

**TOWNSHIP OF MIDDLETOWN
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 758

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWNSHIP OF MIDDLETOWN, DELAWARE COUNTY, PENNSYLVANIA, CHAPTER 275, ZONING; AMENDING ARTICLE II, TERMINOLOGY, SECTION 275-8 BY DELETING AND REPLACING THE EXISTING LANGUAGE FOR THE TERMS “NEW CONSTRUCTION,” “STRUCTURE” AND “SUBSTANTIAL IMPROVEMENT”; AMENDING ARTICLE XXIX, FLOODPLAIN CONSERVATION DISTRICT; BY AMENDING SECTION 275-170.B(1) SUBSECTIONS (a), (b), and (c), BY AMENDING SECTION 275-170.C., BY AMENDING SECTION 275-171.A(3), BY AMENDING SECTION 275-172.C(3)(C)[3], BY AMENDING SECTION 275-172.F(3), BY AMENDING SECTION 275-172.G(2)(g), BY AMENDING SECTION 275-173.B, BY AMENDING SECTION 275-173.D SUBSECTIONS (4) AND (5), BY AMENDING SECTION 275-173.E(2), BY AMENDING SECTION 275-174.B(2)(a), BY AMENDING SECTION 275-174.C(1)(b)[2][a], BY AMENDING SECTION 275-176.D(2), AND BY ADDING A NEW SECTION 275-177, THE PURPOSE OF THE AMENDMENTS BEING TO COMPLY WITH CURRENT REQUIREMENTS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AND TO MAINTAIN THE TOWNSHIP'S ELIGIBILITY IN THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP).

The Council of the Township of Middletown, Delaware County, Pennsylvania, hereby ENACTS AND ORDAINS THAT:

Section 1. The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article II, Terminology, Section 275-8 is hereby amended by deleting the existing language for the terms NEW CONSTRUCTION, STRUCTURE and SUBSTANTIAL IMPROVEMENT and substituting the following:

NEW CONSTRUCTION - Structures for which the start of construction commenced on or after the *effective start date of this floodplain management ordinance* and includes any subsequent improvements to such structures. Any construction started after *February 15, 1979* and before the *effective start date of this floodplain management ordinance* is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

STRUCTURE – Any man-made object or improvement having an ascertainable stationary location on land or in the water, whether or not affixed to the land. This term includes anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, sheds, gas or liquid storage tanks that are principally above ground, manufactured homes, signs and other similar items.

SUBSTANTIAL IMPROVEMENT - any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent of the market value of the structure before the "Start of Construction" of the improvement. This term includes structures which have incurred "Substantial Damage" 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.

Section 2. The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article XXIX, Floodplain Conservation District, Section 275-170.B(1)(a), (b), and (c) is hereby amended by deleting the existing language in its entirety and substituting the following:

(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 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.

(c) The A Area 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.

Section 3. The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article XXIX, Floodplain Conservation District, Section 275-170.C. is hereby amended by deleting the existing language and substituting the following:

C. Amending the map. The delineation of the FW, AE and A portions of the Floodplain Conservation District may be revised, amended or modified by Council, in compliance with the National Flood Insurance Program when:

- (1) There are changes in flood elevations through natural or other causes.
- (2) Different locations are identified by additional hydrologic, hydraulic or soils information.

Section 4. The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article XXIX, Floodplain Conservation District, Section 275-171.A(3) is hereby amended by deleting the existing language and substituting the following:

- (3) No determination by Council or decision by the Zoning Hearing Board shall constitute a reduction of the FW or AE Area subdistricts until such reduction is approved by the Federal Emergency Management Agency.

Section 5. The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article XXIX, Floodplain Conservation District, Section 275-172.C(3)(c)[3] is hereby amended by deleting the existing language and substituting the following:

- [3] Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within a Floodway, when combined with all other existing and anticipated development, will not increase the base flood elevation at any point.

