hour storms, then the requirements of this section have been met. Otherwise, the applicant shall provide additional controls as necessary to satisfy the peak rate of discharge requirement.
- B. Areas covered by a release rate map from an approved Act 167 stormwater management plan. For the one-, two-, ten-, twenty-five-, fifty- and one-hundred-year storms, the post-development discharge rates will follow the release rate maps in this chapter. For any areas not shown on the release rate maps, the post-development discharge rates shall not exceed the predevelopment discharge rates.
- C. BMPs for rate controls. A list of BMPs for peak rate controls is provided in Appendix B, Item C.<sup>11</sup>

### § 254-14. Calculation methods.

- A. Stormwater runoff from all project sites shall be calculated using a generally accepted calculation technique that is based on the NRCS Soil-Cover-Complex Method. Table below summarizes acceptable computation methods, and the method selected by the qualified professional shall be based on the individual limitations and suitability of each method for a particular site.

#### Acceptable Computation Methodologies for Stormwater Management Plans

Method	Method Developed By	Applicability
TR-20/WINTR 20 (or commercial computer package based on TR-20)	USDA NRCS	Applicable where use of full hydrology computer model is desirable or necessary
TR-55/WINTR 55 (or commercial computer package based on TR-55)	USDA NRCS	Applicable for land development plans within limitations described in TR-55
HEC-HMS	US Army Corps of Engineers	Applicable where use of full hydrologic computer model is desirable or necessary

11. Editor's Note: Appendix B is on file in the Borough's offices.

### Acceptable Computation Methodologies for Stormwater Management Plans

Method	Method Developed By	Applicability
Rational Formula (or commercial computer package based on Rational Formula)	Emil Kuichling (1889)	For sites less than fifty acres and with time of concentration less than 60 minutes ( $T_c < 60$ min.), or as approved by the municipality
Other methods such as SWMM, WMS, etc.	Varies	Other computation methodologies approved by the municipality

Note: Successors to the above methods are also acceptable.

- B. All calculations consistent with this chapter using the Soil-Cover-Complex Method shall use the appropriate design rainfall depths and intensities for the various return period storms according to the approximate center of the proposed development site, in accordance with the values obtained from the National Oceanic and Atmospheric Administration's (NOAA) Hydrometeorological Design Studies Center Precipitation Frequency Data Server (PFDS) at the following location for the Commonwealth of Pennsylvania: <http://hdsc.nws.noaa.gov/hdsc/pfds/index.html>. Applicant shall provide documentation of PFDS data location (latitude and longitude in degrees/minutes/seconds).
- C. All calculations using the Rational Formula shall use rainfall intensities consistent with appropriate times-of-concentration for overland flow and return periods from the NOAA PFDS website, the design storm curves from PA DOT Design Rainfall Curves (1986) and NOAA Atlas 14.
- D. Times-of-concentration for overland flow shall be calculated using the methodology presented in Chapter 3 of Urban Hydrology for Small Watersheds, NRCS, TR-55 (as amended or replaced from time to time by NRCS). Times-of-concentration for channel and pipe flow shall be computed using Manning's equation. NRCS lag equation divided by 0.6 as acceptable method for  $T_c$  in undeveloped areas.
- E. In order to reduce stormwater runoff volumes from developed areas and encourage groundwater recharge, underground basin drains, infiltration trenches, dry wells, and cisterns are permitted, to which roof leaders may be connected. These drains consist of stone-filled basins that temporarily store and release water below ground surface. Plans for such facilities shall be submitted to the municipality for approval, and the basins shall be used only in those areas where soils, geologic and water table conditions permit.
- F. Runoff curve numbers (CN) for both existing and proposed conditions to be used in the Soil-Cover-Complex Method shall be obtained from Table 2-2 of the TR-55 Manual.

