

**NEWLIN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2017-03

AN ORDINANCE OF NEWLIN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE NEWLIN TOWNSHIP ZONING ORDINANCE OF 1999, AS AMENDED, BY REPEALING AND REPLACING ARTICLE 4 OF THE ZONING ORDINANCE WITH UPDATED FLOODPLAIN MANAGEMENT REGULATIONS GOVERNING THE FLOODPLAIN PERMITTING PROCESS, SETTING FORTH MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT, RELATED PROVISIONS GOVERNING ALL IMPROVEMENTS IN IDENTIFIED FLOODPLAIN AREAS, ESTABLISHING PENALTIES FOR ANY PERSONS WHO FAIL TO COMPLY WITH REQUIRED PROVISIONS, REPEALING AND AMENDING CERTAIN DEFINITIONS AND CONFLICTING PROVISIONS, AND ADOPTING REQUIRED SEVERABILITY AND REPEALER PROVISIONS.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Newlin Township that the Newlin Township Zoning Ordinance of 1999, as amended (the “Zoning Ordinance”) is hereby further amended as follows:

SECTION 1. Article 4. Floodplain Conservation Overlay District of the Zoning Ordinance shall be deleted and removed in its entirety, and shall hereby be amended, replaced and re-titled as Article 4. Floodplain Regulations which shall read as follows:

“ARTICLE 4 – FLOODPLAIN REGULATIONS

SECTION 401 – FLOODPLAIN REGULATIONS

A. STATUTORY AUTHORIZATION. The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Floodplain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, pursuant to the above authority and the authority provided for in the Pennsylvania Municipalities Planning Code, the Board of Supervisors of the Township of Newlin does hereby adopt the following regulations.

B. GENERAL PROVISIONS.

1. Intent

The intent of this Article 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.
 - 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. To restrict or prohibit certain land uses, activities, and development from locating within areas subject to flooding.
 - f. Comply with federal and state floodplain management requirements.
2. Applicability. 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 Identified Floodplain Area of the Township of Newlin unless a permit has been obtained from the Floodplain Administrator.
3. Abrogation and Greater Restrictions. This Article supersedes any other conflicting provisions which may be in effect in any 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 Article, the more restrictive shall apply.
4. Warning and Disclaimer of Liability. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article 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.

This Article shall not create liability on the part of the Township of Newlin or any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

C. ADMINISTRATION

1. Designation of the Floodplain Administrator. The Zoning Officer is hereby appointed to administer and enforce this Article and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Building Code Official.

2. Permits Required. A permit shall be required before any construction or development is undertaken within any Identified Floodplain Area of the Township of Newlin.
3. Duties and Responsibilities of the 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. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the proposed cost of improvements or repairs and the pre-improvement market value of the structure, so that a substantial improvement/substantial damage determination can be made, in accordance with FEMA's Substantial Improvement/Substantial Damage Desk Reference.
 - d. 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.

- e. 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 Article.
- f. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the permit and report such fact to the Board of Supervisor for whatever action it considers necessary.
- g. The Floodplain Administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this Article including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
- h. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program as requested.
- i. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the floodplain administrator/manager.
- j. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.

4. Application Procedures and Requirements

- a. Application for such a permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Township of Newlin. 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 floatation, 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 (1) inch being equal to one hundred (100) feet or less, showing the following:
 - a) north arrow, scale, and date;
 - b) topographic contour lines, if available;

- c) the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - d) the location of all existing streets, drives, and other access ways; 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;
 - c) supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.
- 4) The following data and documentation:
- a) detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - b) if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
 - c) documentation, certified by a registered professional engineer, to show that the effect of any proposed development within a Floodway Area will not increase the base flood elevation at any point.
 - d) documentation, certified by a registered professional engineer, to show that the cumulative effect of any proposed development within an AE Area/District without floodway when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point within the community.
 - e) a document, certified by a registered professional engineer, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.

Such statement shall include a description of the type and extent of flood

proofing measures which have been incorporated into the design of the structure and/or the development.

