

## CHAPTER 113. FLOODPLAIN MANAGEMENT

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### Authority

The provisions of this Chapter 113 issued under the Flood Plain Management Act (32 P. S. §§ 679.101—679.601), unless otherwise noted.

### Source

The provisions of this Chapter 113 adopted June 12, 1980, effective June 14, 1980, 10 Pa.B. 2979; renumbered from 16 Pa. Code Chapter 38, May 16, 1997, effective May 17, 1997, 27 Pa.B. 2415. Immediately preceding text appears at serial pages (176695) to (176716) and (181317).

### Cross References

This chapter cited in 12 Pa. Code § 141.152 (relating to floodplains); and 25 Pa. Code § 106.31 (relating to hydraulic capacity).

### § 113.1. Definitions.

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

*Act*—The Flood Plain Management Act (32 P. S. §§ 679.101—679.601).

*Department*—The Department of Community and Economic Development of the Commonwealth.

*Development*—A man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

*FEMA*—The Federal Emergency Management Agency, successor to the United States Department of Housing and Urban Development, Federal Insurance Administration.

*Flood*—A general but temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers or other waters of this Commonwealth.

*Flood-fringe area*—That portion of the 100-year floodplain outside of the floodway.

*Flood hazard area*—The 100-year floodway and that maximum area of land that is likely to be flooded by a 100-year flood, as shown on the floodplain maps provided by FEMA.

*Floodplain management*—The operation of a program or activities which may consist of both corrective and preventive measures for reducing flood damage including, but not limited to, such things as emergency preparedness plans, flood control works and floodplain management regulations.

*Floodplain management regulations*—Zoning ordinances, subdivision and land development regulations, building codes, health regulations, special purpose ordinances and other applications of the police power. The term describes the State or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*Floodproofing*—Structural or other changes or adjustments to properties or obstructions for the reduction or elimination of flood damages to the properties and obstructions or to the contents of any structure.

*Floodway*—The portion of the 100-year floodplain including the watercourse itself and an adjacent land area that must be kept open in order to carry the water of a 100-year flood. At a minimum, a floodway must be large enough to carry the water of the 100-year flood without causing an increase of more than 1 foot in the elevation of the existing 100-year flood.

*Freeboard*—A margin of safety, expressed in feet, above the 100-year flood elevation.

*Identified municipality*—A municipality which has been formally notified by FEMA that it has been identified as having an area subject to flooding.

*Mobile home*—A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly which is contained in one unit or in two units designed to be joined into one integral unit capable of again being separated for repeated towing which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and which is constructed so that it may be used without a permanent foundation. The term does not include recreational vehicles or travel trailers.

*Municipality*—A city, borough, town, township or a similar general purpose unit of government; a county or other governmental unit when acting as an agent thereof; or any combination thereof acting jointly.

*New mobile home park or mobile home subdivision*—A parcel or contiguous parcels of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed—including at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets—is completed on or after the effective date of the floodplain management regulations adopted by a municipality.

*Obstruction*—A structure or assembly of materials including fill above or below the surface of land or water and an activity which might impede, retard

or change flood flows. The planting, cultivation and harvesting of field and orchard crops or the grazing of livestock including the maintenance of necessary appurtenant agricultural fencing is not considered an obstruction under this definition and is not subject to regulation under this chapter.

*100-year flood*—The highest level of flooding that on the average, is likely to occur every 100 years, that is, that has a 1% chance of occurring each year.

*100-year floodplain or floodplain*—The 100-year floodway and that maximum area of land that is likely to be flooded by a 100-year flood as shown on the floodplain maps provided by FEMA to the municipality.

*Pollution*—The contamination of waters of this Commonwealth that will create or is likely to create a nuisance or to render the waters harmful, detrimental or injurious to public health, safety or welfare; or to domestic, municipal, commercial, industrial, agricultural, recreational or other legitimate beneficial uses; or to livestock, wild animals, birds, fish or other aquatic life, including, but not limited to, the contamination by: alteration of the physical, chemical or biological properties of the waters; change in temperature, taste, color or odor thereof, or the discharge of a liquid, gaseous, radioactive, solid or other substances into the waters.

*Program*—The National Flood Insurance Program.

*Special permit*—A special exception. For the purposes of this chapter, the term “special permit” is being substituted for the term “special exception” as used in section 301 of the act (32 P. S. § 679.301). A special permit is required for the uses and activities listed in § 113.6 (relating to regulation of particular obstructions).