- G. Runoff coefficients (C) for both existing and proposed conditions for use in the Rational Formula are provided in Appendix D.<sup>12</sup>
- H. All flow assumptions and source of supporting data shall be provided as part of the overall plan. The municipality reserves the right to reject any submitted values, despite the source, and to provide a substitute source for use by the applicant.
- I. Where uniform flow is anticipated, the Manning equation shall be used for hydraulic computations and to determine the capacity of open channels, pipes and storm sewers. Values for Manning's roughness coefficient (n) shall be consistent with generally accepted values from a legitimate and verifiable source. All flow assumptions and source of supporting data shall be provided as part of the overall plan. The municipality reserves the right to reject any submitted values, despite the source, and to provide a substitute source for use by the applicant. Full flow capacity shall be assumed for closed conduits. Storm sewer systems consisting of more than three pipe junctions shall be designed using hydraulic grade line computations.
- J. Outlet structures for stormwater management facilities shall be designed to meet the performance standards of this chapter using any generally accepted hydraulic analysis technique or method. The design of any stormwater detention facilities intended to meet the performance standards of this chapter shall be verified by routing the design storm hydrograph through these facilities using the Storage-Indication Method. For drainage areas greater than 200 acres in size, the design storm hydrograph shall be computed using a calculation method that produces a full hydrograph (i.e., TR-20, TR-55 and HEC-HMS).
- K. Stormwater management and related facilities shall be provided:
- (1) To permit unimpeded flow of natural watercourses. Such flow may be redirected as required, subject to the approval of the Pennsylvania Department of Environmental Protection and the municipality.
  - (2) To ensure adequate drainage of all street low points.
- L. Storm sewers and related installations:
- (1) Storm sewers, where required by zoning and land use densities, shall be placed under or immediately adjacent to the roadway side of the curb, or as directed by the municipality, when parallel to the street within the right-of-way.
  - (2) When located in undedicated land, they shall be placed within a drainage easement not less than 20 feet wide, as approved by the municipality.
  - (3) The use of properly designed, graded and vegetated drainage channels is encouraged in lieu of storm sewers in commercial and industrial areas and, where approved by the municipality, in residential areas. Such swales shall be designed to not only carry the required discharge without excessive erosion, but also to increase the time of concentration, reduce the peak discharge and velocity, and

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12. Editor's Note: Appendix D is on file in the Borough's offices.

permit the water to percolate into the soil, where appropriate. Criteria related to the use and design of drainage swales are as follows:

- (a) Where vegetated drainage swales are used in lieu of or in addition to storm sewers, they shall be designed to carry the ten-year discharge without erosion, and also to increase the time of concentration, reduce the peak discharge and velocity, and permit the water to percolate into the soil.
  - (b) The maximum encroachment of water on the roadway pavement along roadside swales in cut areas shall not exceed half of a through traffic lane during a ten-year frequency storm of five-minute duration. Frequent and/or sustained flooding of the subbase shall be avoided.
  - (c) The design of all vegetated channels shall, as a minimum, conform to the design procedures outlined in the Erosion and Sediment Pollution Control Program Manual (PA DEP). Inlets shall be provided to limit road shoulder encroachment and water velocity.
  - (d) The side slope for any vegetated drainage channel requiring mowing of the vegetation shall have a maximum grade of three horizontal to one vertical on those areas to be mowed. Maximum side slopes for any vegetated drainage channel shall be two horizontal to one vertical.
  - (e) Erosion prevention. All drainage swales shall be designed to prevent the erosion of the bed and bank areas. Suitable temporary and/or permanent stabilization during vegetative cover establishment shall be provided to prevent erosion.
  - (f) Storm sewers or drainage swales shall discharge to a detention or retention basin to attenuate the peak rate and volume, respectively, of stormwater runoff, except as provided in the plan.
- (4) The design capacity of storm sewers shall be in accordance with PennDOT Drainage Manual, Publication Number 584, as amended. Storm drainage systems shall be designed without surcharging inlets to provide conveyance of stormwater runoff into a detention basin or similar facility utilized to manage the rate of stormwater runoff. To avoid surcharging inlets, and to ensure that inlets will receive stormwater runoff, the hydraulic grade line at the inlet shall be at least six inches below the elevation of the inlet grate. Where site grading will direct stormwater runoff from the one-hundred-year design storm to a detention basin or similar facility utilized to manage the rate of stormwater runoff, then the storm sewer may be designed for the ten-year design storm. Where site grading will not direct stormwater runoff from the one-hundred-year design storm to a detention basin or similar facility utilized to manage the rate of stormwater runoff, then the storm sewer shall be designed for the one-hundred-year design storm. The location of the hydraulic grade line for the one-hundred-year design storm shall be graphically shown on the required storm sewer profile drawings. Conveyance of storms to the detention basin, up to and including the one-hundred-year frequency, shall be provided so as not to endanger life or seriously damage property.

