

ARTICLE 12

FLOOD PLAIN MANAGEMENT

SECTION 1201 INTENT

The intent of the regulations set forth in this Article is to:

- A. Promote the general welfare, health, 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 nature drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

SECTION 1202 SPECIAL DEFINITIONS

The definitions of terms provided herein shall apply to the enforcement and administration of the regulations contained within this Article.

1202.1 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.

1202.02 Base Flood

A flood having a one percent chance of being equaled or exceeded in any given year and also referred to as a 100 Year Flood.

1202.03 Basement

The lowest level or story of a building which has its floor subgrade (below ground level) on all sides.

1202.4 Completely Dry Space

A space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and vapor.

1202.05 Development

Any man-made change to improved or unimproved real estate, including but

not limited to buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, storage of equipment or material, and the subdivision of land.

1202.06 Essentially Dry Space

A space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to water.

1202.07 FEMA

The Federal Emergency Management Agency

1202.08 Flood Maps

The most recent map prepared by FEMA which delineates the special hazard areas and risk premium zones applicable in Wilkes-Barre Township.

1202.09 Flood

The temporary inundation of normally dry land.

1202.10 Flood, One Hundred Year

See "Base Flood".

1202.11 Flood Insurance Study

A study prepared by FEMA, for Wilkes-Barre Township which includes an examination, evaluation and determination of flood hazards, and if appropriate, corresponding water surface elevations.

1202.12 Flood Plain, One Hundred Year

The areas specifically identified as being subject to inundation by the Base Flood and/or the One Hundred Year Flood, which may be comprised of a Special Flood Plain Area, a General Flood Plain Area, a Flood Fringe Area and a Floodway as delineated in the Flood Insurance Study and accompanying Flood Insurance Rate Maps.

1202.13 Floodproofing

Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate and/or improved real property, water and sanitary facilities, structures and their contents.

1202.14 Floodway

The designated area of a Flood Plain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the Floodway shall be capable of accommodating a flood of the One Hundred (100) Year magnitude.

1202.15 Freeboard

A margin of safety, expressed in feet above the flood elevation of a One Hundred Year Flood.

1202.16 Historic Structure

Any structure that is:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior.
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. by an approved state program as determined by the Secretary of the Interior.

OR

- b. directly by the Secretary of the Interior in states without approved programs.

1202.17 Lowest Floor

The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for the parking of vehicles, building access or 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 the structure is in violation of the applicable non-elevation design requirements contained within this Article.

1202.18 Manufactured 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 includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

1202.19 Manufactured Home Park

A parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for non-transient use.

1202.20 New Construction

Structure for which the start of construction commenced on or after October 26, 1976, and includes any subsequent improvements thereto.

1202.21 Obstruction

Any structure or assembly of materials including fill above or below the surface of land or water, and any activity which might impede, retard or change flood flows.

1202.22 Recreational Vehicle

A vehicle which exhibits the following:

- (a) is built upon a single chassis;
- (b) is 400 square feet or less when measured at the largest horizontal projections;
- (c) is designed to be self-propelled or permanently towable by a light duty truck;
- (d) is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

1202.23 Substantial Damage

Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed fifty (50) percent or more of the fair market value of the structure before the damage occurred.

1202.24 Substantial Improvement

Any repair, 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" or the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (a) any project for improvement of a structure to correct existing violations of State or municipal health, sanitary or safety code specifications which are identified by the municipal code enforcement official and which are the minimum necessary to assure safe living conditions, or (b) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

SECTION 1203 ABROGATION AND GREATER RESTRICTIONS

The provisions of this Article supersede any other conflicting provisions which may be in effect in identified Flood Plain 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 among any of the provisions of this Article and Ordinance, or any other Ordinance of Wilkes-Barre Township, the more restrictive shall apply.

SECTION 1204 SEVERABILITY

Should any section or provision contained within this Article be declared invalid by a court of competent jurisdiction, such decisions shall not affect validity of this Ordinance as a whole, or any other part thereof.

SECTION 1205 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection sought by the provisions of this Article is considered reasonable for regulatory purposes and is based upon acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural causes such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside the various One Hundred (100) Year Flood District(s), or that land uses permitted within such district(s) will be free from flooding or flood damages.