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

*Substantial additions to mobile home parks*—A repair, reconstruction or improvement of an existing mobile home park or mobile home subdivision where the repair, reconstruction or improvement of the streets, utilities and pads will equal or exceed 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement is started.

*Substantial improvements*—A repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of a wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either a project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe liv-

ing conditions or any alteration to a structure listed on the National Register or Historic Register of the State Inventory of Historic Places.

*Watershed*—The entire region or area drained by a river or other body of water, whether natural or artificial.

**§ 113.2. Purpose and intent.**

(a) The basic purpose of the act, as set forth in section 103 of the act (32 P. S. § 679.103), and of this chapter, is to:

(1) Encourage planning and development in floodplains which are consistent with sound land use practices.

(2) Protect people and property in floodplains from the dangers and damage of floodwaters and from materials carried by the floodwaters.

(3) Prevent and eliminate urban and rural blight which results from the damages of flooding.

(4) Authorize a comprehensive and coordinated program of floodplain management, based upon the program, designed to preserve and restore the efficiency and carrying capacity of the streams and floodplains of the Commonwealth.

(5) Assist municipalities in qualifying for the program.

(6) Provide for and encourage local administration and management of floodplains.

(7) Minimize the expenditure of public and private funds for flood control projects and for relief, rescue and recovery efforts.

(b) This chapter is intended to set forth procedures and requirements to be followed by the State and local municipalities in carrying out the various duties and responsibilities assigned to each by the act so as to avoid unnecessary expenditures of time, effort and money, thereby making floodplain management activities undertaken within this Commonwealth as effective and beneficial as possible.

(c) The standards and requirements of the program and the act concerning floodplain management are minimal only. The act specifically states that it contains no provisions that limit the powers of a municipality from adopting more restrictive codes, ordinances and regulations concerning the management of its flood-prone areas.

(d) A good program of floodplain management involves more than simply meeting the minimum Federal and State requirements. The Department will be available to assist an interested municipality in developing a better management program.

**§ 113.3. Municipal participation in the program.**

(a) Each identified municipality is required by the act to gain eligibility to participate in the program within 6 months of the effective date of the act, or 6 months from the date of notification by FEMA that it has been identified as hav-

ing an area or areas subject to flooding, whichever is first. The eligibility is gained by submitting an application to FEMA, requesting acceptance into the program.

(b) The Department will contact identified municipalities not participating in the program, for the purpose of bringing to their attention the fact that participation is required by the act and to offer technical assistance to help the municipality apply for eligibility to participate in the program.

(c) Application forms, information and assistance may be obtained from a regional office of the Department.

(d) When the Department receives notification from FEMA that FEMA has approved an application for eligibility to participate in the program from a municipality, the Department will notify the appropriate county planning commission.

#### **§ 113.4. Adoption of floodplain management regulations by identified municipalities.**

(a) Each identified municipality is required by the act to adopt floodplain management regulations which at a minimum comply with the requirements of the program, the act and this chapter. The act requires adoption of the required regulations by a municipality within 6 months after the date of receipt from FEMA of a Flood Hazard Boundary Map or Flood Insurance Study.

(b) Municipalities required to adopt floodplain management regulations will be notified by the Department and requested to forward a copy of the adopted regulations and amendments thereto to FEMA for approval in accordance with the requirements of the program. Two copies of the regulations and amendments thereto shall also be forwarded to the appropriate regional office of the Department for its review and approval in accordance with the requirements of the act and this chapter.

(c) The Department will, in consultation with the Department of Environmental Protection, review all the required floodplain management regulations and will notify each municipality of its approval or disapproval of the regulations within 30 days of receipt of the regulations by the Department. If the regulations are not approved by the Department, the Department will explain in what ways they are deficient and what must be done in order to correct the deficiencies. A copy of the notification shall also be sent to the appropriate county planning commission. In addition, the Department will offer the technical assistance the municipality may need in order to correct the deficiency.

(d) When the Department receives notification from FEMA that FEMA has approved the regulations for a municipality, the Department will notify the appropriate county planning commission.

**§ 113.5. Municipal loss of eligibility to participate in the program.**

(a) If a municipality is suspended or loses its eligibility to participate in the program for any reason, it is required by the act to regain the eligibility from FEMA within 90 days of the date of suspension or loss of eligibility.

(b) Whenever a municipality receives notice from FEMA that it is being suspended from the program, the Department will offer to provide whatever technical assistance the municipality may need in order to regain its program eligibility.

(c) In regaining its eligibility, a municipality shall send the requested number of copies of required information and documentation to FEMA and two copies to the appropriate regional office of the Department for its information and review.