- (5) Storm inlet types and inlet assemblies shall conform to the Pennsylvania Department of Transportation Standards for Roadway Construction, as approved by the municipality.
  - (6) Accessible drainage structures shall be located on a continuous storm sewer system at all vertical dislocations, at all locations where a transition in storm sewer pipe sizing is required, at all vertical and horizontal angle points exceeding 5°, and at all points of convergence of two or more influent storm sewer mains. The construction locations of accessible drainage structures shall be as indicated on the subdivision drainage plan or area drainage plan approved by the municipality.
  - (7) When evidence available to the municipality indicates that existing storm sewers have sufficient capacity as determined by hydrograph summation and are accessible, proposed stormwater facilities may connect to the existing storm sewers so long as the peak rate of discharge does not exceed the amount permitted by this article.
- M. Downstream analysis. Where deemed necessary by the Municipal Engineer, the applicant shall submit an analysis of the impacts of detained stormwater flows on downstream areas within the watershed, established with the concurrence of the Municipal Engineer. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of peak discharge modifications of the proposed development on critical locations such as dams, tributaries, existing developments, undersized culverts, and flood-prone areas. Review of and comment on the analysis by the engineer of a downstream municipality shall be obtained as deemed necessary.
- N. Multiple-use basins. The design and construction of multiple-use stormwater detention facilities is strongly encouraged. In addition to stormwater management, where appropriate facilities allow for recreational uses, including ball fields, play areas, picnic grounds, etc. Provision for parking facilities within basins and permanent wet ponds with stormwater management capabilities may also be appropriate. Prior approval and consultation with the municipality is required before design. Multiple-use basins shall be constructed so that potentially dangerous conditions are not created.
- O. Multiple development basins. Stormwater management facilities designed to serve more than one property or development in the same watershed are encouraged. Staged construction of existing or proposed multiple-use detention facilities by several developers in conjunction with watershed development is encouraged. Each applicant shall be responsible for the incremental increase in stormwater runoff generated by the respective development and incremental construction improvements necessary for the overall detention facility. Prior approval and consultation with the municipality is required before design of such facilities.
- P. Alternative detention facilities. Alternative stormwater detention facilities including rooftop, subsurface basins or tanks and in-pipe detention storage, or other approved alternative designs are permitted, as determined by the municipality.
- Q. Landscaping of stormwater management facilities. Facilities constructed with berms or earthen embankments shall not be landscaped along the top of the impoundment berm, embankment, nor shall other facility areas constructed from compacted fill materials be

landscaped. Heavy vegetative cover root penetration can cause soil weakening and damage to facility piping.

**§ 254-15. Other requirements.**

- A. All wet basins shall be designed in a manner that seeks to mitigate the proliferation of mosquito breeding habitats and the potential spread of the West Nile Virus. This can be accomplished through the following means:
- (1) The design of a stormwater wetland/wet basin must include the selection of hydrophytic plant species for their pollutant uptake capabilities and for not contributing to the potential for vector mosquito breeding. The establishment of hydrophytic vegetation will promote the population of the wetland/wet basin by amphibians and other mosquito predators. In natural wetlands, predatory insects and amphibians are effective at keeping mosquito populations in check during the larval stage of development while birds and bats prey on adult mosquitoes. Refer to Appendix B of the PA SWM BMP Manual (current version) for hydrophytic native plant species lists.
  - (2) Aeration fountains and stocked fish can be added to keep larval mosquito populations in check.
- B. The municipality reserves the right to disapprove any design that would result in the construction or continuation of a stormwater problem area.
- C. When the elevation of any existing or proposed entrance to a structure, including windows, is lower than the elevation of the public cartway serving that site, a grading plan shall be submitted, reviewed and approved as part of the SWM approval process for the proposed structure.
- D. No stormwater detention facility shall be placed within 50 feet of a special geologic feature. No subsurface stormwater conveyance facility shall be constructed within 50 feet of a special geologic feature without written permission of the municipality.
- E. Stormwater management facilities located outside of existing or proposed public rights-of-way shall be located within and accessible by easements granted to the municipality as follows:
- (1) Drainage easements. Where a tract is traversed by a watercourse, drainageway, channel or stream, there shall be provided a drainage easement paralleling the center line of such watercourse, drainageway, channel or stream. The width of the drainage easement will be adequate to preserve the unimpeded natural flow of the one-hundred-year storm in accordance with computed top widths for water surface elevations. Drainage easements shall provide for maintenance and for the purpose of widening, deepening, improving or protecting such drainage facilities.
  - (2) Access easements. Where proposed stormwater management facilities are not adjacent to proposed or existing public rights-of-way or are not accessible due to physical constraints, as determined by the municipality, a twenty-foot-wide access easement specifying rights of entry shall be provided. Access easements shall

provide for vehicle ingress and egress on grades of less than 10% for carrying out inspection or maintenance activities. A permanent fifteen-foot-wide vehicular access road within the easement(s) shall be provided around all SWM BMPs, such as ponds and infiltration structures. The access roads shall connect to a public thoroughfare. The access road (when applicable) will also provide access at a slope no greater than 20% to the bottom of all ponds and associated outlet structures. The access road shall be constructed of either gravel or pavement and maintained per the maintenance agreement. The municipality reserves the right to alter the design of the access to any SWM BMP.

Vehicle ingress and egress and access roads are not required for SWM BMPs serving one single-family residential lot and located on the same lot they serve.

