



INTRODUCED BY: **Renee S. Nelson**

DATE: **October 6, 2015**

AN ORDINANCE

Repealing Article 190 "Construction Board of Adjustment and Appeals" of the Codified Ordinances of the City of York, Pennsylvania, in its entirety and establishing a new Article 190 "Consolidated Board of Appeals," and repealing and amending inconsistent ordinances thereto.

WHEREAS, the City of York, Pennsylvania previously adopted Article 190 Construction Board of Adjustment and Appeals establishing the Construction Board of Adjustment and Appeals; and

WHEREAS, the City of York has elected to participate in the York County Uniform Construction Code Board of Appeals; and

WHEREAS, it is necessary to provide an avenue of appeals for matters relating to nuisance abatement, determination of blight, vacant property registration, the Property Maintenance Code and the Fire Code; and

WHEREAS, the City of York desires to establish Article 190 "Consolidated Board of Appeals" for the purpose of hearing said appeals, and to repeal and amend inconsistent ordinances thereto;

NOW, THEREFORE, BE IT ORDAINED, that the Council of the City of York, Pennsylvania hereby repeals Article 190 "Construction Board of Adjustment and Appeals" in its entirety and replaces it with Article 190 "Consolidated Board of Appeals," and repeals and amends inconsistent ordinances thereto as follows:

SECTION ONE: That Article 190 "Construction Board of Adjustment and Appeals" be amended in its entirety to establish Article 190 "Consolidated Board of Appeals" as follows:

ARTICLE 190
Consolidated Board of Appeals

- | | |
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| 190.01 Establishment | 190.09 Board Action After Property Maintenance/Fire Code Appeal |
| 190.02 Members Appointed | 190.10 Appeal of Blight Designation |
| 190.03 Quorum | 190.11 Board Action After Blight Designation Appeal |
| 190.04 Secretary; Records | 190.12 Time Limit for Variances |
| 190.05 Board Powers | 190.13 Notice of Appeal |
| 190.06 Nuisance Abatement Appeals | 190.14 Rules and Regulations; Meetings |
| 190.07 Board Action After Nuisance Abatement Appeal | 190.15 Decisions of the Board |
| 190.08 Property Maintenance/Fire Code Appeals | 190.16 Compensation |
| | 190.17 Other Appeals Boards Abolished |

190.01 ESTABLISHMENT

There is hereby established a board to be known as the Consolidated Board of Appeals, hereinafter referred to as "the Board," which shall consist of three members, and two alternates to be appointed by the Mayor with the advice and consent of Council. In addition to the appointed members, the code officials or designees of the Department of Economic Development and the Department of Fire/Rescue Services shall both serve as ex-officio members of the Board, but shall have no vote on any matter before the Board.

190.02 MEMBERS APPOINTED

Initial appointments to the Board shall be made as follows: One member shall be appointed for a term of one year; one member shall be appointed for a term of two years; and one member shall be appointed for a term of three years. Subsequent appointments or reappointments shall be made for terms of three years. Alternate members shall serve one-year terms. A vacancy shall be filled for an expired term in the manner in which the original appointment was made. In addition to the appointed members, the code officials or designees of the Department of Economic Development and the Department of Fire/Rescue Services shall both serve as ex-officio members of the Board, but shall have no vote on any matter before the Board.

190.03 QUORUM

A simple majority of the Board shall constitute a quorum. The affirmative vote of the majority present shall be required to vary any provisions of the Property Maintenance or Fire codes or to modify a decision of the code officials or designees of the Department of Economic Development and/or the Department of Fire/Rescue Services. In the event that regular members are unable to attend a meeting of the Board, the alternate members shall vote. Alternate members shall have the right to participate in all other aspects of a Board meeting.

190.04 SECRETARY; RECORDS

The city clerk or designee shall act as the secretary of the Board and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of any member and the failure of any member to vote.

190.05 BOARD POWERS

The Board shall have the power to hear appeals of decisions of the assignment of nuisance abatement points, determinations of blight and decisions and interpretations of the code officials or designees of the Department of Economic Development and the Department of Fire/Rescue Services and to consider equivalencies to the requirements of the various technical codes as adopted by the City. For the purposes of this article, "technical codes" means the Fire Prevention Code and Property Maintenance Code of the City, their associated reference standards and codes, and any rules and regulations promulgated thereunder.