- f) detailed information needed to determine compliance with sections herein regarding Storage and Development Which May Endanger Human Life, including:
 - i. the amount, location and purpose of any materials or substances referred to such above sections which are intended to be used, produced, stored or otherwise maintained on site.
 - ii. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances during a base flood.
 - g) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
 - h) 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. Required Information. Applications for Special Exceptions shall conform to the requirements of Section 1209 of this Zoning Ordinance. In addition, the Zoning Hearing Board shall consider the following factors:
- 1) Review Factors. In reviewing applications for special exceptions, the Zoning Hearing Board shall consider all relevant factors and procedures contained in other sections of the Zoning Ordinance, as well as the following:
 - a) The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - b) The danger that materials may be swept onto other lands or downstream to the injury of others.
 - c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
 - e) The importance of the services provided by the proposed facility to the community.
 - f) The requirements of the facility for a waterfront location.

- g) The availability of alternate locations for the proposed use that are not subject to flooding.
 - h) The compatibility of the proposed use with existing development and development anticipated in the future.
 - i) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - j) The safety of access to the property in times of flood of ordinary and emergency vehicles.
 - k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
 - l) Such other factors which are relevant to the purposes of this Article.
- 2) Supplemental Technical Review. The Zoning Hearing Board may refer any application and accompanying documentation pertaining to any request for special exception to the Township Engineer for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.
- 3) Conditions for Approving Special Exceptions. Special exceptions shall only be issued after the Zoning Hearing Board has determined that the granting of such will not result in:
- a) Any increase in flood heights.
 - b) Additional threats to public safety.
 - c) Extraordinary public expense.
 - d) The creation of a nuisance.
 - e) The defrauding or victimization of the public.
 - f) Any conflict with local laws or ordinances.
- e. 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 resolution from time to time.
5. 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.

6. Changes. After the issuance of a permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.
7. Placards. In addition to the Permit, the Floodplain Administrator shall issue a placard, or similar document, which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Permit, the date of its issuance, and be signed by the Floodplain Administrator.
8. Start of Construction. Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The issuance of development permit does not refer to the zoning approval.

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

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

9. Administration, Enforcement & Appeal Process

- a. The floodplain provisions contained herein shall be further governed and enforceable pursuant to Article 11, Article 12 and 13 of the Zoning Ordinance.

10. Appeals

- a. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Article, may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.
- b. Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with the applicable provisions of the Zoning Ordinance and the Municipalities Planning Code.
- c. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of this State including the Pennsylvania Floodplain Management Act.

D. IDENTIFICATION OF FLOODPLAIN AREAS

1. Identification

- a. any areas of Township of Newlin, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated September 29, 2017 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.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Township of Newlin and declared to be a part of this Article and the Zoning Ordinance.

2. Description and Special Requirements of Identified Floodplain Areas

The Identified Floodplain Area shall consist of the following specific areas:

- a. The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
 - 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.

- 2) Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- b. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
- 1) The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
 - 2) AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
 - a) No encroachments, including fill, new construction, substantial improvements, or other development shall be permitted in an AE Zone without floodway, unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed development together with all other existing and anticipated development, would not result in an increase in flood levels of more than one foot within the entire community during the occurrence of the base flood discharge.
 - b) No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- 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 base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.

In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers who shall

certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township. In the absence of any of the above data or documentation, the Township may require elevation of the lowest floor to be at least three feet above the highest adjacent grade.

- d. The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.
3. Changes in Identification of Area. The Identified Floodplain Area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a Township shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data.
4. Boundary Disputes. Should a dispute concerning any Identified Floodplain Area boundary arise, an initial determination shall be made by the Floodplain Administrator, under the guidance of the Township Engineer, and any party aggrieved by this decision or determination may appeal to the Zoning Hearing Board. The burden of proof shall be on the appellant.
5. Jurisdictional Boundary Changes. Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the Township shall review flood hazard data affecting the lands subject to boundary changes. The Township shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in CFR 44 60.3.

E. TECHNICAL PROVISIONS

1. 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 first been 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, FEMA and the Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.
- b. When Township of Newlin proposes to permit the following encroachments:
- 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
 - alteration or relocation of a stream (including but not limited to installing culverts and bridges)
- the applicant shall (as per 44 CFR Part 65.12):
- 1) apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
 - 2) Upon receipt of the FEMA Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and / or revised floodway reflecting the post-project condition.
 - 3) Upon completion of the proposed encroachments, the applicant shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.
- 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 Article and any other applicable codes, ordinances and regulations.
- d. **Uses Permitted By-Right.** The following uses are permitted within the Identified Floodplain Area, provided they are conducted in accordance with the provisions of the Clean Streams Law of Pennsylvania, Act 349 of 1937, as amended, the Rules and Regulations of the Pennsylvania Department of Environmental Protection, all other applicable provisions of this Article and other local, state and federal regulations:
- 1) Passive agricultural uses, including accessory structures that are compliant with the less stringent regulations governing such accessory structures.
 - 2) Woodland preserve, game preserve, wildlife sanctuary or other conservation use.
 - 3) Municipal or public use, including recreational areas.