The provisions and regulations contained within this Article shall not create liability on the part of Wilkes-Barre Township or any officer or employee thereof for any flood damages that result from reliance on this Article or of any decision lawfully made thereunder.

SECTION 1206 OVERLAY OF FLOOD PLAIN DISTRICTS

The various One Hundred (100) Year Flood Plain Districts within a One Hundred (100) Year Flood Plain shall include all areas which are subject to inundation by waters of a One Hundred (100) Year Flood. The source of delineating the boundaries of the various One Hundred (100) Year Flood Plain Districts shall be based upon the most recent Flood Insurance Study and Flood Maps as prepared by FEMA. The various One Hundred (100) Year Flood Plain Districts shall be deemed an overlay on any existing or hereafter established zones or districts upon Wilkes-Barre Township's Official Zoning Map.

SECTION 1207 IDENTIFICATION OF ONE HUNDRED (100) YEAR FLOOD PLAIN DISTRICTS

1207.1 FLOODWAY AREA

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

1207.2 FLOOD FRINGE AREA

The remaining portions of the One Hundred (100) Year Flood Plain in those areas identified as an AE Zone in the Flood Insurance Study, where a

floodway has been delineated.

The basis for the outermost boundary of this area shall be the one hundred (100) year flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

1207.3 SPECIAL FLOOD PLAIN AREA

The areas identified as an AE Zone in the Flood Insurance Study,

where one (100) year flood elevations have been provided, but where no floodway has been delineated.

1207.4 GENERAL FLOOD PLAIN AREA

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

In lieu of the above, the Township may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be only undertaken by professional engineers or others of demonstrated qualifications, who shall certify the technical methods used correctly reflect currently acceptable technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a through technical review by the Township.

A zoning permit and approval of the same shall be required for the use of any property located within any of the above noted flood districts which constitutes a "development" in accordance with the definition of said term as provided under Section 1202.04 of this Ordinance.

SECTION 1208 CHANGES TO DELINEATED BOUNDARIES

The delineation of a One Hundred (100) Flood Plain as provided for under Section 1207, may be modified by the Wilkes-Barre Township Council, subject to approval to FEMA, where studies and/or information documents the need for such revision. Any change shall be subject to compliance with the following:

- A. The party supplying the required documentation shall be submitted under the signature of a registered professional engineer, who is qualified to perform

hydrologic and hydraulic computations.

- B. The party submitting such documentation shall confirm with FEMA that the methodology and data contained therein is consistent with that used in the preparation of the most recent Flood Insurance Study for Wilkes-Barre Township. Said confirmation from FEMA shall be secured in writing.
- C. All information and documentation provided for under this Article for any proposed modification of the boundaries of a One Hundred (100) Year Flood shall be submitted concurrently to both FEMA and to the Pennsylvania Department of Community and Economic Development, Strategic Planning and Operations Office.
- D. Prior to the Wilkes-Barre Township Council' approval of any proposed modifications of the boundaries of a One Hundred (100) Year Flood Plain, written approval and concurrence of the subject modification from FEMA shall be secured.
- E. Any proposed modification of a boundary of a One Hundred (100) Year Flood Plain, shall be governed by the applicable provisions contained in Article 14 of this Ordinance.

SECTION 1209 INITIAL DETERMINATION OF BOUNDARIES

The Zoning Officer, in the course of reviewing proposed developments, shall be responsible for determining the applicable boundaries of a One Hundred (100) Year Flood Plain. Any party who wishes to dispute or challenge the determination of the Zoning Officer may appeal such decision to the Wilkes-Barre Township Zoning Hearing Board. The burden of proof shall be on the appellant.

SECTION 1210 ALTERATIONS TO WATERCOURSES

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 Wilkes-Barre Township or the party proposing such, and until all required permits or approvals have been first obtained from the Pennsylvania Department of Environmental Protection, Bureau of Waterways Engineering, and FEMA. In addition, Pennsylvania Department of Community and Economic Development, Strategic Planning and Operations Office, shall be notified prior to any alteration or relocation of any watercourse. Any party proposing an alteration to a watercourse must provide all necessary documentation to certify that the flood carrying capacity within the watercourse shall be maintained upon completion of the proposed alteration.

