

CHAPTER 8
FLOOD PLAINS

Part 1
General Provisions

- \$101. Statement of Intent
- \$102. Applicability
- \$103. Abrogation and Greater Restrictions
- \$104. Municipal Liability

Part 2
Administration

- \$201. Issuance of Building Permit
- \$202. Application Procedures
- \$203. Fees
- \$204. Start of Construction
- \$205. Inspection and Revocation

Part 3
Enforcement

- \$301. Notices
- \$302. Penalties
- \$303. Appeals

Part 4
Flood Plain Provisions

- \$401. No Construction or Development
- \$402. Identification

Part 5
Variances

- \$501. Variances

Part 6
Definitions

- \$601. General Definitions
- \$602. Specific Definitions

Part 1
General Provisions

§101. Statement of Intent. The intent of this Chapter is to promote the general health, welfare, and safety of the community by:

1. Lessening the exposure of life and property to the danger of flooding.
2. Preventing the unnecessary obstruction of floodwaters and alteration of natural drainage.
3. Minimizing health hazards which result from the damage to sewage systems, the contamination of water supplies and the general unsanitary and unhealthful conditions which result from flooding.
4. Reducing financial burdens imposed on the community, its governmental units, and its residents, by minimizing flood damage in the future.
5. Providing for the availability of flood insurance through participation in the National Flood Insurance Program.

(Ord. 149, 4/1/1985, §1.00)

§102. Applicability.

1. 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 Halifax unless an approved building permit has been obtained from the Building Official.
2. A building permit shall not be required for minor repairs to existing buildings or structures, provided that no structural changes or modifications are involved.

(Ord. 149, 4/1/1985, §1.01)

§103. Abrogation and Greater Restrictions. This Chapter supersedes any provisions currently in effect in flood plain areas. However, any underlying ordinance shall remain in full force and effect to the extent that those provisions are more restrictive. (Ord. 149, 4/1/1985, §1.02)

§104. Municipal Liability.

1. The degree of flood protection sought by the provisions of this Chapter is considered reasonable for regulatory purposes in the identified flood plain area(s). Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that areas outside any identified flood plain area, or that land uses permitted within such areas will be free from flooding or flood damages.
2. This Part shall not create liability on the part of the Borough or any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

(Ord. 149, 4/1/1985, §1.04)

Part 2
Administration

§201. Issuance of Building Permit.

1. The Building Official shall issue a building permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances and only after all other required permits have been obtained from any other office or agency.

2. No building permit shall be issued for any proposed alteration or relocation of any watercourse within the municipality unless:

A. A permit has been obtained from the Pennsylvania Department of Environmental Resources;

B. All affected adjacent municipalities have been duly notified; and

C. Copies of such notifications have been forwarded to both the Federal Emergency Management Agency and the Pa. Department of Community Affairs.

Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels of any watercourse, drainage ditch, or any other drainage facility or system.

3. After the issuance of a building permit, 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 Building Official.

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

(Ord. 149, 4/1/1985, \$2.00)

§202. Application Procedures.

1. Application for such a building permit shall be made, in writing, to the Building Official on forms supplied by the Borough. Such application shall contain at least the following:

A. Name and address of applicant.

B. Name and address of owner of land on which proposed construction and/or development is to occur.

C. Name and address of contractor.

D. Site location.

E. Brief description of proposed work and estimated cost.

F. A plan of the site showing the exact size and location of the proposed construction and/or development as well as any existing buildings or structures.

(Ord. 149, 4/1/1985, §2.01)

§203. Fees. Applications for a building permit shall be accompanied by a fee, payable to the Borough based on the estimated cost of the proposed construction and/or development as determined by the Building Official at the following rates:

| <u>Estimated Cost</u> | <u>Fee</u> |
|--|------------|
| \$0.00 to \$200.00 | \$0.00 |
| \$201.00 to \$1,000.00 | \$5.00 |
| Each additional \$1,000.00 or part thereof beyond the first \$1,000.00 | \$1.00 |

(Ord. 149, 4/1/1985, §2.02)

§204. Start of Construction.

1. Work on the proposed construction and/or development shall begin within six (6) months and shall be completed within twelve (12) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Building Permit Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation for basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

2. Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Building Permit Officer to approve such a request.

(Ord. 149, 4/1/1985, §2.03)

§205. Inspection and Revocation. During the construction and/or development period, the Building Official or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable Borough laws and ordinances, or that there has not been a false statement or misrepresentation by any applicant. If the inspection determines that there has been a violation, then the Building Official shall revoke the building permit and report such fact to the Council for whatever action they think necessary. (Ord. 149, 4/1/1985, §2.04)

Part 3
Enforcement

§301. Notices. Whenever the Building Official or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provision of this Chapter, or of any regulations adopted pursuant thereto, such authority shall give notice of such alleged violation as hereinafter provided. Such notice shall (a) be in writing; (b) include a statement of the reasons for its issuance; (c) allow a reasonable time for the performance of any act it requires; (d) be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this state; (e) contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Chapter, or any part thereof, and with the regulations adopted pursuant thereto. (Ord. 149, 4/1/1985, §3.00)