(d) When the Department receives a notification from FEMA that a municipality has regained eligibility to participate in the program, the Department will notify the appropriate county planning commission.

**§ 113.6. Regulation of particular obstructions.**

(a) The Department is required by section 301 of the act (32 P. S. § 679.301) to publish a list of certain obstructions which present a special hazard to the health and safety of the public or occupants or may result in significant pollution, increased flood levels or flows, or debris endangering life and property when the obstructions are located in all or a designated portion of a floodplain. The construction, enlargement or expansion of a structure or commencement of an activity listed as a special hazard shall be prohibited in a floodplain unless a special permit has been issued for the proposed construction or activity.

(b) In accordance with section 301 of the act (32 P. S. § 679.301), the following list of obstructions and activities which present special hazards in floodplains is included in this chapter:

- (1) Hospitals—public or private.
- (2) Nursing homes—public or private.
- (3) Jails.
- (4) New mobile home parks and mobile home subdivisions, and substantial improvements to the existing parks and subdivisions.

(c) A construction, enlargement or expansion of the obstructions or commencement of the activities listed in subsection (b) may not be undertaken unless a special permit has been issued to the applicant either by the municipality within which the use or activity is proposed, or by the Department, whichever is applicable.

(d) Municipalities which administer floodplain management regulations and which are in compliance with the requirements of the act and this chapter, may issue special permits.

(e) If a municipality has been notified by the Department that it is in violation of the act or this chapter, it may not issue special permits. A municipality that

has been notified by the Department that it is in violation of this chapter and therefore not authorized to issue special permits may forward applications for special permits to the Department for review and approval.

(f) Application procedures for special permits shall be as follows:

(1) In municipalities issuing special permits, the following procedures shall apply:

(i) Applications shall be submitted to the municipality for review and processing in accordance with the applicable procedures and requirements of the municipality and of subsection (g).

(ii) If a municipality receives an application which is incomplete it shall notify the applicant in writing, stating in what respects the application is deficient.

(iii) Upon receipt of a completed application, the municipality shall forward a complete copy of the application to the county planning commission for its information, review and comment, by registered or certified mail, within 3 working days following receipt of the complete application. The county may send comments it may have concerning the application to the municipality and Department.

(iv) When a municipality approves an application for a special permit, it shall file written notice of the approval together with the application and pertinent information with the Department within 5 working days after approval by registered or certified mail.

(v) The special permit does not become effective until 30 days after the notice has been received by the Department unless the Department disapproves the special permit.

(vi) The Department will review the application and communicate its decision or comments to the municipality and county planning commission within 30 days after it has received the notice or the Department will forfeit its right to do so.

(vii) Review by the Department will be limited to checking for compliance with the requirements of the act and this chapter.

(viii) If the special permit is disapproved by the Department, it will notify the municipality and applicant in writing, by registered or certified mail, of its reasons for the disapproval.

(2) When a municipality is not authorized to issue special permits and it forwards an application to the Department for review and approval, the following procedures shall apply:

(i) Applications shall be forwarded to the Governor's Center for Local Government Services; Department of Community and Economic Development; Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, Pennsylvania 17120. A completed application shall consist of the items specified in subsection (g).

(ii) Upon receipt of a completed application, the Department will forward a copy of the application and pertinent information to the county plan-

ning commission for its review and comment, by registered or certified mail, within 3 working days following receipt of the completed application. The county planning commission shall have 30 days from the date of receipt of the application to submit comments to the Department.

(iii) The Department will either approve or disapprove the application and send written notification of its decision to the applicant within 45 days following receipt of the application. The Department will also send written notification to the municipality and county planning commission, within 5 days, of the determination the Department makes concerning applications it receives for special permits.

(iv) If the Department receives an application which is incomplete, it will send written notification to the applicant, within 5 working days after the Department receives the incomplete application, stating in what respects the application is deficient.

(g) Applications for special permits shall consist of five copies of the following items:

(1) A written request including a completed application form.

(2) A plan of the entire site, clearly and legibly drawn at a scale of 1 inch being equal to 100 feet or less, showing the following:

(i) North arrow, scale and date.

(ii) A map, which may be drawn at a smaller scale, of the general area of the municipality which provides enough information to enable a person who is unfamiliar with the municipality to accurately determine the location of the site or property involved.

(iii) Topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of 2 feet.

(iv) Property and lot lines including dimensions and the size of the site expressed in acres or square feet.

(v) The location of existing streets, drives, other accessways and parking areas with information concerning widths, pavement types and construction and elevations.