190.06 NUISANCE ABATEMENT APPEALS

The owner of a building, structure or premises that has been assigned nuisance abatement points or who has had the vacant property registration fee imposed may appeal the assignment of such points or imposition of such fees to the Board.

- (a) At the hearing, the Board shall determine whether the nuisance abatement points were properly assessed to the property and whether the property constitutes a public nuisance as defined herein or in the case of vacant property registration fees that said fees were appropriately imposed.
- (b) If the Board concludes that the property constitutes a public nuisance, the Board may make a recommendation to the City as to whether the City should invoke the remedies available to it under Section 1751.05 of this article or enter into a Nuisance Abatement Agreement with the property owner as provided by Section 1751.12 hereof. Although not binding, the City may take the Board's recommendation into consideration when determining the proper remedy so as to promptly abate the public nuisance.

190.07 BOARD ACTION AFTER NUISANCE ABATEMENT APPEAL

The Board shall reach a decision at the hearing, and said decision shall be set forth in writing within thirty (30) days of the hearing. Every decision of the Board shall be final, subject, however, to such remedy as any party may have at law.

190.08 PROPERTY MAINTENANCE/FIRE CODE APPEALS

The owner of a building, structure or service system, or his duly authorized agent, or a person who has been issued an order or directive pursuant to the technical codes may appeal a decision of the code officials or designees of the Department of Economic Development and/or the Department of Fire/Rescue Services to the Board whenever any one or more of the following conditions is claimed to exist:

- (a) The code officials or designees of the Department of Economic Development and/or the Department of Fire/Rescue Services have rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
- (b) The provisions of the technical codes do not apply in the specific case.
- (c) That an equally good or more desirable form of installation, also known as an equivalency, can be employed in any specific case.
- (d) The true intent and meaning of the technical codes or regulations thereunder have been misconstrued or incorrectly interpreted.

190.09 BOARD ACTION AFTER PROPERTY MAINTENANCE/FIRE CODE APPEAL

The Board when so appealed to and after a hearing, may alter the application or any provision of the technical codes to any particular case when, in its opinion, the enforcement thereof would do manifest injustice or would be contrary to the spirit and purpose of these or the technical codes or public interest, and also finds the following:

- (a) That special conditions and circumstances exist which are peculiar to the building, structure or service system involved which are not generally applicable to other buildings, structures, or service systems.
- (b) That the special conditions and/or circumstances do not result from the willful action or inaction of the applicant.
- (c) That granting a request will be based upon a decision that the true intent and scope of the codes in question is met, and that alternate materials, methods, or means of construction provide an equivalent level of protection.
- (d) That the request granted is the minimum action that will make possible the reasonable use of the building, structure or service system.
- (e) That the grant of the request will be in harmony with the general intent and purpose of the technical codes and will not be detrimental to the public health, safety and general welfare.

190.10 APPEAL OF BLIGHT DESIGNATION

The owner of a building, structure or premises that has been determined to be blighted may appeal such determination to the Board.

- (a) At the hearing, the Board shall determine whether the property is blighted under 35PS §1712.1 or 26 Pa. C.S.A. §205 or whether the property constitutes a public nuisance.

190.11 BOARD ACTION AFTER BLIGHT DESIGNATION APPEAL

The Board shall reach a decision at the hearing, and said decision shall be set forth in writing within thirty (30) days of the hearing. Every decision of the Board shall be final, subject, however, to such remedy as any party may have at law.

190.12 TIME LIMIT FOR VARIANCES

In granting a request for a variance to the technical codes, the Board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both and such time limits may not be extended. In addition, the Board may prescribe appropriate conditions and safeguards in conformity with the technical codes. Violation of the conditions and/or safeguards shall be deemed a violation of the technical codes.

