

Borough of Lilly

LILLY, PENNSYLVANIA

Ordinance No. 2012-400

An ordinance requiring all persons, Partnerships, Businesses, and Corporations to obtain a permit for any construction or development; providing for the issuance of such permits; setting forth certain minimum requirements for new construction and development within areas of the, Borough which are subject to flooding; and establishing penalties for any persons who fail, or refuse to comply with, the requirements of provisions of this ordinance.

ARTICLE I. STATUTORY AUTHORIZATION

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Council of Lilly Borough does hereby order as follows.

ARTICLE II. GENERAL PROVISIONS

Section 2.01 Intent

The intent of this Ordinance 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. Comply with federal and state floodplain management requirements.

Section 2.02 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 Lilly unless a ("Floodplain") Permit has been obtained from the Floodplain Administrator.

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

Section 2.03 Abrogation and Greater Restrictions

This ordinance supersedes any other conflicting provisions that 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 the Ordinance, the more restrictive shall apply.

Section 2.04 Severability

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

Section 2.05 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 acceptable engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the Borough of Lilly or any officer or employee or consultant retained thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

ARTICLE III. ADMINISTRATION

Section 3.01 Designation of the Floodplain Administrator

The Secretary of the Borough of Lilly is hereby appointed to administer and enforce this ordinance and is referred to herein as the "Floodplain Administrator".

Section 3.02 Permits Required

A ("Floodplain") Permit shall be required before any construction or development is undertaken within any area of the Borough of Lilly subject to "repetitive loss", flooding and/or located within a floodplain area as defined by this Ordinance.

Section 3.03 Duties and Responsibilities of the Floodplain Administrator

A. The Floodplain Administrator shall issue a ("Floodplain") Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Ordinance.

B. Prior to the issuance of any ("Floodplain") 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 ("Floodplain") Permit, the Floodplain Administrator shall review the history of repairs to the subject structure, so that any repetitive loss issues can be addressed before the permit is issued or be required as conditions for approval of the Permit.

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 Permit. He/She shall make as many inspections during and upon completion of the work as are necessary to enforce the provisions of this Ordinance.

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 ordinance. By proposing work, submitting an application for a ("Floodplain") Permit or initiating work within a floodplain area, the applicant/developer, in doing so, shall imply consent and agree to the Floodplain Administrator's entry upon the subject property and enter any structures proposed or being improved to perform any investigations and/or inspections as many be necessary in order to perform his/her duties as specified in this Ordinance.

F. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any or any permit condition, 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 Council for whatever action it considers necessary.

G. The Floodplain Administrator shall maintain all records associated with the requirements of this ordinance including, but not limited to, permitting, inspection and enforcement.

H. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or latest revisions thereof.

Section 3.04 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 Lilly. 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.
7. If the proposed work is to repair flood damages, a break-down of flood-related costs and the market value of the structure before flood damage occurred.

8. A plan of this site showing the exact size and location of the proposed construction as well as any existing buildings or structures and any other information required the Floodplain Administrator, the Borough of Lilly or by this Ordinance.

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 Ordinance;
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 material 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/or 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, and/or if required by the Floodplain Administrator;

- 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.

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 elevation; and
- 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 Special Floodplain Area (See section 4.02 B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) 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 elevation. Such statement shall include a description of the type and extent of flood proofing measures

that have been incorporated into the design of the structure and/or the development.

e. detailed information needed to determine compliance with Section 5.03

f. Storage, and Section 5.04, Development Which May Endanger Human Life, including:

i. the amount, location and purpose of any materials or substances referred to in Sections 5.03 F. and 5.04 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 listed in Section 5.04 during a base flood.

g. where any excavation or grading proposed in excess of 5,000 square feet, or where required by other regulations, or where required by Cambria County Conservation District, or required by the Borough of Lilly and/or the Floodplain Administrator, a plan meeting the requirements of 25 PA Code, Chapter 102 (latest revision/amendment) and/or the Department of Environmental Protection, to implement and maintain erosion and sedimentation control measures at the site during such earthmoving activities.

5. Applications for Permits shall be accompanied by a fee, payable to the Borough of Lilly based on the fee schedule (or "fee ordinance" or "fee resolution") established by the Borough Council and as determined by the Floodplain Administrator.