- (3) Maintenance easements. A maintenance easement shall be provided which encompasses the stormwater facility and appurtenances and provides for access for maintenance purposes. The maintenance easement must be located at least 20 feet outside of the line of intersection of the one-hundred-year water surface elevation and the ground surface for the stormwater facility and appurtenances.
  - (4) Easements shall state that no trees, shrubs, structures, excavation, placement of fill or regrading are to be performed within the easement without written approval from the municipality upon review by the Municipal Engineer. Upon approval of the municipality, such landscaping may be placed in maintenance easements, provided it does not impede access.
  - (5) Whenever practicable, easements shall be parallel with and linked to property lines of the subdivision.
  - (6) All easement agreements shall be recorded with a reference to the recorded easement indicated on the site plan. The format and content of the easement agreement shall be reviewed and approved by the municipality and Solicitor.
- F. In order to promote overland flow and infiltration, roof drains shall not discharge directly to streets or storm sewers. Roof drains may discharge directly to streets or storm sewers when deemed necessary by the municipality. Under no circumstances shall roof drains discharge directly to sanitary sewer systems.
- G. Environmentally sensitive areas.
- (1) Projects that have the potential to discharge into surface waters that have existing or designated HQ or EV uses (including EV wetlands), have impairments due to stormwater, are connected to combined sewer systems, or have the potential to have an adverse effect on threatened or endangered species or critical habitat for such species are subject to additional BMP measures that must be considered and implemented for projects occurring in these more environmentally sensitive areas:

Constructed wetlands/wet ponds	Significant detention of peak flow rates is needed and the contributing drainage area is large; retrofit existing detention basins are construct new in open median or interchange areas.
Permeable pavement	Limited to park-and-ride sites and parking lots.
Manufactured products: subsurface storage, water quality inlets, etc.	Subsurface storage products are designed to temper peak runoff events through infiltration and/or discharge rate reduction. Storm sewer inlet structures or inserts are designed to minimize the discharge of solids, floatables and oil/grease pollutants. Regular maintenance of these products is necessary and is an important factor in assessing the feasibility of using one of these products.

- (2) Proposed infiltration BMPs within two miles on either side of surface water supply areas or surface waters that have existing or designated HQ or EV uses (including EV wetlands) must be designed and constructed to provide maximum pollutant removal prior to the runoff being infiltrated or discharged to the receiving stream. PA DEP defines the following zones around such waters:

- (a) Zone A — Represents a one-fourth-mile buffer on either side of the river or stream extending from the area 1/4 mile downstream of the intake upstream to the five-hour time-of-travel (TOT) (Pennsylvania Department of Environmental Protection, 2006).
- (b) Zone B — Represents a two-mile buffer on either side of the water body extending from the area 1/4 mile downstream of the intake upstream to the twenty-four-hour TOT (Pennsylvania Department of Environmental Protection, 2006).
- (c) Zone C — The remainder of the watershed area (Pennsylvania Department of Environmental Protection, 2006).

#### H. Groundwater supply protection.

- (1) Zone 1 — The innermost protective zone surrounding a well, spring or existing infiltrative gallery. Zone 1 is the area within a radius of 400 feet around a community or public water supply source unless information is presented supporting a reduction of this requirement. Proposed infiltration BMPs are not permitted within Zone 1 protection areas (Pennsylvania Department of Environmental Protection, 2006).
- (2) Zone 2 — The capture zone that encompasses the area of the aquifer through which it supplies water to a well, spring or existing infiltration gallery. Zone 2 is one-half-mile radius around a community or public water supply source unless more extensive hydrogeological testing is done. Extreme care should be used when implementing infiltration BMPs in Zone 2 areas. Pretreatment measures must be



used to filter and diminish pollutants (Pennsylvania Department of Environmental Protection, 2006).

- (3) Zone 3 — The area outside Zone 2 that contributes significant recharge to the capture zone aquifer in Zone 2 (Pennsylvania Department of Environmental Protection, 2006). Use of infiltration BMPs is not restricted.
- (4) Infiltration BMPs are not permitted within a radius of 50 feet from privately owned wells and water sources serving noncommunity supply systems (Pennsylvania Department of Environmental Protection, 2006).

#### ARTICLE IV

#### **SWM Site Plan and Report Requirements**

##### **§ 254-16. Plan and report contents.**

- A. All regulated activities that do not fall under the exemption criteria referenced herein shall submit a SWM site plan and report to the municipality for review. These criteria shall apply to the total proposed development even if development is to take place in stages.
- B. The following items shall be included in the SWM site plan:
  - (1) Appropriate sections from the municipal SALDO and other applicable ordinances shall be followed in preparing the SWM site plans. In instances where the municipality lacks subdivision and land development regulations, the County SALDO shall be followed.
  - (2) The SWM site plan shall provide the following information:
    - (a) Unless specifically given written permission by the municipality, the following must be shown on the SWM site plan, prepared in a form which meets the requirements for recording in the county office of the Recorder of Deeds:
      - [1] Annotated maps, drawings, engineering plans and construction details. Said plan shall be prepared by a qualified professional, with said preparer's seal and registration number affixed to the plan. Plans for tracts of less than 20 acres shall be drawn at a scale of one inch equals no more than 50 feet; for tracts of 20 acres or more, plans shall be drawn at a scale of one inch equals no more than 100 feet. Plans shall be submitted on the following sheet sizes: 18 inches by 24 inches, 24 inches by 36 inches, or 36 inches by 42 inches. All lettering shall be drawn to a size to be legible if the plans are reduced to half size. All sheets comprising a submission shall be on one size.
      - [2] The name of the proposed development and the name and address of the owner of the property and the individual or firm preparing the plan.
      - [3] Date of submission and revision, graphic scale and North arrow.