190.13 NOTICE OF APPEAL

The notice of appeal shall be in writing and filed within thirty calendar days after the decision is rendered by the code officials or designees of the Department of Economic Development and/or the Department of Fire/Rescue Services. The notice of appeal shall be filed in a form acceptable to the Board and shall be accompanied by the appropriate fee as is otherwise set forth by resolution of the Council.

190.14 RULES AND REGULATIONS; MEETINGS.

The Board shall establish such rules and regulations for its own procedure not inconsistent with the provisions of this article. The Board shall meet on the call of the chairman, or shall meet within thirty days after notice of an appeal has been received, or at such regularly scheduled periodic meetings as the Board shall annually set. Notice of the annual schedule of meetings or other meetings of the Board shall be published in a newspaper of general circulation one time.

190.15 DECISIONS OF THE BOARD.

The Board shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the Board shall also include the reasons for the decision. If a decision of the Board reverses or modifies a refusal, order, or disallowance of the code officials or designees of the Department of Economic Development and/or the Department of Fire/Rescue Services, the code official or designee shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing with the office of the City Clerk and the code officials or designees of the Department of Economic Development and the Department of Fire/Rescue Services and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise delivered to the appellant and a copy shall be kept publicly posted in the office of the code officials or designees of the Department of Economic Development and the Department of Fire/Rescue Services for two weeks after filing. Every decision of the Board shall be final; subject however, to such remedy as any party may have at law.

190.16 COMPENSATION.

The members of the Board may be compensated as otherwise provided for by resolution of Council.

190.17 OTHER APPEALS BOARDS ABOLISHED.

Any and all boards heretofore created by the City for the hearing of appeals of declaration of nuisance, blight or the technical codes as described herein are hereby abolished and replaced with the Consolidated Board of Appeals.

SECTION TWO: That Article 1501 "Standard Adopted" of the Fire Prevention Code, Subsection 1501.04(10) "Board of Appeals" be repealed as follows:

~~(10) Section 108. Board of Appeals. Means of Appeal. Any person shall have the right to appeal a decision by the Fire Code Official to the Construction Board of Adjustment and Appeals or as is otherwise established by the ordinances of the City of York, Pennsylvania.~~

SECTION THREE: That Article 1701 "BOCA National Building Code," Subsection 1701.02(8) "Means of Appeal" be amended as follows:

(8) Section 121.0 Means of Appeal is hereby amended by deleting all existing text and adding the following section to read:

Section 121.0 Means of Appeal. Any person shall have the right to appeal a decision by the Code Official to the Construction Board of Adjustment and Appeals **York County Uniform Construction Code Board of Appeals** as is otherwise established by the ordinances of the City of York, Pennsylvania.

SECTION FOUR: That Article 1711 "Uniform Construction Code," Subsection 1711.01(d) be amended as follows:

~~(d) A Board of Appeals shall be established by resolution of the governing body of the City in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, the Board of Appeals shall be established by joint action of the participating municipalities.~~

(d) Appeals related to the administration and enforcement of the Uniform Construction Code as adopted by the City of York, Pennsylvania shall be heard by the York County Uniform Construction Code Board of Appeals.

SECTION FIVE: That Article 1729 "Vacant Property Registration," Subsection 1729.06 "Appeal Rights," be repealed as follows:

~~1729.06 APPEAL RIGHTS.~~

~~The owner shall have the right to appeal the imposition of the registration fees to the Nuisance Abatement Board of Appeals upon filing an application in writing to the Bureau of Permits Planning and Zoning no later than 15 calendar days after the date of the billing statement. On appeal, the owner shall bear the burden of providing satisfactory objective proof of occupancy as defined in Section 1729.02(d).~~

SECTION SIX: That Article 1751 "Nuisance Abatement," Subsection 1751.11 "Nuisance Abatement Board of Appeals" be repealed as follows:

~~1751.11 NUISANCE ABATEMENT BOARD OF APPEALS.~~

~~(a) The Board shall consist of three members and two alternates to be appointed by the Mayor with the advice and consent of Council. Initial appointments to the Board shall be made as follows: One member shall be appointed for a term of one year; one member shall be appointed for a term of two years; and one member shall be appointed for a term of three years. Subsequent appointments or reappointments shall be made for terms of three years. Alternate members shall serve one year terms. A vacancy shall be filled for an expired term in the manner in which the original appointment was made. A simple majority of the Board shall constitute a quorum.~~