SECTION 1211 FLOODWAY RESTRICTIONS

Within an identified Floodway no encroachment shall be permitted, including fill, new construction, substantial improvements, and other type of development, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with

standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of a One Hundred (100) Year Flood. Such analysis shall be performed by a registered professional engineer, who is qualified to perform hydrologic and hydraulic computations. The applicant's engineer shall be required to:

- A. Contact the FEMA Regional Office in Philadelphia to confirm that the proposed methodology and data are consistent with those used in the preparation of the applicable Flood Insurance Study for Wilkes-Barre Township. Said confirmation from FEMA shall be secured in writing.
- B. Include with said analysis all necessary information including but not necessarily limited to valley cross sections, plan views, all assumptions and computations, and bridge, culvert, drainage basins and dam data, if applicable.
- C. Provide written certification that the proposed encroachment will not result in any increased flood heights during the occurrence of a One Hundred (100) Year Flood.
- D. In the event that a proposed development or encroachment includes modifications or alterations to the channel of the watercourse, as a means to offset any anticipated rise in the elevation of a base flood, Section 1210, in addition to the provisions of this Section, shall apply.

The above information shall be submitted to the Zoning Officer, the Township Engineer, FEMA and DEP for review and comment. In addition to receiving a positive review and approval from FEMA, the applicant shall be required to secure a Water Obstruction Permit from DEP under Title 25, Chapter 105 of the Pennsylvania Code. No zoning permit shall be issued until the Zoning Officer finds that all applicable requirements have been met.

SECTION 1212 SPECIAL REQUIREMENTS FOR THE SPECIAL FLOOD
PLAIN AREA AND GENERAL FLOOD PLAIN AREA

Within any 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 (100) year flood more than one (1) foot at any point.

Within any Special Floodplain Area or General Floodplain Area the following provisions shall apply:

1. No new construction or development shall be located within the area measured fifty (50) feet landward from the top of bank of any watercourse.
2. Any new construction or development, which would cause an increase in 100 year flood heights shall be prohibited within any floodway area.

SECTION 1213 STRUCTURAL ANCHORING AND FLOODPROOFING REQUIREMENTS

All buildings and structures which represent new construction and/or substantial improvement shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse and lateral movement. The Zoning Officer shall require the applicant to submit the written opinion of a registered professional engineer that the proposed structural design meets this standard prior to the issuance of a zoning permit.

SECTION 1214 ISSUANCE OF BUILDING PERMIT

Prior to the issuance of any building permit, the Code Enforcement Officer or the person so authorized by Wilkes-Barre Township to issue building permits 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 (1966-537, as amended), the Pennsylvania Dam Safety Act (1937-394, as amended), the United States Clean Water Act, Section 404, 33 U.S.C. 1344. No building permit shall be issued until such a determination has been made.

SECTION 1215 FLOODPROOFING

Zoning approval of any proposed use, development and/or substantial improvement, which is located within a One Hundred (100) Year Flood Plain shall be conditioned upon strict compliance with all applicable floodproofing provisions as contained within this Article, and other applicable codes and ordinances of Wilkes-Barre Township including but not limited to the following standards:

1215.1 RESIDENTIAL

Any new construction or substantial improvement to residential structures located completely or partially within a One Hundred (100) Year Flood Plain shall be designed and constructed to have the lowest floor, including basement, elevated to not less than one and one half (1½) feet above the corresponding base flood elevation.

1215.2 NONRESIDENTIAL

Any new construction or substantial improvement to nonresidential structures located completely or partially within an identified One Hundred (100) Year Flood

Plain shall be designed and constructed to provide:

- A. The lowest floor, including basement, shall be elevated not less than one and one half ($1\frac{1}{2}$) feet above the corresponding base flood elevation.

OR

- B. Any nonresidential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least one and one half ($1\frac{1}{2}$) feet above One Hundred Year (100) flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the standards contained in the publication titled "Floodproofing Regulations" published by the U.S. Army Corps of Engineers, dated March 31, 1992, or the most recent revision to said publication. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the aforementioned standards.