- [4] Total tract boundary with distances marked to the nearest foot and bearings to the nearest degree and the total acreage of the tract.
  - [5] Key map (drawn to scale) showing all existing natural and man-made features beyond the property boundary affected by the project and the extent of the watershed or subbasin which drains through the project site.
  - [6] Existing and proposed topographic contours shall be provided at intervals not greater than five feet for existing and proposed conditions.
  - [7] Topographic contours at intervals less than five feet may be required for flat sites and to depict certain existing and future stormwater management features. The reference datum used to develop topographic contours shall be stated on the plans.
  - [8] Existing and proposed use, including the total area of impervious surfaces after construction.
  - [9] Location and selected plant material used for vegetative filter paths to sinkholes, stream buffers, buffer yards, wetlands, streams and other waters of the commonwealth, and the location of all notices to be posted, as specified in this chapter. If stormwater management facilities are off site, a note on the plan referring to location and agreements indicating responsibility for conveyance to and maintenance of the facilities; all such off-site facilities shall meet the design standards and criteria specified in this chapter, and details of the facilities shall be included with the plan.
- (b) An erosion and sediment pollution control plan, as prepared for and submitted to the County Conservation District.
  - (c) Plan and profile and construction detail drawings of all SWM BMPs, including open channels and swales.
  - (d) Locations of existing watercourses (including stream name per PA DEP Chapter 93 designation, or otherwise noted as "unnamed tributary" with Chapter 93 numeric designation) and existing and proposed on-lot wastewater facilities, water supply wells, and infiltration areas.
  - (e) Locations of all access and maintenance easements, suitable for recording.
  - (f) Signature blocks:

The following signature block for the municipality:

"\_\_\_\_\_, on this date (date of signature), has reviewed this SWM site plan in accordance with the design standards and criteria of the applicable municipal ordinances."

The following signature block for the qualified professional:

"\_\_\_\_\_, on this date (date of signature), hereby certify that this SWM site plan was prepared in strict accordance with all of the design standards and criteria of all applicable municipal ordinances."

The following signature block for the applicant/owner:

"\_\_\_\_\_, on this date (date of signature), has acknowledged that I/we and/or my/our assignees/grantees shall be responsible for maintenance of the stormwater management system shown hereon, in accordance with the approved stormwater management ownership and maintenance plan for this project, and that such stormwater system shall remain as a permanent fixture that cannot be altered, replaced or removed without prior written approval from the municipality."

- (g) A note indicating that a copy of the recorded record drawings will be submitted to the municipality by the applicant's registered engineer or surveyor for all stormwater facilities prior to occupancy or the release of the surety bond. The municipality reserves the right to authorize the Municipal Engineer to review said record drawings.

C. The following items shall be included in the SWM report:

- (1) The overall stormwater management concept for the project.
- (2) A determination of site conditions in accordance with Appendix B.<sup>13</sup> A detailed site evaluation shall be completed for projects proposed in areas of carbonate geology or karst topography and other environmentally sensitive areas such as brownfields.
- (3) Stormwater runoff design computations and documentation as specified in this chapter or otherwise necessary to demonstrate that the maximum practicable measures have been taken to meet the requirements of this chapter, including the recommendations and general requirements in § 254-9. All calculations shall be submitted to the municipality on computation sheets for approval. If the municipality determines through review and independent computation that the size(s) of stormwater management facilities is insufficient, the municipality may require the applicant to increase the size(s) of said stormwater management facilities. If the storm drainage system design is completed on a computer installation, sufficient supporting data shall be provided to allow comprehensive review by municipal officials.
- (4) Expected project construction schedule.
- (5) The effect of the project (in terms of runoff volumes and peak flows) on adjacent properties and on any existing municipal stormwater collection system that may receive runoff from the project site.

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13. Editor's Note: Appendix B is on file in the Borough's offices.