Section 6. The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article XXIX, Floodplain Conservation District, Section 275-172.F(3) is hereby amended by deleting the existing language and substituting the following:

- (3) be removed from the Floodplain when a flood warning is issued.

Section 7. The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article XXIX, Floodplain Conservation District, Section 275-172.G(2)(g) is hereby amended by deleting the existing language and substituting the following:

- (g) The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of this chapter, including, but not limited to, permitting, inspection and enforcement.

Section 8. The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article XXIX, Floodplain Conservation District, Section 275-173.B is hereby amended by deleting the existing language and substituting the following:

B. Special Floodplain Area (A Area). Within any A Area (Special Floodplain Area), no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one-hundred-year flood more than one foot at any point.

Section 9. The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article XXIX, Floodplain Conservation District, Section 275-173.D(4) and (5) is hereby amended by deleting the existing language and substituting the following:

(4) The expansion, enlargement or the substantial modification, alteration, repair, reconstruction or improvement of an existing structure or use located in the AE Area or A Area subdistricts must be authorized as a special exception by the Zoning Hearing Board and must comply with the requirements of § 275-174.

(5) No nonconforming structure located in the FW or AE Area subdistricts which is destroyed to an extent that reconstruction would cost 50% or more of its pre-damage fair market value shall be reconstructed.

Section 10. The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article XXIX, Floodplain Conservation District, Section 275-173.E(2) is hereby amended by deleting the existing language and substituting the following:

(2) No expansion or enlargement of an existing structure shall be allowed within any A Area that would, together with all other existing and anticipated development, increase the one hundred-year flood elevation more than one foot at any point.

Section 11. The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article XXIX, Floodplain Conservation District, Section 275-174.B(2)(a) is hereby amended by deleting the existing language and substituting the following:

(a) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an A Area (Special Floodplain Area), when combined with all other existing and anticipated development, will not

increase the elevation of the one-hundred-year flood more than one foot at any point.

Section 12. The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article XXIX, Floodplain Conservation District, Section 275-174.C(1)(b)[2][a] is hereby amended by deleting the existing language and substituting the following:

[a] Any new development, construction or substantial improvement to an existing structure shall have the lowest floor (including basement) elevated to 1 ½ feet above the one-hundred-year flood level. All proposed lowest floor and basement elevations shall be shown in relation to mean sea level, based upon the North American Vertical Datum of 1988. However, in areas shown on the Federal Emergency Management Agency's Flood Insurance Rate Map as AE Area, the required elevation shall be based on the profiles contained in the Flood Insurance Study of Delaware County, Pennsylvania, prepared by FEMA dated November 18, 2009, as may be revised, with the lowest floor elevated a minimum of 1 ½ feet above the base flood height as shown therein. Also, in areas where no detailed study has been done, the required elevation shall be determined by selecting the point on the boundary of the Floodplain Conservation District, nearest to the site in question and locating the lowest floor of the structure one and one half (1 ½) feet above such elevation.

Section 13. The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article XXIX, Floodplain Conservation District, Section 275-176 D(2) is hereby amended by deleting the existing language and substituting the following:

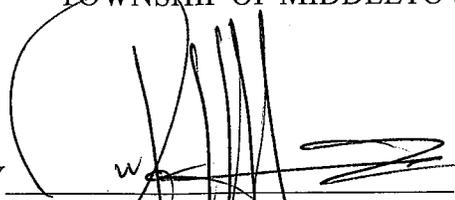
(2) Within any A Area that would, together with all other existing and anticipated development, increase the one-hundred-year flood elevation more than one foot at any point.

Section 14. The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article XXIX, Floodplain Conservation District, Section 275-177 is hereby added:

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.

ENACTED AND ORDAINED THIS 24th DAY OF AUGUST, 2015.

TOWNSHIP OF MIDDLETOWN

BY 
MARK KIRCHGASSER
COUNCIL CHAIRMAN

ATTEST 
W. BRUCE CLARK
TOWNSHIP MANAGER