- 4) Uses accessory to those permitted by the underlying zoning district, including yards and parking, provided no impervious materials are used.
- e. Special Exception Uses. The following uses may be permitted within the Identified Floodplain Area upon the issuance of a special exception by the Zoning Hearing Board as provided in this Zoning Ordinance, provided they are conducted in accordance with the provisions of the Clean Streams Law of Pennsylvania, Act 349 of 1937, as amended, the Rules and Regulations of the Pennsylvania Department of Environmental Protection, all other applicable provisions of this Article and other local, state and federal regulations. In issuing any special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Article, as it may deem necessary to implement the purposes of this Article:
- 1) Dams, culverts, impoundment basins, and bridges approved by the Pennsylvania Department of Environmental Protection and the U.S. Army Corps of Engineers, where applicable.
 - 2) Utilities and public facilities including streets, storm sewers and sewage treatment plants.
 - 3) Modifications to structures existing as of the date of adoption of this Article.
 - 4) Adaptive reuse of an existing building or structure in accordance with the underlying zoning district.
2. Elevation and Floodproofing Requirements. Within any Identified Floodplain Area any new construction or substantial improvements shall be prohibited unless permitted by right, by special exception or a grant of a variance. If permitted by right, by special exception or by variance, then the following provisions apply:
- 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 this Article.
 - 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 latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

b. Non-residential Structures

- 1) In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation, or be designed and constructed so that the space enclosed below the Regulatory Flood Elevation:
 - 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:
- 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 this Article.
- 3) In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
- 4) Any non-residential structure, or part thereof, made watertight below the Regulatory Flood Elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer which states that the proposed design and methods of construction are in conformance with the above referenced standards. There should be a statement submitted with the permit application and a statement submitted with the as-built Floodproofing Certificate prior to the issuance of the Certificate of Occupancy.
- 5) Any non-residential structure that will be floodproofed must submit the following to the Floodplain Administrator along with the non-residential Floodproofing Certificate and prior to the issuance of the Certificate of Occupancy:
 - a) An Inspection and Maintenance Plan detailing the annual maintenance of

floodproofed components ensuring that all components will operate properly under flood conditions. Components that must be inspected include at a minimum:

- i. Mechanical equipment such as sump pumps and generators,
 - ii. Flood shields and closures,
 - iii. Walls and wall penetrations, and
 - iv. Levees and berms (as applicable)
- b) Flood Emergency Operation Plan detailing the procedures to be followed during a flooding event, and must include information pertaining to how all components will operate properly under all conditions, including power failures. The design professional must produce the plan. An adequate plan must include the following:
- i. An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.
 - ii. A procedure for notification of necessary parties when flooding threatens and flood warnings are issued. Personnel required to be at the building should have a planned and safe means of ingress and should have no other emergency response duties during a flood event. Alternates should be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.
 - iii. A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.
 - iv. An evacuation plan for all personnel or occupants; those without duties for the flood emergency as well as those with duties for implementing the plan. All possible ingress and egress routes must be identified.
 - v. A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials.
- 6) 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 latest revision thereof as adopted by the Commonwealth of

Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

c. Space below the lowest floor

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

d. Historic Structures

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this Article, 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.

e. Accessory structures

Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

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

- 2) floor area shall not exceed 200 square feet.
 - 3) The structure will have a low damage potential.
 - 4) the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
 - 5) power lines, wiring, and outlets will be elevated to the Regulatory Flood Elevation.
 - 6) permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
 - 7) sanitary facilities are prohibited.
 - 8) the structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer, or meet or exceed the following minimum criteria:
 - a) a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - b) the bottom of all openings shall be no higher than one (1) 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 flood waters.
 - 9) For accessory structures that exceed 200 square feet in area (footprint) and that are below the base flood elevation, a variance is required. If a variance is granted, a signed Declaration of Land Restriction (Nonconversion Agreement) shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.
 - 10) Prohibit the storage of Hazardous Materials in accessory structures.
3. Design and Construction Standards. The following minimum standards shall apply for all construction and development proposed within any Identified Floodplain Area:
- a. Fill