1215.3 ACCESSORY STRUCTURES

Accessory structures to a principal building or use need not to be elevated or flood proofed to remain dry, but shall comply, at minimum with the following requirements:

- A. The structure shall not be designed or used for human habitation, but shall be limited to the parking and storage of vehicles, or for the storage of tools, material and equipment related to the principal use or activity.
- B. The gross floor area shall not exceed 750 square feet.
- C. The structure shall have a low damage potential.
- D. The structure shall be located upon the site so as to cause the least obstruction to the flow of floodwaters.
- E. Power lines, wiring and outlets shall be not less than one and one half ($1\frac{1}{2}$) feet above the 100 year flood elevation.
- F. Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
- G. Sanitary facilities are prohibited.

- H. The structure shall be adequately anchored to prevent flotation and movement and shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on the walls. Design for meeting this requirement must be certified by either a registered professional engineer or architect, or meet or exceed the following minimum criteria:
1. A minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 2. The bottom of all openings shall be no higher than one (1) foot above grade.
 3. Openings may be equipped with screens, louvers, etc. or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

1215.4 MANUFACTURED HOMES

Where permitted in accordance with the underlying zoning districts, all manufactured homes and improvements thereto which are located completely or partially within an identified One Hundred (100) Year Flood Plain shall be governed by the following provisions:

- A. Placed upon a permanent foundation.
- B. Elevated so that the lowest floor of the manufactured home is one and one half ($1\frac{1}{2}$) feet or more above the elevation of the One Hundred Year Flood.
- C. Anchored to resist flotation, collapse or lateral movement.

Within any identified floodway, manufactured homes shall be prohibited.

1215.5 USE OF FILL

If fill is to be used to raise the lowest floor of the structure, including basement, to an elevation of one and one half ($1\frac{1}{2}$) feet above the base flood elevation the fill shall:

- A. Extend laterally at least fifteen (15) feet beyond the building line from all points.
- B. Consist only of soil or small rock materials.

- C. Be compacted to provide necessary permeability and resistance to erosion, scouring or settling.
- D. Be no steeper than one (1) vertical to two (2) horizontal unless substantial data justifying steeper slopes are submitted to, and approved by the Code Enforcement Officer or the person so authorized by Wilkes-Barre Township to issue building permits.
- E. Be utilized in a manner and extent to which it does not adversely affect adjacent properties.

1215.6 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. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

SECTION 1216 UTILITIES

1216.1

New and replacement public and private utilities and facilities, such as sanitary sewers, gas lines, electric systems, telephone systems and water systems shall be designed and constructed to minimize or eliminate flood damages.

1216.2

Within any structure the following items shall be either floodproofed or elevated to be not less than one and one half (1½) feet above the base flood elevation.

- A. Water heaters of any type.
- B. Furnaces
- C. Air Conditioning and ventilating systems.
- D. Electrical distribution panels.
- E. Similar mechanical equipment or apparatus.

Water supply systems and sanitary sewage systems of structures shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters.

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.

SECTION 1217 CERTIFICATION OF FLOODPROOFING

When floodproofing methods are utilized in accordance with Section 1215 of this Ordinance, a registered professional engineer or architect shall certify in writing that the floodproofing methods utilized are adequate to withstand flood depths, pressures, velocities, impact and uplift forces and other factors associated with a One Hundred (100) Year Flood. The certification shall also indicate the specific elevation in relation to mean sea level to which such structures are floodproofed. In addition to certification of as-built drawings, a certification by an architect or professional engineer shall be required immediately following the completion of construction or substantial improvements, including completion and filing of an Elevation Certificate and/or a Floodproofing Certificate as provided by FEMA. This certification must indicate the mean sea level of the lowest floor and/or, as applicable, the mean sea level to which floodproofing measures have been taken. Such certification is required prior to the issuance of an Occupancy Permit by the Zoning Officer, Code Enforcement Officer or the person so authorized by Wilkes-Barre Township to issue an Occupancy Permit.

SECTION 1218 FULLY ENCLOSED AREAS BELOW THE LOWEST FLOOR

Within an identified One Hundred (100) Year Flood Plain, any fully enclosed areas of a structure below the lowest floor shall be limited to unfinished space limited to the parking of vehicles, building access or storage. Such enclosed areas, including new construction and substantial improvements may be located below the base flood elevation subject to the following:

- A. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters.
- B. Provide a minimum of two (2) openings having a total net area of not less than one square (1) inch for every square foot of enclosed area subject to flooding.
- C. The bottom of the aforementioned openings addressed in item B. shall be no higher than one (1) foot above grade with the option of being equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- D. Provide written certification from a registered professional engineer or architect that the criteria of the above items, (A),(B)and (C) have been met.