- (6) Copies of all permits related to the SWM site plan required by the Pennsylvania Department of Environmental Protection, Pennsylvania Department of Transportation (PA DOT), and U.S. Army Corps of Engineers (USACOE) and other regulatory agencies.
- (7) The SWM site plan shall include an operation and maintenance (O&M) plan for all existing and proposed physical stormwater management facilities. This plan shall address long-term ownership and responsibilities for operation and maintenance as well as schedules and costs for O&M activities.
- (8) Hydrologic and hydraulic computations for all existing and proposed stormwater management facilities and measures.
- (9) Construction specifications for SWM BMPs and storm drainage systems.
- (10) Each stormwater management report shall contain provisions that clearly set forth the ownership and maintenance responsibility of all permanent stormwater management and erosion and sediment control facilities. Including:
  - (a) Description of maintenance requirements.
  - (b) Establishment of suitable easements for access to all facilities by public officials in accordance with this article.
  - (c) Identification of the responsible party or entity for ownership and maintenance of both temporary and permanent stormwater management facilities. In meeting this requirement, the following options are hereby provided for upon approval by the municipality:
    - [1] Facilities may be incorporated within individual lots so that the respective lot owners will own and be responsible for maintenance in accordance with recorded deed restriction. A description of the facility or system and the terms of the required maintenance shall be incorporated as part of the deed to the property.
    - [2] Ownership and maintenance may be the responsibility of a property owners' association. The stated responsibilities of the property owners' association in terms of owning and maintaining the stormwater management facilities shall be submitted with final plans for determination of their adequacy and, upon their approval, shall be recorded with the approved subdivision plan among the county deed records. In addition, the approved subdivision plan and any deed written from said plan for a lot or lots shown herein shall contain a condition that it shall be mandatory for the owner or owners of said lot to be members of said property owners' association.
  - (d) For stormwater management facilities that are proposed as part of the site development plan, the applicant will be required to execute a developer agreement and a maintenance agreement with the municipality for the construction and continued maintenance of the facilities prior to the signature approval on the final plan. Access for inspection by the municipality of all

such facilities deemed critical to the public welfare at any reasonable time shall be provided.

- (e) In the event the above priorities cannot be achieved, or where it is required, the facilities may be dedicated to the municipality in accordance with this chapter. As a condition of municipality acceptance of said facilities, the applicant shall provide 15% of the cost of improvements in the form of a maintenance bond, as estimated by the applicant's qualified professional and approved by the municipality, to cover contingency maintenance costs for 18 months from the date of stormwater management facilities acceptance of dedication. The fifteen-percent bond shall be based on the construction costs of the detention basin and outlet structure within the area dedicated to the municipality.

(11) Example report sections:

Introduction

Existing site conditions

Models

Existing soils information

Volume mitigation

    Description and background information

Peak rate mitigation

    Description and background information

    Predevelopment conditions

    Post-development conditions

    Stormwater/detention basin hydraulics

    Storm drain design

    Peak-rate mitigation results

Effect of project on adjacent properties

Expected project construction schedule

Ownership and maintenance

Appendixes

    Volume mitigation calculations, worksheets and information

    Peak rate mitigation calculations and information

    Water quality worksheets and information

    Precipitation source data

    SCS runoff curve numbers, rational runoff coefficients, Manning's coefficients

    Miscellaneous computations

    Infiltration rate test data

    General references

    Construction specifications for SWM BMPs

D. Small project SWM application.

- (1) Refer to Appendix F.<sup>14</sup>

**§ 254-17. Plan submission.**

A. Four copies of the SWM site plan shall be submitted as follows:<sup>15</sup>

- (1) Two copies to the municipality.
- (2) One copy to the Municipal Engineer (when applicable).
- (3) One copy to the County Planning Commission/Office.

B. Additional copies shall be submitted as requested by the municipality.

**§ 254-18. Plan review.**

- A. The SWM site plan shall be reviewed by the municipality for consistency with the provisions of this chapter. After review, the municipality will make the decision to approve or disapprove the SWM site plan. If the SWM site plan is disapproved upon review, the municipality shall state the reasons for the disapproval in writing. The municipality may also recommend approval of the SWM site plan with conditions and, if so, shall provide the acceptable conditions for approval in writing. The SWM site plan review and recommendations shall be completed within the time allowed by the Municipalities Planning Code for reviewing subdivision and land development plans.
- B. The municipality shall notify the applicant in writing within 45 calendar days whether the SWM site plan is approved or disapproved. If the SWM plan involves a subdivision or land development plan, the notification period is 90 days. If a longer notification period is provided by other statute, regulation or ordinance, the applicant will be so notified by the municipality. If the municipality disapproves the SWM plan, the municipality shall cite the reasons for disapproval in writing.
- C. The municipality's approval of a SWM site plan shall be valid for a period not to exceed five years. This five-year period shall commence on the date that the municipality signs the approved SWM site plan. If stormwater management facilities included in the approved SWM site plan have not been constructed, or if a record drawing of these facilities has not been approved within this five-year time period, then the municipality may consider the SWM site plan disapproved and may revoke any and all permits. SWM site plans that are considered disapproved by the municipality shall be resubmitted in accordance with this chapter.

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14. Editor's Note: Appendix F is on file in the Borough's offices.