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

If fill is used, it shall:

- 1) extend laterally at least fifteen (15) feet beyond the building line from all points;
- 2) consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
- 3) be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
- 4) be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
- 5) 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 storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

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 flood waters.
- 2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
- 3) No part of any on-site waste disposal system shall be located within 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.

d. Other Utilities

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

e. Streets

The finished elevation of all new streets shall be no more than one (1) 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, and not listed in the section entitled Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.

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 flood water.

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.

k. Electrical Components

- 1) Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
- 2) Separate electrical circuits shall serve lower levels and shall be dropped from above.

l. Equipment

- 1) 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 and shall be anchored to resist floatation, collapse, and lateral movement
- 2) Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.

m. Fuel Supply Systems

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

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 sub-sections of this Article, to the extent that they are more restrictive and supplement the requirements of this Article.

International Building Code (IBC) 2009 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania:

Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

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

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

2. Development Which May Endanger Human Life. Within any Identified Floodplain Area, any structure of the kind described below shall be prohibited. No variance shall be granted due to the danger to the public health, safety and welfare.
 - a. In accordance with the Pennsylvania Floodplain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:
 - 1) will be used for the production or storage of any of the following dangerous materials or substances; or,
 - 2) will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
 - 3) will involve the production, storage, or use of any amount of radioactive substances;

shall be prohibited. The following list of materials and substances are considered dangerous to human life:

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

3. Special Requirements for Subdivisions and Development. All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR). Submittal requirements and processing fees shall be the responsibility of the applicant.
4. Special Requirements for Manufactured Homes.
 - a. Within any Identified Floodplain Area new manufactured homes shall be prohibited.
 - b. Where a manufactured home already exists 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 one and one half (1 ½) feet above base flood elevation;
 - 3) and anchored to resist flotation, collapse, or lateral movement.
 - c. Equipment requirement:
 - 1) 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 and shall be anchored to resist flotation, collapse, and lateral improvement.
 - 2) Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.
 - d. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 "International Residential Building Code" or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 PA Code Chapter 401-405 shall apply.
 - e. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the latest revision thereto as adopted by the Commonwealth of Pennsylvania, and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

5. Special Requirements for Recreational Vehicles. Within any Identified Floodplain Area recreational vehicles shall be prohibited. If a variance is obtained in accordance with the required criteria, then the following provisions apply:
 - a. Recreational vehicles in Zones A, A1-30, AH and AE must:
 - 1) be on the site for fewer than 180 consecutive days, and
 - 2) be fully licensed and ready for highway use.

F. PROHIBITED USES

1. General. In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Floodplain Management Act, the following activities shall be prohibited within any Identified Floodplain Area and shall not be eligible for variance consideration.
 - 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
 - 4) The commencement of, or any construction of, a new manufactured home, manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.
 - 5) Junk yard
 - 6) Cemeteries

G. EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

1. Existing Structures. The provisions of this Article 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 below shall apply to such improvements.

2. Improvements. All uses or structures in the Identified Floodplain Area lawfully existing on the effective date of this Article that do not conform with the provisions of this Article shall be deemed to be nonconforming. Such nonconforming uses or structures may be continued, maintained, repaired, and flood-proofed, except as otherwise prohibited in this Article. Such nonconforming uses or structures may be improved to comply with current Pennsylvania or Township health, safety or sanitary code specifications that are solely necessary to assure safe living conditions, subject to the following conditions:
 - 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 (1) foot at any point.
 - c. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Article.
 - d. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009 IBC and the 2009 IRC or most recent revision thereof as adopted by the Commonwealth of Pennsylvania.
 - e. Within any Floodway Area/District, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office
 - f. Within any AE Area/District without Floodway, no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
 - g. Abandonment. Notwithstanding provisions in Article 10 of this Zoning Ordinance to the contrary, no abandoned nonconforming use or structure shall be re-established, repaired, or re-occupied except in conformance with this Article. The Township may require the removal of any abandoned nonconforming use or structure, upon a determination that the use or structure constitutes a threat to public safety.
 - h. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