§302. Penalties. Any person, firm or corporation who shall violate any provision of this Part 3 shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00); and/or to imprisonment for a term not to exceed ninety (90) days. Every day that a violation of this Part 3 continues shall constitute a separate offense. In addition to these penalties all other actions are hereby reserved, including an action in equity for the proper enforcement of this Chapter. The imposition of a fine or penalty for any violation of, or noncompliance with, this Chapter shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations and noncompliances within a reasonable time. Any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Chapter may be declared by the Borough Council to be a public nuisance and abatable as such. (Ord. 149, 4/1/1985, §3.01; as amended by Ord. 153, 2/2/1987)

§303. Appeals. Any person aggrieved by an action or decision of the Building Official may appeal to the Council. Such appeal must be filed, in writing, within thirty (30) days after the decision or action of the Building Official. Upon receipt of such appeal, the Council shall set a time and place, within not less than ten (10) nor more than thirty (30) days, for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties, at which time they may appear and be heard. Any person aggrieved by any decision of the Council may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this Commonwealth. (Ord. 149, 4/1/1985, §3.02)

Part 4
Flood Plain Provisions

§401. No Construction or Development.

1. No construction or development shall take place within any identified flood plain area of the Borough.

2. Repairs, improvements, or modifications to an existing structure which amount to less than fifty percent (50%) of the market value are permitted provided such work does not result in the expansion or enlargement of the structure.

(Ord. 149, 4/1/1985, §4.00)

§402. Identification.

1. For the purposes of this Chapter, the identified flood plain area shall be those areas of the Borough which have been identified as being subject to flooding by a one hundred year flood. These areas are shown on the most current Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency for the municipality.

2. The identified flood plain area may be revised or modified by the Council where studies or information provided by a qualified agency or person documents the need for such revision or modification. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

3. Should a dispute concerning any identified flood plain boundary arise, any party aggrieved by such determination may appeal to the Council. The burden of proof shall be on the appellant.

(Ord. 149, 4/1/1985, §4.01)

Part 5
Variances

§501. Variances. If compliance with any of the requirements of this Part would result in an exceptional hardship to a prospective builder, developer or landowner, the Council may, upon request, grant relief from the strict application of the requirements. Requests for variances shall be considered by the Council in accordance with the procedures contained in §303 and the following:

1. Notwithstanding the provisions of this Part, no variance shall be granted for:

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 mobile home park or mobile home subdivision, or substantial improvement to an existing mobile home park or mobile home subdivision.

C. Any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which will be used for any activity requiring the maintenance of a supply (more than five hundred fifty (550) gallons or other comparable volume or any amount of radioactive substances) or any of the following dangerous materials or substances on the premises:

- (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, etc.)
- (13) phosphorus
- (14) potassium

- (15) sodium
- (16) sulphur and sulphur products
- (17) pesticides (including insecticides, fungicides, rodenticides)
- (18) radioactive substances, insofar as such substances are not otherwise regulated.

2. If granted, a variance shall involve only the least modification necessary to provide relief. If it should become necessary to grant any variance, the applicant shall be required to comply with all applicable requirements of the National Flood Insurance Program Regulations (60.3 a and b) including the requirements for elevation, flood-proofing, and anchoring. The applicant must also comply with any other requirements considered necessary by the Borough.

3. In granting any variance, the 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 Part.

4. Whenever a variance is granted, the Borough shall notify the applicant in writing that:

A. The granting of the variance may result in increased premium rates for flood insurance.

B. Such variances may increase the risks to life and property.

5. In reviewing any request for a variance, the Council shall consider, at a minimum, the following:

A. That there is good and sufficient cause.

B. That failure to grant the variance would result in exceptional hardship to the applicant.

C. That the granting of the variance will (i) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense, (ii) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable State or local ordinances and regulations.

6. A complete record of all variance requests and related actions shall be maintained by the Borough. In addition, a report of all variances granted during the year shall be included in the Annual Report to the Federal Emergency Management Agency.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one hundred year flood.

(Ord. 149, 4/1/1985, §5.01)

Part 6
Definitions

§601. General. Unless specifically defined below, words and phrases used in this Chapter shall be interpreted so as to give this Chapter its most reasonable application. (Ord. 149, 4/1/1985, §6.00)

§602. Specific Definitions.

CONSTRUCTION - the construction, reconstruction, renovation, repair, extension, expansion, alterations, or relocation of a building or structure, including the placement of mobile homes.

DEVELOPMENT - any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of mobile homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.

FLOOD PLAIN 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.

MOBILE HOME - a transportable single family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term does not include recreational vehicles or travel trailers.

ONE HUNDRED YEAR FLOOD - a flood that, on the average, is likely to occur once every one hundred years (i.e. that has a one percent (1%) chance of occurring each year, although the flood may occur in any year).

STRUCTURE - anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, mobile homes, and other similar items.

SUBSTANTIAL IMPROVEMENT - any modification, alteration, reconstruction or improvement of any kind to an existing structure, to an extent or amount of fifty percent (50%) or more of its market value either (a) before the improvement, modification, or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

(Ord. 149, 4/1/1985, §6.01)