In addition to the above, the owner of the property shall record upon the deed of said property, a restriction which limits the use of the fully enclosed areas of a structure below the lowest floor to the parking of vehicles, building access or storage. A copy with said

restriction shall be provided to the Zoning Officer.

SECTION 1219 PROHIBITED USES

The development of the following uses, including their construction, expansion, enlargement, and/or substantial improvement, is hereby prohibited in any area of a designated One Hundred (100) Year Flood Plain:

- (1) Manufactured home park;
- (2) Nursing Homes (Public or Private);
- (3) Hospitals and Clinics (Public or Private);
- (4) Jails, Prisons, or any similar detention facility.
- (5) On-lot sewage disposal systems, including the encroachment of such a system within fifty (50) feet of any wetlands.

SECTION 1220 REGULATIONS FOR HAZARDOUS MATERIALS

1220.1 Classification

For the purpose of administration the following materials and substances are hereby deemed and classified as potential hazards when located in a One Hundred (100) Year Flood Plain:

Acetone
Ammonia
Benzene
Calcium carbide
Celluloid
Carbon disulfide
Chlorine
Hydrocyanic acid
Hydrochloric 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
Polychlorinated Biphenyl (PCB)
Dioxin

1220.2 Prohibited Uses

The use of any property for the production of or requiring the storage or maintenance of any quantities of radioactive substances, shall be expressly prohibited anywhere within a One Hundred (100) Year Flood Plain.

SECTION 1221 IMPROVEMENTS

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

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the one hundred (100) year flood.
- B. No expansion or enlargement of an existing structure shall be allowed within any Special Flood Plain Area that would, together with all other existing and anticipated development, increase the one hundred (100) year flood elevation more than one (1) foot at any point.
- C. Any modification, alteration, reconstruction or improvement of any kind to any existing structure which equals or exceeds fifty (50%) percent of its market value, shall constitute a substantial improvement and shall be permitted subject and conditioned upon full compliance with all applicable floodproofing provisions of this Ordinance.

SECTION 1222 VARIANCES

In addition to the criteria contained in Section 1509 of this Ordinance, the following additional standards and criteria shall apply for a request for a variance:

- 1. No variance shall be issued for any proposed development, use and/or activity within any designated floodway which would result in any increase in flood levels during a One Hundred (100) Year Flood.
- 2. No variance shall be issued which would allow for the development, use and/or activity of those specifically prohibited in Section 1219, PROHIBITED USES and Section 1220, REGULATIONS FOR HAZARDOUS MATERIALS of this Ordinance.
- 3. No variance shall be granted for any construction, development, use or activity within a Special Flood Plain Area that would, together with all other existing and anticipated development, increase the one hundred (100) flood elevation more than one (1) foot at any point.

4. A variance shall authorize the least reduction and/or modification necessary to provide relief in consideration of the flood hazard.
5. A variance shall only be issued upon:
 - A. A showing of good and sufficient cause.
 - B. A determination that failure to grant the variance would result in an exceptional hardship to the applicant.
 - C. A determination that granting the variance will not result in a prohibited increase in flood heights, additional threat to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimize the public or conflict with any local laws or ordinances.

SECTION 1223 MODIFICATION OF FREEBOARD REQUIREMENT
ADMINISTRATIVE PROCEDURES

The Township shall notify the applicant in writing over the signature of the Chairman or Secretary of the Zoning Hearing Board that:

- A. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts of twenty-five (\$25.00) dollars or greater for each one hundred (\$100.00) dollars of flood insurance coverage.
- B. Such construction below the base flood elevation increases risk to life and property.
- C. The issuance of a variance from the required one and one half (1½) feet of freeboard per Section 1215 of this Ordinance, but above the base flood elevation may result in increased premium rates for flood insurance and increased risks to the structure, its contents and occupants.

Such notification shall be maintained with a record of all variances approved and/or considered by the Zoning Hearing Board, including justification for their issuance or denial. Such information shall be placed on file with the Secretary to the Zoning Hearing Board and shall be submitted annually to FEMA and the Wilkes-Barre Township Council.