~~(b) The Board shall establish such rules and regulations for its own procedure not inconsistent with the provisions of this article.~~

~~(c) At the hearing, the Board shall determine whether the points were properly assessed to the property and whether the property constitutes a public nuisance as defined herein.~~

~~(d) If the Board concludes that the property constitutes a public nuisance, the Board may make a recommendation to the City as to whether the City should invoke the remedies available to it under Section 1751.05 of this article or enter into a Nuisance Abatement Agreement with the property owner as provided by Section 1751.12 hereof. Although not binding, the City may take the Board's recommendation into consideration when determining the proper remedy so as to promptly abate the public nuisance.~~

~~(e) The Board shall reach a decision at the hearing, and said decision shall be set forth in writing within thirty (30) days of the hearing. Every decision of the Board shall be final, subject, however, to such remedy as any party may have at law.~~

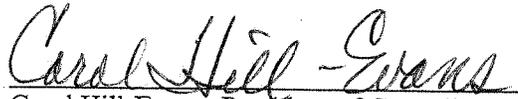
SECTION SEVEN: This ordinance shall become effective twenty-days after approval by the Mayor.

PASSED FINALLY: **October 20, 2015**

BY THE FOLLOWING VOTE:

YEAS: Helfrich, Nixon, Satterlee, Nelson, Hill-Evans - 5

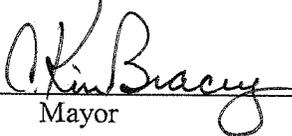
NAYS: None


Carol Hill-Evans, President of Council

ATTEST:


Dianna L. Thompson-Mitchell, City Clerk

Presented to the Mayor for approval this 21st day of October 2015.

APPROVED:  Mayor 10/22/15 Date

VETOED: _____ Mayor _____ Date

Council of the City of York, PA
Session 2015
Bill No. 27
~~Ordinance No. 27~~



INTRODUCED BY: **David Satterlee**

DATE: **October 6, 2015**

AN ORDINANCE

Amending Article 1713 "Flood Plain Management," of the York City Codified Ordinances in its entirety to comply with state and federal regulations.

WHEREAS, the governing body of the City of York finds that it is necessary to update the Flood Plain Management Ordinance; and

WHEREAS, Article 1713 shall be amended for the purpose of complying with state and federal regulations.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of York, Pennsylvania, that Article 1713 "Flood Plain Management" is hereby amended as attached hereto and incorporated herein by reference.

PASSED FINALLY: **October 20, 2015**

BY THE FOLLOWING VOTE:

YEAS: **Helfrich**, **Nixon**, **Satterlee**, **Nelson**, **Hill-Evans** - 5

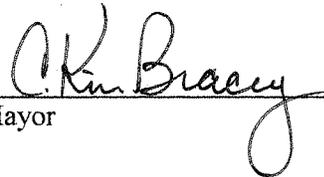
NAYS: **None**.


Carol Hill-Evans, President of Council

ATTEST:


Dianna L. Thompson-Mitchell, City Clerk

Presented to the Mayor for approval this **21st** day of **October 2015**.

Approved:  **10/21/15**
Mayor Date

Vetoed: _____
Mayor Date

**ARTICLE 1713
FLOOD PLAIN MANAGEMENT**

1713.01	Statutory authorization.	1713.06	Activities requiring special permits.
1713.02	General provisions.		
1713.03	Administration.	1713.07	Existing structures in identified floodplain areas.
1713.04	Identification of floodplain areas.		
1713.05	Technical provisions.	1713.08	Variances.
		1713.09	Definitions.

CROSS REFERENCES
(FP/GW) FLOODPLAIN/GREENWAYS DISTRICTS – see P&Z 1303.18

1713.01 STATUTORY AUTHORIZATION

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Council of the City of York does hereby order as follows.