Section 3.05 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 (including but not limited to, the planning commission, municipal engineer) for review and comment.

Section 3.06 Changes

After the issuance of a ("Floodplain") Permit 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 Floodplain Administrator for consideration and compliance with the provisions of this Ordinance.

Section 3.07 Placards

In addition to the ("Floodplain") Permit, the Floodplain Administrator may issue a placard that 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. In lieu of a placard, a copy of the permit shall be displayed on the premises during the time construction is in progress. Such posting(s) at the site shall be "in-plain-site" (typically on a main window), shall be readily and easily viewable, and shall be readily accessible to the Floodplain Administrator as may be necessary.

Section 3.08 Start of Construction

Work on the proposed construction and/or development shall begin within 180 days after the date of issuance and shall be completed within twelve (12) months after the date of issuance of the ("Floodplain") 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 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, which sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request.

Section 3.09 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 Ordinance, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. be in writing;
2. include a statement of the reasons for its issuance;
3. allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires which may include a notice immediately "stop" any or all work at the site until a plan or other measures are set forth to comply with this Ordinance;
4. be served upon the property owner or his agent as they 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 the Commonwealth of Pennsylvania;
5. contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Ordinance.

B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of a misdemeanor and upon conviction shall pay a fine to the Borough of Lilly, of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$600.00) per calendar day the violation exists, plus costs of prosecution, including but not limited to, court costs, salary/wages of the Floodplain Administrator, reasonable attorney fees, and reasonable consultant fees required for such prosecution. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not 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 as determined at the sole discretion of the Borough of Lilly. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Borough Council to be a public nuisance and abatable as such.

Section 3.10 Appeals

A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Ordinance, may appeal to the Borough Council. 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 Council shall set a time and place, within not less than ten (10) or not more than thirty (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 there from by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

ARTICLE IV. IDENTIFICATION OF FLOODPLAIN AREAS

Section 4.01 Identification

The identified floodplain are shall be any areas of the Borough of Lilly, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated June 19, 2012 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital and other 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 Lilly Borough and declared to be a part of this ordinance.

Section 4.02 Description and Special Requirements of Identified Floodplain Areas

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

A. The Floodway Area/District identified as Floodway in the FIS that 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 (1) foot at any point. This term shall also include floodway areas that 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.

1. Within any Floodway Area, no encroachments, including fill, new construction, substantial improvements or other development shall not 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. No new construction or development shall be allowed, unless a permit is obtained from the Pennsylvania Department of Environmental Protection 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. 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 (1) 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 (1%) 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 a licensed/registered professional engineer or architect who has demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, and any other information shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator and the Borough of Lilly.

Section 4.03 Changes in Identification of Floodplain Area

The identified floodplain area may be revised or modified by the 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. No changes to the floodplain as shown in the FIS shall become effective until written approval (such as a letter of Map Revision- LOMR, or Conditional Letter of Map Revision- CLOMR, or similar/equivalent thereto) thereof is issued by FEMA and received by the Borough of Lilly.

Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, the Borough of Lilly shall notify the FEMA of the changes in the community and/or flood areas that may impact the FIS and/or floodplain areas by submitting any general, technical or scientific data that may be available for such changes.

Section 4.04 Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Floodplain Administrator. Any party aggrieved by this decision or determination may appeal to the Borough Council. Any appeal shall be in accordance with Section 3.10 of this Ordinance. The burden of proof shall be on the appellant/appellant and the applicant/appellant shall be responsible for preparing and submitting any studies or additional information that may be needed to evaluate, consider, and determine the location of the floodplain boundary.

ARTICLE V. TECHNICAL PROVISIONS

Section 5.01 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 (DCED), shall be notified prior to any alteration or relocation of any watercourse.

B. Submit technical or scientific data to FEMA for a Letter of Map Revision (LOMR) within six (6) months of the completion of any new construction, development, or other activity resulting in changes, or potential changes, in the Base Flood Elevation (BFE).

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 Ordinance and any other applicable codes, ordinances and regulations.

