

**BOROUGH OF GREENCASTLE
FRANKLIN COUNTY PENNSYLVANIA**

ORDINANCE NO. 2012-03

**AN ORDINANCE OF THE BOROUGH OF GREENCASTLE, FRANKLIN COUNTY,
PENNSYLVANIA AMENDING CHAPTER 205 OF THE CODE OF THE BOROUGH
OF GREENCASTLE TO INCORPORATE VARIOUS FLOODPLAIN PROVISIONS.**

WHEREAS, pursuant to its powers under laws of the Commonwealth of Pennsylvania, the general supervision of the affairs of the Borough of Greencastle, Commonwealth of Pennsylvania, is in the hands of its Borough Council; and

WHEREAS, said Borough Council deems it to be in the best interest of the public health, safety, and welfare to amend Chapter 205 of the Code of the Borough of Greencastle to comply with Federal and State Floodplain Management requirements.

NOW THEREFORE BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Greencastle, Franklin County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

SECTION I: Chapter 205 of the Code of the Borough of Greencastle, entitled "Zoning", shall be amended to add Article XIV, entitled "Floodplain Areas" which shall include the following:

ARTICLE XIV FLOODPLAIN AREAS

§205-63. Any proposed use occurring within a floodplain as identified in Ordinance 2012-02, the Flood Plain Management Ordinance, as amended from time to time, shall be in strict conformity with the provisions of the Zoning Ordinance and the Flood Plain Management Ordinance.

§205-64. ESTABLISHMENT OF FLOOD PLAIN OVERLAY DISTRICTS:

1. Overlay Concept.

A. The Flood Plain Districts described in the Floodplain Management Ordinance shall be overlays to the existing underlying districts as shown on the Official Zoning Map, and as such, the provisions for the Flood Plain Districts shall serve as a supplement to the underlying district provisions, provided they are a permitted use in such underlying district.

B. Where there happens to be any conflict between the provisions or requirements of any of the Flood Plain provisions or requirements of any of the Flood Plain Districts and those of any underlying district, the more restrictive provisions shall apply.

2. Zoning Map. The boundaries of the Flood Plain Districts are established as incorporated into the Greencastle Borough Zoning Map.

§205-65. VARIANCES WITHIN THE FLOOD PLAIN DISTRICTS:

1. General. If compliance with any of the requirements of this Article or the use requirements of the Floodplain Management Ordinance would result in an exceptional hardship for a prospective builder, developer, or landowner, the Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.

SECTION II: Chapter 205 of the Code of the Borough of Greencastle, Section 45 thereof, entitled "Special Exceptions" shall be amended so the existing language shall become subsection "A" and a subsection "B" shall be added which shall include the following:

B. Review Factors for Special Exceptions in Floodplain Districts.

1. In reviewing applications for Special Exceptions in Flood Plain Districts, as permitted by the Floodplain Management Ordinance or the Zoning Ordinance, the Zoning Hearing Board shall consider all relevant factors and procedures specific in other sections of the Zoning Ordinance and:
 - A. The danger to life and property due to increased flood elevations or velocities caused by encroachments.
 - B. The danger that materials may be swept onto other lands or downstream to the injury of others.
 - C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
 - E. The importance of the services provided by the proposed facility to the community.
 - F. The requirements of the facility for a waterfront location.
 - G. The availability of alternative locations not subject to flooding for the proposed use
 - H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - I. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
 - J. The safety of access to the property in time of flood of ordinary and emergency vehicles.
 - K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
 - L. Such other factors which are relevant to the purposes of this Ordinance.
2. Supplemental Technical Review. The Zoning Hearing Board may refer any application and accompanying documentation pertaining to any request for a special exception to any engineer or other qualified persons or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.

3. Conditions For Approving Special Exceptions.

A. Special exceptions shall only be issued after the Zoning Hearing Board has determined that the granting of such will not result in:

- (1) Unacceptable or prohibited increases in flood heights;
- (2) Additional threats to public safety;
- (3) Extraordinary public expense;
- (4) The creation of nuisances;
- (5) Any fraud or victimization of the public; or
- (6) Any conflict with local laws or ordinances.

B. No special exception shall be granted for any proposed use, development, or activity within any floodway district (FW) that will cause any increase in flood elevations.

SECTION III: Chapter 205 of the Code of the Borough of Greencastle, Section 44 thereof, entitled "Variances" shall be amended to add a subsection "C" which shall include the following:

C. Variance Procedures and Requirements. Requests for variances within an identified floodplain area shall be considered by the Zoning Hearing Board in accordance with the following:

1. No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the one-hundred (100) year flood elevation.
2. Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any of the other requirements pertaining specifically to Development Which May Endanger Human Life.
3. If granted, a variance shall involve only the least modification necessary to provide relief.
4. In granting any variance, the Zoning Hearing Board 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 Ordinance.
5. Whenever a variance is granted, the Zoning Hearing Board 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.

6. In reviewing any request for a variance, the Zoning Hearing Board shall consider, but not be limited to 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 not result in an unacceptable or prohibited increase in flood elevations, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimization of the public or conflict with any other applicable local or State ordinance and regulations.
 - (d) Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-hundred (100) year flood.
7. A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.

SECTION IV: REPEALER. All provisions of previous ordinances of the Borough of Greencastle, or parts thereof, which are contrary or inconsistent to this Ordinance, are expressly repealed.

SECTION V: SAVINGS CLAUSE. In all other respects, the Code of the Borough of Greencastle shall remain as previously enacted and ordained.

SECTION VI: EFFECTIVE DATE. This Ordinance shall be effective on January 18, 2012 and shall remain in force until modified, amended or rescinded by the Borough of Greencastle, Franklin County, Pennsylvania.

ENACTED AND ORDAINED this 3rd day of January, 2012 by the Council of the Borough of Greencastle, Franklin County, Pennsylvania.

ATTEST:

/S/ Kenneth W. Womack
Kenneth W. Womack, Secretary

/S/ Charles R. Eckstine
Charles R. Eckstine, President

/S/ Robert E. Eberly
Robert E. Eberly, Mayor