1713.02 GENERAL PROVISIONS

(A) Intent

The intent of this Ordinance is to:

1. Promote the general health, welfare, and safety of the community.
2. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
3. Minimize danger to public health by protecting water supply and natural drainage.
4. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
5. Comply with federal and state floodplain management requirements.

(B) 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 City of York unless a Permit has been obtained from the Floodplain Administrator.

(C) Abrogation and Greater Restrictions

This ordinance supersedes any other conflicting provisions which may be in effect in identified floodplain 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 between any of the provisions of this Ordinance, the more restrictive shall apply.

(D) Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

(E) Warning and Disclaimer of Liability

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the City of York or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

1713.03 ADMINISTRATION

(A) Designation of the Floodplain Administrator

The City Planner is hereby appointed to administer and enforce this ordinance and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Mayor.

(B) Permits Required

A Permit shall be required before any construction or development is undertaken within any area of the City of York.

(C) Duties and Responsibilities of the Floodplain Administrator

1. The Floodplain Administrator shall issue a 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.

2. Prior to the issuance of any permit, the Floodplain Administrator 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 (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
3. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
4. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.
5. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Council of the City of York for whatever action it considers necessary.
6. The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of this ordinance including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
7. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program.
8. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the floodplain administrator/manager.
9. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or the latest edition thereof adopted by the State of Pennsylvania.

(D) Application Procedures and Requirements

1. Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the City of York. Such application shall contain the following:
 - a. Name and address of applicant.
 - b. Name and address of owner of land on which proposed construction is to occur.

- c. Name and address of contractor.
- d. Site location including address.
- e. Listing of other permits required.
- f. Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
- g. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

(E) If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:

1. All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
2. All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
3. Adequate drainage is provided so as to reduce exposure to flood hazards;
4. Structures will be anchored to prevent floatation, collapse, or lateral movement;
5. Building materials are flood-resistant;
6. Appropriate practices that minimize flood damage have been used; and
7. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.

(F) Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:

1. A completed Permit Application Form.
2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - a. North arrow, scale, and date;
 - b. Topographic contour lines, if available;
 - c. The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;

- d. The location of all existing streets, drives, and other access ways; and
 - e. The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
- a. The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - b. The elevation of the base flood;
 - c. Supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC or latest edition thereof adopted by the State of Pennsylvania.
4. The following data and documentation:
- a. Detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - b. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
 - c. Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within Floodway Area (See 1713.04(B)(1)) when combined with all other existing and anticipated development, will not increase the base flood elevation at any point.
 - d. A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.

Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.
 - e. Detailed information needed to determine compliance with 1713.05(C)(6), Storage, and 1713.05(D), Development Which May Endanger Human Life, including:
 - i. The amount, location and purpose of any materials or substances referred to in Sections 1713.05(C)(6) and 1713.05(D), which are intended to be used, produced, stored or otherwise maintained on site.

- ii. A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in 1713.05(D), during a base flood.
 - f. The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
 - g. Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
- (G) Applications for Permits shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

(H) Review by County Conservation District

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Floodplain Administrator to the County Conservation District for review and comment prior to the issuance of a Permit. The recommendations of the Conservation District shall be considered by the Floodplain Administrator for possible incorporation into the proposed plan.

(I) Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

(J) Changes

After the issuance of a Permit by the Floodplain Administrator, 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 Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.

(K) Placards

In addition to the Permit, the Floodplain Administrator shall issue a placard, or similar document, which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Permit, the date of its issuance, and be signed by the Floodplain Administrator.

(L) Start of Construction

1. Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The issuance of development permit does not refer to the zoning approval.

2. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
3. Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original permit is compliant with the ordinance & FIRM/FIS in effect at the time the extension is granted.

(M) Enforcement

1. Notices

Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulations adopted pursuant thereto, the Floodplain Administrator 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 not to exceed a period of thirty (30) days 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 actions which, if taken, will effect compliance with the provisions of this Ordinance.

(N) Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of a summary offense and upon conviction shall pay a fine to the City of York, of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1000.00) plus costs of prosecution. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with this Ordinance shall not excuse the violation or noncompliance or permit it to continue. All such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Council of the City of York to be a public nuisance and abatable as such.