Section 5.02 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 (RFE).
2. In A Zones, where there 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 (RFE) in accordance with Subsection 4.02.C.2b of this Ordinance.
3. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest, existing, adjacent grade elevation (see Definitions) plus the shallow flood depth number shown on the FIRM plus 1-1/2 foot of "freeboard."
4. The design and construction standards and specification contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions/editions thereof, or the current federal, state, or local building code regulations in effect in the Borough of Lilly at the time of application, and the American Society of Civil Engineers (ASCE) 24 and 34 PA Code (Chapters 401-405 as revised/amended) shall be utilized to establish the minimum requirements for the proposed construction.

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, (RFE), or be designed and constructed so that the space enclosed below the Regulatory Flood Elevation (RFE):

- 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 there no Base Flood Elevations (BFEs) 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 (RFE) in accordance with Subsection 4.02.C.2b of this Ordinance.

3. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest existing, adjacent grade elevation (see Definitions) plus the shallow flood depth number shown on the FIRM plus 1-1/2 foot of "freeboard."

4. Any non-residential structure, or part thereof, made watertight below the Regulatory Food Elevation (RFE) shall be floodproofed in accordance with the WI 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 latest revision/amendment) or with some other equivalent standard approved by the Floodplain Administrator and/or the Borough Council. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a licensed/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/editions thereof, or the current federal, state, or local building code regulations in effect in the Borough of Lilly at the time of application, and the American Society of Civil Engineers (ASCE) 24 and 34 PA Code (Chapters 401-405 as revised/amended) shall be utilized to establish the minimum requirements for the proposed construction.

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

and 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.

2. Designs for meeting this requirement must either be certified by a licensed/registered professional engineer or architect, or meet or exceed the following minimum

- a. a minimum of two (2) 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 finished grade immediately adjacent to the structure.
- c. openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Section 5.03 Design and Construction Standards

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

A. Fill

If fill is used, it shall:

1. extend laterally at least fifteen (15) feet, whenever possible, beyond the building or structure from all points, but not beyond the property line or within two (2) feet of the property line unless approved in writing by the adjoining property owner;
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, unless substantiated data, justifying steeper slopes is prepared by a licensed/registered engineer or architect and are submitted to, and approved by the Floodplain Administrator; and
5. be used to the extent to which it should and/or 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 insure proper drainage along streets, and provide positive drainage away from buildings and/or structures. 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 into these facilities.
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, if applicable, to establish minimum requirements for proposed construction.

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 design and construction of new streets and alleys, including final grade/elevation thereof, shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood and minimize the impact and passage of flood waters. When possible or practical, the finished elevation of all new streets and alleys shall be no more than one (1) foot below the Basic Flood Elevation (BFE).

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 Section 5.04, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation (RFE) and/or flood -proofed 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 minimum effect/impact 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 (RFE) 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 (RFE) 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 (RFE) shall be of a "marine" or "water-resistant" variety.
3. Walls and ceilings at or below the Regulatory Flood Elevation (RFE) shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.

4. Window, doors and other components at or below the Regulatory Flood Elevation (RFE) 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.) 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 (BFE).
2. Separate electrical circuits shall serve lower levels and levels that may be below the Regulatory Flood Elevation (RFE) 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 (RFE).

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 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and

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

International Building Code (IBC) 2009 or the latest edition/revision/amendment thereof:
Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2009 or the latest edition/revision/amendments thereof:
Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

Section 5.04 Development Which May Endanger Human Life

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

1. will be used for the production or storage of any of the following dangerous material 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 subject to the provision of this section, in addition to all other applicable provisions. The following list of material 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
- Sulfur and sulfur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

B. Within any Floodway area, any structure of the kind described in Subsection A., above, shall be prohibited.

C. Where permitted within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be:

1. elevated or designed and constructed to remain completely dry up to at least two and one half (2 1/2) feet above Base Flood Elevation (BFE),
2. designed to prevent pollution from the structure or activity during the course of a Base Flood (i.e., 100-year) event.

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

D. Within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

Section 5.05 Special Requirements for Subdivisions

All subdivision proposals and development proposals containing at least 5 (5) lots or at least one (1) acre, whichever is the lesser, in flood hazard areas where Base Flood Elevation (BFE) 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/registered professional engineer or architect in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision (CLOMR). Submittal requirements and processing fees shall be the responsibility of the applicant/developer.