(vi) The location of existing bodies of water or watercourses; buildings, structures and other public or private facilities including railroad tracks and facilities; and other natural and man-made features affecting or affected by the proposed activity or development.

(vii) The location of the floodplain boundary line, information and spot elevations concerning the 100-year flood elevations and information concerning the flow of water including direction and velocities.

(viii) A general plan of the entire site accurately showing the location of proposed buildings, structures, utilities and other improvements.

(ix) Other information which the municipality considers necessary for adequate review of the application.

- (3) Plans of proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:
- (i) Sufficiently detailed architectural or engineering drawings including floor plans, sections and exterior building elevations, as appropriate.
  - (ii) The proposed finished floor elevations of a proposed building.
  - (iii) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the 100-year flood.
  - (iv) Detailed information concerning proposed floodproofing measures.
  - (v) Cross-section drawings for proposed streets, drives, other accessways and parking areas, showing rights-of-way and pavement widths.
  - (vi) Profile drawings for proposed streets, drives and vehicular accessways including existing and proposed grades.
  - (vii) Plans and profiles of proposed sanitary and storm sewer systems, water supply systems and other utilities and facilities.
- (4) The following data and documentation:
- (i) 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.
  - (ii) Certification from a registered professional engineer, architect or landscape architect that the proposed construction has been adequately designed to protect against damage from the 100-year flood.
  - (iii) A statement certified by a registered professional engineer, architect, landscape architect or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a 100-year flood including a statement concerning the effects the pollution may have on human life.
  - (iv) A statement certified by a registered professional engineer, architect or landscape architect which contains a complete and accurate description of the effects the proposed development will have on 100-year flood elevations and flows.
  - (v) A statement certified by a registered professional engineer, architect or landscape architect which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the 100-year flood elevation and the effects such materials and debris may have on 100-year flood elevations and flows.
  - (vi) The appropriate component of the Department of Environmental Protection "Planning Module for Land Development."
  - (vii) Where an excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control.

(viii) Other applicable permits, such as, but not limited to, a permit for an activity regulated by the Department of Environmental Protection under section 302 of the act (32 P. S. § 679.302).

(ix) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a 100-year flood.

(h) An application for a special permit will not be approved by either a municipality or the Department unless it can be determined that the structure or activity will be located, constructed and maintained in a fashion which will comply with the following:

(1) Protect the health and safety of the public and occupants. At a minimum, new structures shall be designed, located and constructed so that:

(i) The structure will survive inundation by waters of the 100-year flood without a lateral movement or damage to either the structure itself or to any of its equipment or contents below the 100-year flood level.

(ii) The first-floor elevation will be at least 1 1/2 feet above the 100-year flood elevation.

(iii) The occupants of the structure can be safely evacuated at any time during a 100-year flood.

(2) Prevent a significant possibility of pollution, increased flood levels or flows or debris endangering life and property.

(3) Comply with the requirements of the program.

(i) A municipality issuing special permits may, upon request from an applicant, consider the possibility of modifying the freeboard requirement of subsection (h)(1)(ii), provided that the applicant can demonstrate and the municipality can determine:

(1) That there are unique physical circumstances, including such things as exceptional topographical, or other existing conditions peculiar to the property.

(2) That because of the physical circumstances and conditions the proposed development cannot be reasonably designed and constructed in compliance with the applicable requirements and that a modification is therefore necessary.

(3) That failure to grant the requested modification will result in exceptional hardship to the applicant.

(4) That approval of the request will not result in an increased flood heights within a designated floodway.

(5) That approval of the request will not result in an additional threat to public health and safety, result in an extraordinary public expense or create a nuisance.

(6) That approval of the request will not result in a conflict with other applicable laws or regulations.

(j) In approving a request for a reduction in the required freeboard, a municipality shall comply with the following:

(1) Authorize the least reduction necessary to provide relief.

(2) Notify the applicant in writing that approval of the request will result in increased premium rates for flood insurance and increase risks to the structure, its contents and occupants. The notification shall be included with the municipality records, as required in paragraph (3).

(3) Maintain a complete record of requests which have been approved authorizing reductions in freeboard.

(4) Report the requests which have been approved in its annual report to the Department.

#### Cross References

This section cited in 12 Pa. Code § 113.1 (relating to definitions).

### § 113.7. Development which may endanger human life.

(a) Section 207 of the act (32 P. S. § 679.207) requires the Department to prohibit the construction or substantial improvement of structures which may endanger human life within any area which has been determined to be a flood hazard area by the Environmental Quality Board.

