

ORDINANCE NO. 214

BOROUGH OF AVONDALE
CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING ORDINANCE 199 SO THAT THE BOROUGH'S REGULATIONS APPLICABLE TO CONSTRUCTION AND DEVELOPMENT IN AREAS SUBJECT TO FLOODING WILL COMPLY WITH THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM AND THE PENNSYLVANIA FLOOD PLAIN MANAGEMENT ACT.

The Council of the Borough of Avondale, Chester County, Pennsylvania, hereby ORDAINS that Ordinance 199 of 2002 shall be amended as follows, effective immediately:

1. All references to the Federal Insurance Administration (FIA) shall be changed to FEMA. All references to the Department of Community Affairs, Bureau of Community Planning shall be changed to DCED. All references to the Department of Environmental Resources, Bureau of Dams and Waterway Management shall be changed to DEP Regional Office. All references to District Justice shall be changed to Magisterial District Judge. The text of Ordinance 199 shall be changed to use the definitions established by this Ordinance.

2. Section 100 "General Provisions," Subsection C, shall be deleted and replaced with the following:

C. Applicability and Conflicts

1. This Ordinance shall apply to all land within the municipal limits of the Borough if that land is in the designated flood plain districts which are part of the Floodway, Flood Fringe, and/or General Flood Plain Areas, as defined herein. This Ordinance shall not apply to any land or structures owned by the Borough, the Avondale Borough Sewer Authority, or any authority created by the Borough.
2. This Ordinance supersedes all conflicting Borough regulations, except that such conflicting regulations shall remain in full force and effect to the extent that they are more restrictive. If there is any conflict between any of the provisions of this Ordinance and any other Borough regulation, the more restrictive shall apply.

3. By deleting Section 101 "Definitions," Subsection B "Specific Definitions," and replacing it with the following:

B. Specific Definitions

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.

Basement: Any area of the building having its floor below ground level on all sides.

Borough: The Borough of Avondale, Chester County, Pennsylvania.

Building: A combination of materials assembled to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

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

Construction: The construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure.

DCED: Pennsylvania Department of Community and Economic Development.

DEP: Pennsylvania Department of Environmental Protection.

Development: Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

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 the passage of water.

F.C.U.P.: Floodplain Construction/Use Permit.

FEMA: Federal Emergency Management Agency.

FIRM: Federal Insurance Rate Map issued by FEMA.

FIS: Flood Insurance Study.

Flood: A temporary inundation of normally dry land areas.

Floodplain Area: A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

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

Floodway: The designated area of a floodplain 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.

Historic Structure: Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. 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;
- c. 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; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

Identified Floodplain Area: The floodplain area specifically identified in this Ordinance as being inundated by the one hundred (100) year flood.

Land Development: Any of the following activities:

- a. the improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - (1) a group of two or more residential or non-residential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - (2) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, lease holds, condominiums, building groups or other features.
- b. a subdivision of land.

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

Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. This term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

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.

Minor Repair: The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

New Construction: Structures for which the start of construction commenced on or after April 22, 1987, and includes any subsequent improvements thereto.

Obstruction: Any wall, dam, wharf, embankment, levee, dike, pile abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure or mater in, along, across, or projecting into any channel, watercourse, or flood-prone area (i) which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water, or (ii) which is placed where the flow of the water might carry the same downstream to the damage of life and property.

One Hundred Year Flood: A flood that, on the average, is likely to occur once every one hundred (100) years (*i.e.*, that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

Person: An individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

Recreational Vehicle: A vehicle which is: (a) built on a single chassis; (b) not more than 400 square feet, measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light-duty truck; (d) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Flood Elevation: The one hundred (100) year flood elevation, plus a freeboard safety factor of one and one-half (1-1/2) feet.

Special Permit: A special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.

Structure: Anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, manufactured homes and other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land.

Subdivision: The division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other division of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however,

that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

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

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure when the cost of the improvement equals or exceeds fifty (50) percent or more of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" or "repetitive loss" regardless of the actual repair work performed. This term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or;
- (b) Any alteration of a "historic structure, provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Uniform Construction Code (UCC): The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the Commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

Zoning Ordinance: The Avondale Borough Zoning Ordinance of 1963, Ordinance No. 172, as amended, and the Code of Ordinances of the Borough of Avondale, as amended, Chapter XXVI "Zoning," which codifies that Zoning Ordinance.

4. By deleting the text in Section 103 "Designation and Identification of Floodplain Areas," Subsection A "Areas Considered Floodplain," and replacing it with the following:

The identified floodplain area shall be those areas of the Borough which are subject to the one hundred (100) year flood, as identified in the Flood

Insurance Study ("FIS") dated September 29, 2006, and the accompanying maps as prepared for the Federal Emergency Management Agency ("FEMA"), or the most recent revision thereof, including all digital data developed as part of the FIS.

5. By adding the following as a new Subpart 1.d. in Section 103 "Designation of Floodplain Areas," Subsection B "Nomenclature for Floodplain Areas":
 - d. FE (Special Floodplain Area) - the areas identified as Zone AE in the Flood Insurance Study, where one hundred (100) year flood elevations have been provided, but no floodway has been delineated.
6. By changing Section 104 "Permitted and Prohibited Structures and/or Uses and/or Activities," Subsection B "Prohibited Uses, Structures and Activities," Part 1, Subpart (i) so that the listed chemicals, materials and/or substances are identified by numbers in parentheses rather than letters in parentheses.
7. By adding the following as a new Part 3 in Section 105 "Technical Provisions," Subsection B "Floodway and Stream Setback Requirements":
 3. Within any FE (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.
8. By amending Section 106 "Design and Construction Standards," to add a new Subsection N "Uniform Construction Code Coordination" as follows:

N. Uniform Construction Code Coordination

The Standards and Specifications contained in 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this Ordinance, to the extent that they are more restrictive and/or supplement the requirements of this Ordinance.

International Building Code (IBC) 2003 or the latest edition thereof:
Sections 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

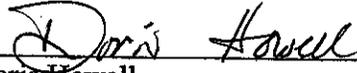
International Residential Building Code (IRC) 2003 or the latest edition thereof:
Sections R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

09/13/2006

Passed by Borough Council, this 26 day of September, 2006.


Robert W. Cleveland, Jr.
President, Borough Council

Approved by the Mayor, this 26 day of September, 2006.


Doris Howell
Mayor

Enacted, this 26 day of September, 2006.

BOROUGH OF AVONDALE


Rebecca Brownback
Borough Secretary