Section 5.06 Special Requirements for Manufactured Homes

- A. Within any FW (Floodway Area), manufactured homes shall be prohibited.
- B. Within Approximate Floodplain or Special Floodplain Area, manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- C. Where permitted within any 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 two and one half (2 1/2) feet above Base Flood Elevation (BFE).
 3. anchored to resist flotation, collapse, or lateral movement. This requirement, at a minimum, shall include an "over-the-top" anchorage system specifically designed for the manufactured home and installed/constructed in accordance with the home manufacturer's recommendations/instructions.
- 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 shall apply and 34 PA Code Chapter 401-405, latest revision/amendment.
- E. 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 (s) proposed installation.

Section 5.07 Special Requirements for Recreational Vehicles

Recreational vehicles in any floodplain or flood-prone area must either:

- A. be on the site for fewer than one-hundred-eighty (180) consecutive days, and be fully licensed and ready for highway use and be removed from the floodplain, floodway or

flood-prone area, before and during a Base-Flood or greater event, including such times when such flood events are forecasted (whether later realized or not) or

B. meet the permit requirements for manufactured homes in Section 5.06- Special Requirements for Manufactured Homes.

Section 5.08 Special Requirements for Accessory Structures and Buildings

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

A. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principle use or activity at the property.

B. the floor area (i.e., the "foot-print" of the structure on the ground surface) shall not exceed five-hundred-eighty (580) square feet.

C. the outside perimeter of the structure shall not exceed one-hundred (100) linear feet.

D. the structure shall have low damage potential.

E. the structure shall be located on the site so as to cause the least obstruction to the flow of flood waters.

F. power lines, wiring, and outlets shall be elevated to the Regulatory Flood Elevation (RFE)

G. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, stoves, refrigerators, and similar equipment shall be prohibited. (This prohibition shall not apply to hand power tools and other power equipment, commonly associated with woodworking or mechanical work.)

H. sanitary facilities shall be prohibited.

I. water supply facilities shall be prohibited.

J. the structure shall be adequately anchored to prevent flotation or movement during flooding.

K. site grading shall be minimized to the greatest extent possible so as to minimize the impact in flooding.

L. the structure shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a licensed/registered professional engineer or architect, or meet or exceed the following minimum criteria:

1. a minimum of two (2) openings having a net total area of not less than one (1) square inch for every square inch for every square foot of enclosed space.
2. the bottom of all openings shall be no higher than one (1) foot above grade immediately adjacent to the structure.
3. openings may be equipped with screens, louvers, or other similar coverings or devices provided that they permit the automatic entry and exit of flood waters without needing to be operated and/or "opened" in any way.

M. In lieu of providing the openings required in subsection 12 above, the lowest floor of the accessory building/structure shall be elevated up to, or above, the Base Flood Elevation (BFE) (i.e., "freeboard" required) in accordance with the other provisions of the Ordinance.

Section 5.09 Special Requirements for Fences

Fences constructed on properties located within any floodplain or floodway area need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

- A. the fence shall be designed and constructed in accordance with the Borough's Zoning Ordinance.
- B. the fence shall be designed and constructed so as to minimize its impact on flood waters. This requirement shall include the meaning that the number of posts used to support the fence must be minimized to the greatest extent possible.
- C. the fence shall be located on the site as to cause the least obstruction to the flow of flood waters.
- D. the fence shall have low damage potential.

E. the fence shall be adequately anchored to prevent flotation or movement during flooding. This requirement shall include the meaning that the posts used to support the fence must be embedded into the ground to (at least) the "frost-line"

F. that portion of the fence constructed below the Base Flood Elevation (BFE) shall be constructed so as to allow the free-passage of floodwaters. This requirement shall mean that "stockade-type" or other similar "solid" fencing materials and construction shall be prohibited below the Base Flood Elevation (BFE). However, fencing materials having at least two-inch (2") openings may be used below the Base Flood Elevation (BFE).

ARTICLE VI. ACTIVITIES REQUIRING SPECIAL PERMITS

Section 6.01 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 Floodplain Administrator and/or Borough of Lilly.