(b) The floodplain management regulations adopted by municipalities shall include provisions regulating the construction or substantial improvement of a structure located within a flood hazard area, which structure will be used for the production or storage of a material or substance listed in subsection (c); which will be used for an activity requiring the maintenance of a supply—more than 550 gallons on other comparable volume—of materials or substances on the premises; or which structure will involve the production, storage or use of an amount of radioactive substances. The regulations adopted by municipalities shall require at a minimum the following:

(1) That, within a flood hazard area as determined by the Environmental Quality Board except for a delineated floodway area, the construction or substantial improvement shall be prohibited unless it is elevated or floodproofed to remain dry up to at least 1 1/2 feet above the 100-year flood elevation.

(2) That, within any delineated floodway area the construction or substantial improvement is prohibited.

(c) The following list of materials and substances shall be considered dangerous to human life:

- (1) Acetone.
- (2) Ammonia.
- (3) Benzene.
- (4) Calcium carbide.
- (5) Carbon disulfide.
- (6) Celluloid.
- (7) Chlorine.
- (8) Hydrochloric acid.
- (9) Hydrocyanic acid.

- (10) Magnesium.
- (11) Nitric acid and oxides of nitrogen.
- (12) Petroleum products—gasoline, fuel oil and the like.
- (13) Phosphorous.
- (14) Potassium.
- (15) Sodium.
- (16) Sulphur and sulphur products.
- (17) Pesticides including insecticides, fungicides and rodenticides.
- (18) Radioactive substances insofar as the substances are not otherwise subject to regulation.

(d) A municipality which is in compliance with the act and this chapter may, upon request from an applicant, consider the possibility of modifying the freeboard requirement for the kind of development regulated by this section provided that the applicant can demonstrate and the municipality can determine:

(1) That there are unique physical circumstances, including exceptional topographical or other existing natural or man-made conditions peculiar to the property.

(2) That because of the physical circumstances and conditions, the proposed substantial improvement cannot be reasonably designed and constructed in compliance with the applicable requirements, and that a reduction is therefore necessary.

(3) That failure to grant the request will result in exceptional hardship to the applicant.

(4) That approval of the request will not result in increased flood heights within any designated floodway.

(5) That approval of the request will not result in an additional threat to public health and safety, result in an extraordinary public expense or create a nuisance.

(6) That approval of the request will not result in a conflict with other applicable laws or regulations.

(e) In approving a request for a reduction in the required freeboard, a municipality shall do the following:

(1) Authorize the least reduction necessary to provide relief.

(2) Notify the applicant in writing that approval of the request will result in increased premium rates for flood insurance and increase risks to the structure, its contents or occupants. The notification shall be included with the municipal records, as required in paragraph (3).

(3) Maintain a complete record of requests which have been approved, authorizing reductions in freeboard.

(4) Report the requests which have been approved in its annual report to the Department.

**§ 113.8. Coordination and uniform enforcement of municipal floodplain management regulations.**

(a) Section 205 of the act (32 P. S. § 679.205) requires the Department to adopt regulations establishing certain criteria and standards for the coordination and uniform enforcement of municipal floodplain management regulations. In order to carry out this responsibility, the following criteria, standards and requirements are established:

(1) As municipalities develop their individual floodplain management plans, programs and regulations, consideration shall be given to the comprehensive planning and land use activities being undertaken by other municipalities within the watershed.

(2) The floodplain management plans, programs and activities undertaken by individual municipalities within a watershed shall be coordinated and compatible with the needs and circumstances of the watershed generally and with a floodplain management or stormwater management plan which has been adopted by a group of municipalities, county or river basin commission.

(3) The technical aspects and requirements of the floodplain management regulations enacted by individual municipalities within a particular watershed shall be coordinated and compatible with those of other municipalities within the watershed.

(4) Floodplain delineations shall be continuous from one adjacent municipality to another and coordinated throughout the watershed.

(5) At a minimum the floodplain management regulations of municipalities shall apply to the following kinds of construction and development activities within areas subject to the 100-year flood:

(i) Completely new buildings or structures.

(ii) Substantial improvements to existing buildings or structures.

(iii) A man-made change to improved or unimproved real estate, including, but not limited to, filling, grading, paving, excavation, mining, dredging and drilling operations.

(6) The floodplain management regulations enacted by municipalities shall be thoroughly and equitably administered by each municipality or combination of municipalities.