15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 254-19. Modification of plans.**

A modification to a submitted SWM site plan that involves a change in SWM BMPs or techniques, or that involves the relocation or redesign of SWM BMPs, or that is necessary because soil or other conditions are not as stated on the SWM site plan as determined by the municipality, shall require a resubmission of the modified SWM site plan in accordance with this article.

**§ 254-20. Resubmission of disapproved SWM site plans.**

A disapproved SWM site plan may be resubmitted, with the revisions addressing the municipality's concerns, to the municipality in accordance with this article. The applicable review fee must accompany a resubmission of a disapproved SWM site plan.

**§ 254-21. Record drawings and final inspection.**

- A. The applicant/developer shall be responsible for completing record drawings of all SWM BMPs included in the approved SWM site plan. The record drawings and an explanation of any discrepancies with the design plans shall be submitted to the municipality.
- B. The submission shall include a signed statement from a qualified professional verifying that all permanent SWM BMPs have been constructed according to the plans and specifications and approved revisions thereto.
- C. After receipt of the signed statement and the record drawings by the municipality, the municipality may conduct a final inspection.

ARTICLE V  
**Operation and Maintenance**

**§ 254-22. Responsibilities.**

- A. The municipality shall make the final determination on the continuing maintenance responsibilities prior to final approval of the SWM site plan. The municipality may require a dedication of such facilities as part of the requirements for approval of the SWM site plan. Such a requirement is not an indication that the municipality will accept the facilities. The municipality reserves the right to accept the ownership and operating responsibility for any or the entire stormwater management controls.
- B. All SWM BMPs shall be enumerated as permanent real estate appurtenances and recorded as deed restrictions.
- C. The operation and maintenance plan shall be recorded as a restrictive deed covenant that runs with the land.
- D. The municipality shall take enforcement actions against an owner for any failure to satisfy the provisions of this article.

**§ 254-23. Operation and maintenance agreements.**

The owner is responsible for operation and maintenance of the SWM BMPs and for preparing an operation and maintenance agreement in accordance with Appendix C.<sup>16</sup> If the owner fails to adhere to the operation and maintenance agreement, the municipality may perform the services required and charge the owner appropriate fees. Nonpayment of fees may result in a lien against the property.

**ARTICLE VI**  
**Fees and Expenses**

**§ 254-24. General.**

The municipality may include all costs incurred in the review fee charged to an applicant. The review fee may include but not be limited to costs for the following:

- A. Administrative/clerical processing.
- B. Review of the SWM site plan.
- C. Attendance at meetings.
- D. Inspections.
- E. Qualified professional review and meeting costs.
- F. Recording fees and costs for plan reduction to meet county recording requirements (if required).

**ARTICLE VII**  
**Prohibitions**

**§ 254-25. Prohibited discharges and connections.**

- A. Any drain or conveyance, whether on the surface or subsurface, which allows any nonstormwater discharge including sewage, process wastewater and wash water to enter the waters of this commonwealth is prohibited.
- B. No person shall allow, or cause to allow, discharges into surface waters of this commonwealth that are not composed entirely of stormwater, except: 1) as provided in Subsection C below; and 2) discharges allowed under a state or federal permit.
- C. The following discharges are authorized unless they are determined to be significant contributors to pollution of the waters of this commonwealth:
  - (1) Discharges from firefighting activities.
  - (2) Potable water sources including waterline and fire hydrant flushing.

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16. Editor's Note: Appendix C is on file in the Borough's offices.



- (3) Irrigation drainage.
- (4) Air-conditioning condensate.
- (5) Springs.
- (6) Water from crawl space pumps.
- (7) Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used.
- (8) Flows from riparian habitats and wetlands.
- (9) Uncontaminated water from foundations or from footing drains.
- (10) Lawn watering.
- (11) Dechlorinated swimming pool discharges.
- (12) Uncontaminated groundwater.
- (13) Water from individual residential car washing
- (14) Routine external building wash down (which does not use detergents or other compounds).

D. In the event that the municipality or PA DEP determines that any of the discharges identified in Subsection C of this section significantly contribute to pollution of the waters of this commonwealth, the municipality or PA DEP will notify the responsible person(s) to cease the discharge.

#### **§ 254-26. Roof drains.**

Roof drains and sump pumps shall discharge to infiltration or vegetative BMPs and, to the maximum extent practicable, satisfy the criteria for disconnected impervious areas (Appendix G<sup>17</sup>).

#### **§ 254-27. Alteration of BMPs.**

No person shall modify, remove, fill, landscape or alter any SWM BMPs without the prior written approval of the municipality.

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17. Editor's Note: Appendix G is on file in the Borough's offices.

ARTICLE VIII  
**Enforcement and Penalties**

**§ 254-28. Right of entry.**

As a condition of approval of an applicant's stormwater management site plan, and upon presentation of proper credentials, the applicant agrees that the municipality, and/or its agents, may enter at reasonable times upon any property within the municipality to inspect the condition of the stormwater structures and facilities concerning any aspect regulated by this chapter.