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.

Section 6.02 Application Requirements for Special Permits

Applicants for Special Permits shall provide five (5) 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 (1) inch being equal to one hundred (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 (1) 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, alleys, driveways, other access ways, 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 (BFE) along with elevations, and information concerning the flow of water including direction and velocities;
7. the location of all proposed buildings, structures, utilities, and any other improvements; and
8. any other information which the Floodplain Administrator and/or Borough of Lilly considers necessary for adequate review of the application.

D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn a 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 elevation;

4. detailed information concerning any proposed floodproofing measures;
5. cross section drawings for all proposed streets, alleys, driveways, other accessways, and parking areas, showing all rights-of-way and pavement widths;
6. profile drawings for all proposed streets, alleys, driveways, 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 licensed/registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the Base Flood Elevation (BFE);
3. a statement, certified by a licensed/registered professional engineer, or architect, 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 Elevation (BFE), including a statement concerning the effects such pollution may have on human life;
4. a statement certified by a licensed/registered professional engineer, architect, which contains a complete and accurate description of the effects the proposed development will have on Base Flood Elevation (BFEs) and flows;
5. a statement, certified by a licensed/registered professional engineer, 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 (BFE) and the effects such materials and debris may have on base flood elevation and the effects such materials and debris may have on Base Flood Elevation (BFEs) and flows;
6. where any excavation or grading is proposed in excess of 5,000 square feet, or where required by other regulations, or where required by the Cambria County Conservation District, or where required by the Floodplain Administrator and/or

Borough of Lilly, a plan meeting the requirements of 25 PA Code, Chapter 102 (latest revision/amendment) and/or the Pennsylvania Department of Environmental Protection to implement and maintain erosion and sedimentation control measures at the site during such earthmoving activities.

7. a list of 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

8. an evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.

Section 6.03 Application Review Procedures

Upon receipt of an application for a Special Permit by the Floodplain Administrator and/or the Borough of Lilly, the following procedures shall apply in addition to those of Article III, of this Ordinance:

A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Borough's engineer and/or other retained consultants for review comment's and recommendations.

B. If an application is received that is incomplete, the Floodplain Administrator and/or Borough of Lilly shall notify the applicant in writing, stating in what respect the application is deficient.

C. If the Floodplain Administrator and/or Borough of Lilly decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.

D. If the Floodplain Administrator and/or the Borough of Lilly decides to approve an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development (DCED's), by registered or certified mail, within five (5) working days after the date of such decision for DCED's review and comment.

E. Before issuing the Special Permit, the Floodplain Administrator and/or the Borough of Lilly shall allow the Department of Community and Economic Development (DCED) thirty (30) days, after receipt of the notification by DCED, to review the application and decision made by the Floodplain Administrator and/or the Borough of Lilly.

F. If the Floodplain Administrator and/or Borough of Lilly does not receive any communication from the Department of Community and Economic Development (DCED) during the thirty (30) day review period, it may issue a Special Permit to the applicant.

G. If the Pennsylvania Department of Community and Economic Development (DCED) should decide to provide comments or recommendations during the thirty (30) day comment period, such comments shall be incorporated as conditions for approval of the Special Permit by the Floodplain Administrator and/or Borough of Lilly.

H. If the Pennsylvania Department of Community and Economic Development (DCED) should decide to disapprove an application, it shall notify the Borough of Lilly and the applicant, in writing, of the reasons for the disapproval, and the Floodplain Administrator and/or Borough of Lilly shall not issue the Special Permit.

Section 6.04 Special Technical Requirements

A. In addition to the requirements of Article V of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Article V of this Ordinance 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 elevation without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the Base Flood Elevation (BFE).

b. the lowest floor (including basement) will be elevated to at least one and one half (1 1/2) feet above Base Flood Elevation (BFE).

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 (i.e., 100-year flood) event

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 licensed/registered professional engineers or architects having demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, and other pertinent data shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator and/or Borough of Lilly and the Pennsylvania Department of Community and Economic Development (DCED).

ARTICLE VII EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

Section 7.01 Existing Structures

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an "improvement" is made to any existing structure, the provisions of Section 7.02, below, shall apply.