(7) Identified municipalities shall forward a complete set of their up-to-date floodplain management regulations to the Department and county planning commission and shall also notify the Department and county planning commission of future changes or amendments to those regulations within 30 days following the date a change or amendment is enacted.

(8) Identified municipalities shall forward an annual report to the appropriate regional office of the Department. The report shall be on forms provided

by the Department. In addition, the Department may require other pertinent information that it considers necessary in order to satisfactorily carryout its responsibilities.

(b) Where the floodplain management regulations or activities of a municipality are uncoordinated or inconsistent with those of another municipality, the Department will be available to assist with the resolution of the situation. Where two or more municipalities are unable to reconcile problems or differences, the Department will make a final determination which will be based upon the needs and circumstances of the municipalities involved and of the watershed generally. In those instances when the Department must assist with the resolution of problems or differences, it shall notify the appropriate county planning commission of information and assistance it may be able to provide.

### § 113.9. Inspections.

(a) Sections 402 and 403 of the act (32 P. S. §§ 679.402 and 679.403) give municipalities and the Department the authority to investigate complaints, enter upon land for the purpose of surveying floodplains, enter land in a floodplain for the purpose of ascertaining the location and condition of obstructions, and to enter land or, while under construction, a structure located in a floodplain, for the purpose of ascertaining the compliance or noncompliance with applicable floodplain management regulations.

(b) An employe or agent of the Department may not undertake any of the activities listed in subsection (a) except in accordance with the following:

(1) The municipality within which the activity is to occur shall be given prior notification of the activity, at least 24 hours in advance.

(2) The owner or occupant, or both, of a premises shall be given prior notice of the activity at least 24 hours in advance.

(3) The activities shall take place only during normal weekday business hours unless other suitable arrangements are made.

(4) The individual conducting the inspection shall present his Department employe identification card prior to the inspection, and upon request during the inspection.

(c) Whenever an agent or employe of the Department or a municipality has been refused access to property for the purposes of conducting a survey or inspection, or reasonably requires access to the property without prior notice to the owner, the agent or employe may apply for an inspection warrant to a Commonwealth official authorized by law to issue a search or inspection warrant, to enable him to have access and inspect the property. It shall be sufficient probable cause to issue an inspection warrant that the inspection is necessary to properly enforce the provisions of the act and this chapter.

**§ 113.10. Enforcement by the Department and appeals.**

(a) When the Department finds that a municipality has failed to comply with the requirements of the act or regulations adopted by the Department pursuant thereto, the following procedures apply:

(1) The Department will send a written notice of violation to the municipality by registered or certified mail. The notice shall state the nature of the violation and what the municipality must do in order to correct the violation.

(2) Within 60 days of receipt of the notice of violation, the municipality shall report to the Department the action which the municipality is taking to comply with the requirement or regulations.

(3) If the municipality has failed to comply with the requirement or regulation within 180 days of the receipt of the notice of violation, the Department will notify the State Treasurer, who shall hold in escrow funds payable to the municipality from the General Fund, or other fund.

(4) When a municipality achieves or regains compliance, the Department will notify the State Treasurer accordingly, within 3 working days after the Department has been notified or has determined that the compliance has occurred.

(b) The Department may also enforce a violation of the act or this chapter by instituting a civil action to restrain, prevent or abate the violation.

(c) A person aggrieved by an action of the Department shall have the right to appeal the action and request a hearing in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). The appeal and request for a hearing shall be taken within 30 days of receipt of the notice of the action taken by the Department.

**§ 113.11. Reimbursements and grants to municipalities.**

(a) Section 404 of the act (32 P. S. § 679.404) authorizes the Department to administer reimbursements and grants to municipalities to assist or reimburse them for costs incurred in complying with the requirements of the act. Grants and reimbursements shall be available from the Department in accordance with this section, provided that money is appropriated by the General Assembly for such purposes.

(b) Grants will be available from the Department to municipalities to reimburse them for allowable costs incurred in complying with the requirements of the act. Reimbursements will be for the following activities:

(1) Fifty per cent of the allowable costs set forth in subsection (d) incurred for the preparation and enactment, including required revisions, of the floodplain management regulations necessary to comply with the requirements of the act and this chapter.

(2) Fifty percent of the allowable costs set forth in subsection (d) for the administration, enforcement and implementation activities undertaken as required by the act.

(c) Grants will also be available from the Department to municipalities to reimburse them for allowable costs incurred in complying with either section 1910.3(c) or (d) (now section 60.3(c) or (d)) of the program regulations prior to October 4, 1978, the effective date of the act. The reimbursements will be for the following activities:

(1) Fifty percent of allowable costs set forth in subsection (d) incurred for the preparation and enactment, including required revisions, of the floodplain management regulations necessary to comply with the requirements of the program.