H. VARIANCES

1. General. If compliance with any of the requirements of this Article would result in an exceptional hardship to a prospective builder, developer or landowner, the Township of Newlin Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.
2. Variance Procedures and Conditions. Requests for variances shall be considered by the Township of Newlin Zoning Hearing Board in accordance with the procedures contained in the Zoning Ordinance, in this Article, and the following:
 - a. No variance shall be granted for any construction, development, use, or activity within any Floodway Area/District that would cause any increase in the BFE.
 - b. No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
 - c. If granted, a variance shall involve only the least modification necessary to provide relief.
 - d. In granting any variance, the Township of Newlin Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Article.
 - e. Whenever a variance is granted, the Township of Newlin Zoning Hearing Board shall notify the applicant in writing that:
 - 1) The granting of the variance may result in increased premium rates for flood insurance.
 - 2) Such variances may increase the risks to life and property.
 - f. In reviewing any request for a variance, the Township of Newlin Zoning Hearing Board shall consider, at a minimum, the following:
 - 1) That there is good and sufficient cause.
 - 2) That failure to grant the variance would result in exceptional hardship to the applicant.
 - 3) That the granting of the variance will
 - a) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,

- b) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- g. A complete record of all variance requests and related actions shall be maintained by the Township of Newlin Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

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

SECTION 2. Article I, Section 107, titled, “Zoning Districts” is amended to read as follows:

“SECTION 107 ZONING DISTRICTS

The following districts are established:

- A. Flexible Rural Development District
- B. Agricultural Preservation District
- C. Steep Slope Conservation Overlay District
- D. Village Overlay District
- E. Airport Overlay District

The Township consists of base zoning which includes the Flexible Rural Development District and the Agricultural Preservation District. The Steep Slope Conservation Overlay District is not mapped but apply to areas that meet the definitions of steep slopes in this Zoning Ordinance. The Village Overlay District, applicable to the Embreeville and Mortonville villages, is mapped in the Appendix to this Zoning Ordinance. The Airport Overlay District applies to the G.O. Carlson Airport, including the Chester County G.O. Carlson Airport Surface Areas illustrated in the Appendix to this Zoning Ordinance.”

SECTION 3. Article I, Section 108, titled, “Interpretation of Boundaries” is amended to read as follows:

“SECTION 108 INTERPRETATIONS OF BOUNDARIES

The Township contains two base zoning districts – the Flexible Rural Development District and the Agricultural Preservation District. Within those zoning districts, areas over 20% slope shall be deemed to be an overlay district as determined and set forth in Section 529 and Section 613 of this Zoning Ordinance. The requirements of the Steep Slope Overlay District shall be in addition to and shall supersede the requirements of the underlying base zoning district when they are inconsistent.”

SECTION 4. Article 1, Section 109, titled, “Summary Tables” is amended by adopting a new Table 16, which is attached hereto as **Exhibit “A”** which Table shall include a summary of permitted uses, special exception uses, conditional uses and accessory uses in the various zoning

districts. Table 16 is intended as a reference and for convenience. In the event of a conflict between the Table and the text in the Zoning Ordinance, the text in the Ordinance shall prevail.

SECTION 5. Article 2, Section 201, titled, “Definitions” is hereby amended to replace the following terms which shall read as follows:

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

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

FLOOD ELEVATION, REGULATORY - The Base Flood elevation, plus a freeboard safety factor of one and one-half feet.

FLOOD FRINGE - The remaining portions of the Base floodplain in those areas in the Flood Insurance Study where a floodway has been delineated. The basis for the outermost boundary of this area shall be the 100-year flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

FLOODPLAIN, APPROXIMATED - The areas identified as Zone A in the Flood Insurance Study for which 100-year flood elevations have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the Base elevation, as well as a floodway area, if possible. When no other information is available, the Base elevation shall be determined by using a point on the boundary of the Identified Floodplain Area that is nearest the construction site in question.

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. This includes areas identified as "Floodway" in the Flood Insurance Study prepared by FEMA. The term shall also include floodway areas that have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study.

STRUCTURE - Anything constructed or erected on or attached to the ground including, a walled and roofed building, a gas or liquid storage tank, sheds, manufactured homes, and other similar items.”

*The existing definition section erroneously contains two definitions of Floodway. The above definition shall be the only definition of Floodway hereby contained in Section 201.