Section 7.02 Improvements

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

1. No expansions or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the base flood elevation.

2. No expansion or enlargement of an existing structure shall be allowed within any Special Floodplain Area that would, together with all other existing and anticipated development, increase the Base Flood Elevation (BFE) more than one (1) foot at any point.

3. 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 Ordinance.

4. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2006 IBC as amended/revised, and 2006 IRC, as amended/revised.

5. 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.

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

ARTICLE VIII VARIANCES

Section 8.01 General

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

Section 8.02 Variance Procedures and Conditions

Requests for variances shall be considered by the Borough of Lilly in accordance with the procedures contained in Section 3.10 and the following:

- A. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the Base Flood elevation (BFE) at any point.
- B. No variance shall be granted for any construction, development, use, or activity within any Special Floodplain Area that would, together with all other existing and anticipated development, increase the Base Flood Elevation (BFE) than one (1) foot at any point.
- C. 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 (Article VI) or to Development Which May Endanger Human Life (Section 5.04).

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

E. In granting any variance, the Lilly 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 Ordinance.

F. Whenever a variance is granted, the Lilly Borough 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.

G. In reviewing any request for a variance, the Lilly Borough 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.

H. A complete record of all variance requests and related actions shall be maintained by the Lilly Borough. 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 1% annual chance flood.

ARTICLE IX DEFINITIONS

Section 9.01 General

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

Section 9.02 Specific Definitions

1. **Accessory use or structure** - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. **Base flood** - a flood that has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood").
3. **Base flood elevation (BFE)** - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
4. **Basement** - any area of the building having its floor below ground level on all sides.
5. **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.
6. **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.
7. **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.

8. **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 manufacturing 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).

9. **Fence or fences**- a man-made barrier typically constructed of posts and cross-members used as landscape feature to identify or outline a particular area on a property and commonly used to contain those from exiting or exclude those from entering an area. This term typically includes, but not limited to "split-rail", "privacy", "chain-link" and "picket" types of fences. (Note: Fences are regulated in this Ordinance because they may impact or impede the flow and direction of flood waters.)

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

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

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

13. **Floodplain 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.

14. **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.

15. **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.

16. **Highest adjacent Grade:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

17. **Historic structures** - any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior or
 - ii. Directly by the Secretary of the Interior in states without approved programs.

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

19. **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 that are placed on a site for more than 180 consecutive days.

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

21. **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; 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.

22. **New construction** - structures for which the start of construction commenced on or after June 19, 2012, adopted by the community and includes any subsequent improvements to such structures. Any construction started after October 17, 1989 and before June 19, 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.

23. **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.

24. **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.

25. **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.

26. **Regulatory flood elevation** - the base flood elevation (BFE) plus a freeboard safety factor of one and one-half (1 1/2) feet.

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

28. **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.

29. **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.

30. **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 twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/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.

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

32. **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 or ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

33. **Substantial damage** - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed

fifty (50) percent or more of the market value of the structure before the damage occurred.

34. Substantial improvement - Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" or "repetitive loss" 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.

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this ordinance, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the national register of historic places or the state inventory of historic places must be obtained from the Secretary of the Interior or the state historic preservation officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

35. Uniform Construction Code (UCC) - The statewide building code adopted by The Pennsylvania General Assembly in 199 applicable to new construction in all municipalities whether administered by the Borough of Lilly, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC. Said references shall include the latest editions, revisions or amendments of such codes adopted by law.

36. Violation - means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations promulgated thereby. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by Article V of this Ordinance is presumed to be in violation until such time as that documentation is provided.

ARTICLE X. ENACTMENT

Section 10.01 Adoption

This Ordinance shall be effective on June 19, 2012 and shall remain in force until modified, amended or rescinded by Lilly Borough, Cambria County, Pennsylvania.

ENACTED AND ADOPTED by Council this sixth day of June, 2012.

BOROUGH OF LILLY

By: Richard R. Sweeney
Richard R. Sweeney - President

Attest: Claudine M. Falger (Seal)
Claudine M. Falger - Secretary

APPROVED, this 6th day of June, 2012

Patrick R. Podrasky
Patrick Podrasky - Mayor