(2) Fifty percent of the allowable costs set forth in subsection (d) incurred for the administration, enforcement and implementation activities undertaken as necessitated by the requirements of the program.

(d) Allowable costs shall be those expenses incurred by a municipality in order to comply with the requirements of the act and this chapter. Allowable costs do not include those costs which are offset by permit fees imposed by the municipality. Costs incurred for the following items and activities shall be considered allowable costs for the purposes of this chapter.

(1) Preparation and enactment of floodplain management regulations, including the following:

(i) Costs of technical and legal services necessary to prepare regulations, administrative forms, maps and the like required by the act.

(ii) Costs of technical and legal services necessary for required public hearings.

(iii) Costs of technical and legal services necessary for enactment of the required regulations.

(2) Administrative, enforcement and implementation activities, including the following:

(i) Costs of review and processing of applications for required permits, including clerical activities.

(ii) Fees of special consultants necessary for technical consultation or plan review and permit processing matters.

(iii) Costs of monitoring and inspection activities, including fees for special consultants for technical consultation on specific matters.

(iv) Costs of technical and legal services incurred in enforcing the regulations including the restraining of violations, prosecutions and defending against appeals.

(v) Mileage expenses incurred by the permit officer in undertaking any of the administrative activities set forth in subparagraphs (i)—(iv).

(e) The Department will not reimburse municipalities for legal fees resulting from an appeal or suit against the Commonwealth; for the purchase of clothing

or clothing allowance, for the printing or reproduction of regulations, forms or maps; or for another activity or expense not directly related to the requirements of the act or this chapter.

(f) Requests for a reimbursement shall be submitted to the appropriate regional office of the Department and shall be made in accordance with the following:

(1) Requests shall be submitted annually, within 3 months after the end of the fiscal year for which reimbursement is being requested, using an application form provided by the Department.

(2) An itemized statement shall accompany the application which statement provides the following information:

(i) The total expenses incurred and paid by the municipality in performing the duties necessitated by the requirements of the act.

(ii) The total amount of fees and other money earned—including uncollected fees—by the municipality in performing its duties.

(iii) The difference between expenses incurred and income, and the amount of reimbursement being requested.

(iv) Certification as to the accuracy of the information being submitted by the chief executive officer of the municipality and the individual who prepared the statement.

(g) If, in a fiscal year, appropriations are insufficient to cover the reimbursements and grants to municipalities for compliance with the requirements of the act and this chapter, the Department will report this fact to the General Assembly and will request the appropriation of additional funds. If a deficiency appropriation is not enacted, a municipality which has not received its reimbursement because of lack of funds will be given first priority when funds become available.

(h) Grants may also be made by the Department to municipalities for certain other activities such as surveys, studies, investigations, research and analyses related to the specific purposes and requirements of the act. The grants will be made at the sole discretion of the Department and will not be awarded unless there is a thoroughly documented need or value to the undertaking. Requests for a grant shall be submitted to the Governor's Center for Local Government Services; Department of Community and Economic Development; Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, Pennsylvania 17120 for consideration. The request shall be in the form of a written proposal consisting of a narrative which clearly and thoroughly describes the work proposed to be undertaken and the itemized cost estimate, including a complete list of the people to be involved and their specific responsibilities regarding the work to be undertaken. In addition, the Department may require other reasonable information it deems necessary in order to satisfactorily evaluate any proposal or to satisfactorily monitor any work being undertaken, or both.

(i) Grants from the Commonwealth will be in addition to grants for similar purposes made to a municipality by the Federal government; provided that the

grants be limited so that the total of State and Federal grants does not exceed 50% of the allowable costs incurred by the municipality.

(j) Application forms and related information concerning reimbursements may be obtained from any Department regional office.

(k) Municipalities shall keep accurate records and accounts of allowable costs incurred for a period of 3 years following the submission of an application to the Department for reimbursement. During this time the Department will, upon request, have access to the records and accounts for monitoring and auditing purposes.

APPENDIX II

DCA-BCP-43 (7-84)  
FORMERLY DCA-627

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF COMMUNITY AFFAIRS  
BUREAU OF COMMUNITY PLANNING

— SUGGESTED—

**SPECIAL PERMIT APPLICATION**

NOTE: THIS FORM TO BE USED WHEN APPLICATION IS BEING MADE FOR A SPECIAL PERMIT AS REQUIRED BY THE PENNSYLVANIA FLOOD PLAIN MANAGEMENT ACT.