SECTION 6. Article 2, Section 201, titled, “Definitions” is hereby amended to include the following new definitions:

“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 the Township.

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 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.

IDENTIFIED FLOODPLAIN AREA(S) – this term is an umbrella term that includes all of the areas with the Township to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the Township.

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 the Township.

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

START OF CONSTRUCTION - includes substantial improvement and other proposed new development and means the date the floodplain permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing,

grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

VIOLATION – for floodplain management purposes, a violation means the failure of a structure or other development to be fully compliant with the Township'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.”

SECTION 7. Section 527.A.1 of Article 5 and Section 625.A.1 of Article 6 are both hereby amended by removing the reference to “Floodplain Conservation Overlay District” in the first sentence of both subparagraphs (1) and replacing such reference with the phrase “Identified Floodplain Area”.

SECTION 8. Section 613 of Article 6 is hereby amended to read as follows:

“SECTION 613 STEEP SLOPE DISTRICT SPECIAL EXCEPTION USES

- A. General Standards and Criteria.** In deciding upon applications for special exception uses in the Steep Slope Conservation Overlay District, the Zoning Hearing Board shall also evaluate and determine whether the following standards and criteria have been complied with:
1. That the proposed land use requires a steep slope location.
 2. That reasonable alternatives which do not involve encroachment into the steep slope area do not exist.
 3. That the proposed use is compatible with existing and anticipated developments.
 4. That the proposed use is compatible with the Township Comprehensive Plan.
 5. That access to the site by emergency vehicles during times of natural disasters, collapse of foundation, of other emergency, is preserved.
 6. That the natural, scenic, and aesthetic values of the proposed site will be preserved.
 7. That important archaeological sites, historic sites or structures, endangered flora or fauna, or other especially valuable land uses, will be preserved.

8. That a minimum of potential danger, damage, or injury to all adjoining parcels will result.
9. That the proposed land use will not cause:
 - a. a significant threat to public safety,
 - c. an extraordinary potential public expense,
 - d. the creation of nuisances, or
 - e. a conflict with any law or regulation.”

SECTION 9. Section 613.D of Article 6 shall be removed and deleted in its entirety.

SECTION 10. Section 801.E.3 of Article 8 shall be removed and deleted in its entirety.

SECTION 11. Section 1004 of Article 10 shall be amended to read as follows:

“SECTION 1004 RESTORATION OF DAMAGED NON-CONFORMING STRUCTURES OR USES

A non-conforming structure or use which is partially damaged or entirely destroyed may be rebuilt and occupied for the same use as before the damage occurred, provided the reconstructed structure or use is not larger or more intensive than the damaged structure or results in new non-conformities, and provided that a good-faith effort is made to commence reconstruction within one year after the initial damage, and is completed not more than one year later.”

SECTION 12. Section 1204.C of Article 12 shall be amended to read as follows:

“C. Appeals from Determinations related to Floodplain Regulations. When specifically authorized under the Floodplain Regulations of this Zoning Ordinance, the Zoning Hearing Board shall hear appeals from any determinations or decisions rendered related to such Floodplain Regulations.”

SECTION 13. Section 1209.D.5 of Article 12 shall be amended to read as follows:

“5. For development with Identified Floodplain Areas subject to the Floodplain Regulations of this Zoning Ordinance, that the application complies with the applicable regulations as set forth in the

Floodplain Regulations section, and that the development needs to be located within the Identified Floodplain Area.”


SECTION 14. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 15. Repealer. All ordinances or parts of ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 16. Effective Date. This Ordinance shall become effective on September 29, 2017 and shall remain in force and effect until otherwise amended by the Township.

ENACTED this 10th day of July, 2017.

ATTEST:



Gail A. Abel
Gail A. Abel, Secretary

NEWLIN TOWNSHIP
BOARD OF SUPERVISORS

Janie H. Baird
Janie H. Baird, Chair

William J. Kelsall
William J. Kelsall, Vice-Chair

Robert R. Pearson
Robert R. Pearson, Member

Exhibit "A"

Table 16

Table 16 - Summary Of Permitted Uses, Special Exception Uses, Conditional Uses, And Accessory Uses

Note: This list is intended as a reference convenience. In the event of any conflict or ambiguity between this list and the zoning ordinance text, the provisions of the text shall prevail.