**§ 254-29. Inspection.**

SWM BMPs shall be inspected by the landowner/developer (including municipality for dedicated facilities) according to the following list of frequencies:

- A. Annually for the first five years.
- B. Once every three years thereafter,
- C. During or immediately after the cessation of a ten-year or greater storm.

**§ 254-30. Enforcement.**

- A. It shall be unlawful for a person to undertake any regulated activity except as provided in an approved SWM site plan unless specifically exempted in § 254-10.
- B. It shall be unlawful to alter, remove or fail to implement any control structure required by the SWM site plan.
- C. Compliance inspections regarding implementation of the SWM site plan are a responsibility of the municipality.

**§ 254-31. Suspension and revocation.**

- A. Any approval for a regulated activity may be suspended or revoked by the municipality for:
  - (1) Noncompliance with or failure to implement any provision of the approval, including record drawings and operations and maintenance agreements.
  - (2) A violation of any provision of this chapter or any other applicable law, ordinance, rule or regulation relating to the regulated activity.
  - (3) The creation of any condition or the commission of any act during the regulated activity which constitutes or creates a hazard or nuisance, pollution or which endangers the life or property of others.
- B. A suspended approval may be reinstated by the municipality when:

- (1) The municipality has inspected and approved the corrections to the violations that caused the suspension.
  - (2) The municipality is satisfied that the violation has been corrected.
- C. An approval that has been revoked by the municipality cannot be reinstated. The applicant may apply for a new approval under the provisions of this chapter.
- D. If a violation causes no immediate danger to life, public health or property, at its sole discretion the municipality may provide a limited time for the owner to correct the violation. In these cases, the municipality will provide the owner, or the owner's designee, with a written notice of the violation and the time allowed the owner to correct the violation. If the owner does not correct the violation within the allowed time, the municipality may revoke or suspend any or all applicable approvals and permits pertaining to any provision of this chapter.

**§ 254-32. Violations and penalties.**

- A. Any person violating the provisions of this chapter may be assessed a civil penalty of not more than \$1,000 for each violation, recoverable with costs. Each day that the violation continues constitutes a separate violation, and penalties shall be cumulative.
- B. In addition, the municipality may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this chapter. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.
- C. The cost of removal, fine and penalties hereinabove mentioned may be entered by the municipality as a lien against such property, or properties of individual members of a property owners' association, in accordance with existing provisions of law.
- D. If the municipality determines at any time that any permanent stormwater management facility has been eliminated, altered or improperly maintained, the municipality shall advise the responsible party of required corrective measures and shall provide said responsible party with a specific period to implement the required corrective measures. If such action is not taken by the property owner, the municipality may cause the work to be done and backcharge all costs to the property owners in accordance with this chapter.

**§ 254-33. Appeals.**

- A. Any person aggrieved by any action of the municipality or its designee relevant to the provisions of this chapter may appeal to the municipality within 30 days of that action.
- B. Any person aggrieved by any decision of the municipality relevant to the provisions of this chapter may appeal to the County Court of Common Pleas in the county where the activity has taken place within 30 days of the municipality's decision.

ARTICLE IX  
References

**§ 254-34. Information on references.**

- A. Pennsylvania Department of Environmental Protection. (DEP Doc. #363-0300-002, or current version). Pennsylvania Stormwater Best Management Practices Manual. Harrisburg, PA.
- B. Pennsylvania Department of Environmental Protection, Doc. 363-2134-008 (2000), as amended and updated. Erosion and Sediment Pollution Control Program Manual, Harrisburg, PA.
- C. United States Department of Agriculture (USDA), National Resources Conservation Service (NRCS). National Engineering Handbook. Part 630: Hydrology, 1969-2001. Originally published as the National Engineering Handbook, Section 4: Hydrology. Available at: <http://www.wcc.nrcs.usda.gov/hydro/hydro-techref-neh-630.html>
- D. United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS); 1986. Technical Release 55: Urban Hydrology for Small Watersheds, 2nd Edition. Washington, D.C.
- E. United States Department of Commerce (USDC), National Oceanic and Atmospheric Administration (NOAA), National Weather Service (NWS), Hydrometeorological Design Studies Center; 2004-2006. Precipitation-Frequency Atlas of the United States. Atlas 14, Volume 2, Silver Spring, Maryland 20910. Internet address: <http://hdsc.nws.noaa.gov/hdsc/pfds/>.
- F. United States Department of Transportation (US DOT), Federal Highway Administration (FHA); 2001. Hydraulic Engineering Circular Number 22 (HEC-22), Urban Drainage Design Manual.
- G. PennDOT Drainage Manual, Publication Number 584, as amended.
- H. Philadelphia Water Department; 2006, Stormwater Management Guidance Manual; Section 4.2.2: Integrated Site Design, Philadelphia, PA.