<b>I. Identification</b>				
	NAME	Mailing address - Number, street, city and state	ZIP Code	Telephone No.
1. Applicant				
2. Owner of Land				
3. Contractor				
I hereby certify that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his agent.				
Signature of Applicant		Address		Application Date
<b>II. Purpose of Proposed Development</b>				
<input type="checkbox"/> Hospital <input type="checkbox"/> New Mobile Home Park or Subdivision <input type="checkbox"/> Nursing Home <input type="checkbox"/> Other (Indicate) <input type="checkbox"/> Jail				
<b>III. Site Location</b>				
Municipality: _____ County: _____				
At (Location): _____ (No.) (Street or Road)				
First Floor Elevation: _____				
Basement Elevation (If Applicable): _____				
100 Year Flood Elevation: _____				
<b>IV. Selected Characteristics of Improvements</b>				
TYPE OF SEWAGE DISPOSAL		TYPE OF WATER SUPPLY		
<input type="checkbox"/> Public or Private Company		<input type="checkbox"/> Public or Private Company		
<input type="checkbox"/> Private (septic tank, etc.)		<input type="checkbox"/> Private (well, etc.)		

**APPENDIX II (Continued)**

<b>V. Description of Proposed Project</b>
Estimated Starting Date: _____ Estimated Completion Date: _____ Estimated Total Cost: _____
<b>VI. Proposed Floodproofing Methods and Materials</b>
Describe the methods and materials that will be used to minimize flood damage. Attach plans and elevations in sufficient detail to enable the reviewer to determine that the proposed work will meet all applicable Local and State requirements.
<b>VII. Fees</b>
Estimated Total Cost (from Item V): \$ _____  Permit Fees Up to \$200.00 : No Charge \$ NO CHARGE \$201.00 to \$1,000.00 : \$5.00 \$ _____ Each additional \$1,000.00 : \$1.00 \$ _____ (or part thereof) TOTAL \$ _____
NOTE: The fees listed above are suggested amounts; actual charges are decided locally.
<b>DO NOT WRITE BELOW THIS LINE</b>
<b>VIII. Action Taken by Department</b>
<input type="checkbox"/> Approved Date: _____ <input type="checkbox"/> Disapproved <input type="checkbox"/> Other Reviewed By: _____

**APPENDIX III****RECOMMENDATIONS AND SUGGESTIONS TO MUNICIPALITIES**

While not required by the act, the National Flood Insurance Program, or these regulations, the following recommendations and suggestions are offered to municipalities for their consideration as they undertake their various floodplain management activities:

(a) Municipalities are encouraged to contact any regional office of the Department for any information or assistance they may need concerning the act, the National Flood Insurance Program, and floodplain management generally.

(b) There are numerous other excellent sources of information and assistance such as county and regional planning commission, the U. S. Corps of Engineers, the U. S. Soil Conservation Service, the U. S. Geological Survey, the Federal Insurance Administration, and the various river basin commissions.

(c) Floodplain management should involve more than the adoption of codes and ordinances which regulate development in areas subject to flooding. Among other things, floodplain management can and should include many other activities such as the establishment of flood warning systems, evacuation and recovery plans, relocation and redevelopment efforts to reduce or eliminate problems, and the promotion of flood insurance.

(d) Despite the obvious importance as an individual issue, floodplain management is nevertheless only one of numerous other community planning and development considerations. Thus, any floodplain management activities undertaken by a municipality must be coordinated and integrated with other planning and related efforts underway locally and at other levels.

(e) Municipalities are encouraged to adopt regulations which more adequately control the use and development of areas which are subject to flooding. For example, a municipality could more closely regulate the kinds of uses and activities locating within its flood-prone areas. It could also require new buildings and other structures to be elevated or flood-proofed up to an elevation (preferably 1 1/2 feet) above the existing 100-year flood elevation. Numerous other possibilities also exist.

(f) Before adopting any regulations, municipalities are encouraged to send a copy of the proposed regulations to the Department for review and comment. This should avoid the need for a municipality to go back and amend a recently enacted ordinance or code because something was deficient or omitted.

**APPENDIX IV. [Reserved]****Source**

The provisions of this Appendix IV adopted June 12, 1980, effective June 14, 1980, 10 Pa.B. 2979; reserved December 18, 1992, effective December 19, 1992, 22 Pa.B. 6029. Immediately preceding text appears at serial page (103729).

[Next page is 115-1.]

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