ABBREVIATIONS:

- P: Permitted Use (Permitted "by-right". Applicants must complete zoning permit.)
- SE: Special Exception (Permitted by the Zoning Hearing Board as a special exception.)
- CU: Conditional Use (Permitted by the Board of Supervisors as a conditional use.)
- A: Permitted as an accessory use to a permitted, conditional or a special exception use.
- N: Not permitted

* Land uses within the Steep Slope overlay district are as regulated in the Flexible Rural Residential district

Zoning District*

| Land Use or Activity | Flex. Rural Residential | AP | Section Reference |
|---|-------------------------|----|-------------------|
| Accessory Dwelling Unit on Lots with 2 or More Acres | P | N | 502 |
| Accessory Dwelling Unit on Lots less than 2 Acres | SE | N | 602 |
| Accessory Farm Dwelling Unit | N | A | 302A |
| Accessory structures (e.g., sheds - excluding agricultural uses) | A | A | 503 |
| Agricultural Operations | P | P | 303, 302A |
| Animal shelter | A | N | 505 |
| Antique Store | SE | N | 532,604 |
| Animal hospital (for small animals), veterinary facility, kennel | SE | SE | 603 |
| Artist Studio | SE | N | 532,605 |
| Barn or Stable for horses (on lots less than 5 acres) | SE | A | 606 |
| Bed and breakfast (on lots not less than 5 acres) | A | N | 506 |
| Bed and breakfast (on lots less than 5 acres) | SE | N | 607 |
| Business identification sign | P | A | Table 15 |
| Campground | CU | N | 701 |
| Cellular communication facility (when on top of existing facilities...) | A | N | 508 |
| Cellular communication facility (exceeding limits in Section 508) | SE | N | 608 |
| Small Commercial Equine Activity | P | P | 527 |
| Commercial Equine Activity | SE | SE | 625 |
| Country property accessory dwelling unit (Option 4 developments) | A | N | 510 |
| Day care facility (for six or more children) | SE | N | 609 |
| Display and sale of farm products | A | A | 511 |
| Farm machinery service and repair | SE | SE | 611 |
| Farm-related business | SE | SE | 612 |
| Forestry and timber harvesting | P | P | 514 |

| Land Use or Activity | Flex. Rural Residential | AP | Section Reference |
|--|-------------------------|------|-------------------|
| | | | |
| Garage and yard sales | A | A | 515 |
| Garage and yard sales sign | A | A | Table 15 |
| | | | |
| Historic structures - adaptive reuse | SE | SE | 614 |
| | | | |
| Home occupation (non-professional) | SE | A | 615 |
| Home occupation (professional) | A | SE | 517 |
| Home occupation sign | A | A | Table 15 |
| Live/Work Unit | SE | N | 616 |
| | | | |
| | | | |
| Manure processing, hauling, soil and sludge composting, etc. | SE | SE | 617 |
| Mass outdoor gathering (for more than 300 people) | SE | SE | 618 |
| | | | |
| Manufactured homes | P | P | 522 |
| | | | |
| Non-conforming pre-existing lots | SE | SE | 620 |
| Nursery and garden material sales | CU | A | 715 |
| | | | |
| Offices | SE | N | 624, 702 |
| Option 1 subdivisions – neutral density and basic conservation | P | N | 304,305 |
| | | | |
| Option 3 subdivisions - estate lots | P | N | 304 |
| Option 4 subdivisions – country properties and farmettes | P | N | 304 |
| | | | |
| Public utility | CU | N | 604, 706 |
| Place of worship and related facilities | SE | N | 622 |
| | | | |
| Real estate sales sign | A | A | Table 15 |
| | | | |
| Retail Services | SE | N | 532, 624 |
| Restaurants | SE | N | 532, 623 |
| | | | |
| River-related recreational uses | SE | N | 626 |
| | | | |
| Satellite antenna | A | A | 528 |
| | | | |
| Special event sign | A | A | Table 15 |
| Steep Slope Area (above 20%) land uses | P, SE | P,SE | 529 |
| | | | |
| Swimming pool, tennis court, and other recreational structures | A | A | 530 |
| Trailer, motor home, recreational vehicles, & similar facilities | A | A | 531 |
| | | | |
| | | | |
| Waste storage facility | A | N | 532 |
| Woodland preserve, game preserve | P | P | 303,302A |