(O) Appeals

1. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Ordinance, may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.
2. Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with the Municipal Planning Code and any other local ordinance.
3. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

1713.04 IDENTIFICATION OF FLOODPLAIN AREAS

(A) Identification

The identified floodplain area shall be:

1. Any areas of the City of York, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated December 16, 2015 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study and,
2. Any Community Identified Flood Hazard Areas

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by the City of York and declared to be a part of this ordinance.

(B) Description and Special Requirements of Identified Floodplain Areas

The identified floodplain area shall consist of the following specific areas:

1. The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
 - a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - b. Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
2. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
 - a. The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
 - b. AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
 - i. No permit shall be granted for any construction, development, use, or activity within any AE Area/District without floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
 - ii. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

(C) The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable

sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.

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

(D) The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

(E) Changes in Identification of Area. The Identified Floodplain Area may be revised or modified by the Council of the City of York where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See 5.01 (B) for situations where FEMA notification is required.

(F) Boundary Disputes. Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Floodplain Administrator and any party aggrieved by this decision or determination may appeal to the Council of the City of York. The burden of proof shall be on the appellant.

(G) Jurisdictional Boundary Changes. Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in CFR 44 60.3.

1713.05 TECHNICAL PROVISIONS

(A) General

1. Alteration or Relocation of Watercourse
 - a. 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 the municipality, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.
 - b. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
 - c. In addition, FEMA and the Pennsylvania Department of Community and Economic

Development, shall be notified prior to any alteration or relocation of any watercourse.

2. When the City of York proposes to permit the following encroachments:
 - a. Any development that causes a rise in the base flood elevations within the floodway; or
 - b. Any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or
 - c. Alteration or relocation of a stream (including but not limited to installing culverts and bridges)
 - d. The applicant shall (as per 44 CFR Part 65.12):
 - i. Apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
 - ii. Upon receipt of the Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and / or revised floodway reflecting the post-project condition.
 - iii. Upon completion of the proposed encroachments, a community shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.

3. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.

(B) Elevation and Floodproofing Requirements

If a variance is obtained for new construction or substantial improvements in the Identified Floodplain Area in accordance with the criteria in Article 1713.08, then the following provisions apply:

1. Residential Structures
 - a. In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation.
 - b. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation determined in accordance with 1713.04(C) of this ordinance.

c. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.

d. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the latest edition thereof adopted by the State of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

2. Non-residential Structures

a. In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation, or be designed and constructed so that the space enclosed below the Regulatory Flood Elevation:

1. Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,

2. Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:

i. In A Zones, where no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the Regulatory Flood Elevation determined in accordance with 1713.04(C) of this ordinance.

ii. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.

iii. Any non-residential structure, or part thereof, made watertight below the Regulatory Flood Elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. 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 above referenced standards.

iv. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the latest edition thereof adopted by the State of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

3. Space below the lowest floor

a. Basements are prohibited.

b. Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.

c. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

i. 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.

ii. The bottom of all openings shall be no higher than one (1) foot above grade.

iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Historic Structures

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this ordinance, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

5. Accessory structures

Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

a. The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.

- b. Floor area shall not exceed 200 square feet.
- c. The structure will have a low damage potential.
- d. The structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
- e. Power lines, wiring, and outlets will be elevated to the Regulatory 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, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - i. 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.
 - ii. The bottom of all openings shall be no higher than one (1) foot above grade.
 - iii. Openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(C) Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

1. Fill

Within any Identified Floodplain Area the use of fill shall be prohibited unless a variance is obtained in accordance with the criteria in Article 1713.08, then the following provisions apply:

- a. If fill is used, it shall:
 - i. Extend laterally at least fifteen (15) feet beyond the building line from all points;
 - ii. Consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;

- iii. Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
- iv. Be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
- v. Be used to the extent to which it does not adversely affect adjacent properties.

2. 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 ensure 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.

3. Water and Sanitary Sewer Facilities and Systems

- a. All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
- b. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
- c. No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
- d. The design and construction provisions of the UCC and FEMA #348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.

4. Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

5. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

6. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in 1713.05(D), Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.

7. Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

8. Anchoring

- a. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
- b. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

9. Floors, Walls and Ceilings

- a. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
- b. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
- c. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
- d. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other "water-resistant" material.

10. Paints and Adhesives

- a. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.
- b. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
- c. All wooden components (doors, trim, cabinets, etc.) used at or below the Regulatory Flood Elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

11. Electrical Components

- a. Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
- b. Separate electrical circuits shall serve lower levels and shall be dropped from above.

12. Equipment

Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

13. Fuel Supply Systems

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.

14. 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 supplement the requirements of this ordinance.

International Building Code (IBC) 2009 or the latest edition thereof adopted by the State of Pennsylvania:

Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2009 or the latest edition thereof adopted by the State of Pennsylvania:

Secs. R104, R105, R109, R322, Appendix E, and Appendix J.

(D) Development Which May Endanger Human Life

Within any Identified Floodplain Area, any structure of the kind described in Subsection 1, below, shall be prohibited. If a variance is obtained in accordance with the criteria in 1713.08, then the following provisions apply: (1713.05(D)(2-4)).

1. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:
 - a. Will be used for the production or storage of any of the following dangerous materials or substances; or,

- b. Will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
 - c. Will involve the production, storage, or use of any amount of radioactive substances;
 - d. Shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:
 - i. Acetone
 - ii. Ammonia
 - iii. Benzene
 - iv. Calcium carbide
 - v. Carbon disulfide
 - vi. Celluloid
 - vii. Chlorine
 - viii. Hydrochloric acid
 - ix. Hydrocyanic acid
 - x. Magnesium
 - xi. Nitric acid and oxides of nitrogen
 - xii. Petroleum products (gasoline, fuel oil, etc.)
 - xiii. Phosphorus
 - xiv. Potassium
 - xv. Sodium
 - xvi. Sulphur and sulphur products
 - xvii. Pesticides (including insecticides, fungicides, and rodenticides)
 - xviii. Radioactive substances, insofar as such substances are not otherwise regulated.
2. Within any Identified Floodplain Area, any new or substantially improved structure of the kind described in Subsection 1, above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
 3. Within any Floodway Area, any structure of the kind described in Subsection 1, above, shall be prohibited. Where permitted within any Identified Floodplain Area, any new or substantially improved residential structure of the kind described in 1713.05(D)(1), above, shall be elevated to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation and built in accordance with 1713.05(A), 1713.05(B) and 1713.05(C).
 4. Where permitted within any Identified Floodplain Area, any new or substantially improved non-residential structure of the kind described in 1713.05(D) above, shall be built in accordance with 1713.05(A), 1713.05(B) and 1713.05(C) including:
 - a. Elevated, or designed and constructed to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation, and

- b. Designed to prevent pollution from the structure or activity during the course of a base flood.

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

(E) Special Requirements for Subdivisions and Development

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision and Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

(F) Special Requirements for Manufactured Homes

Within any Identified Floodplain Area manufactured homes shall be prohibited. If a variance is obtained in accordance with the criteria in Article 1713.08, then the following provisions apply:

1. Within any Identified Floodplain Area manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
2. Where permitted within any Identified Floodplain Area, all manufactured homes, and any improvements thereto, shall be:
 - a. Placed on a permanent foundation;
 - b. elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above base flood elevation;
 - c. And anchored to resist flotation, collapse, or lateral movement.
 - d. And have all ductwork and utilities including HVAC/heat pump elevated to the Regulatory Flood Elevation.
3. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 "International Residential Building Code" or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 PA Code Chapter 401-405 shall apply.
4. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the latest edition thereto adopted by the State of Pennsylvania, and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for

the proposed unit(s) installation.

(G) Special Requirements for Recreational Vehicles

Within any Identified Floodplain Area recreational vehicles shall be prohibited. If a variance is obtained in accordance with the criteria in Article 1713.08, then the following provisions apply:

1. Recreational vehicles in Zones A, A1-30, AH and AE must either:
 - a. Be on the site for fewer than 180 consecutive days, and
 - b. Be fully licensed and ready for highway use,OR
 - c. Meet the permit requirements for manufactured homes in 1713.05(E).

1713.06 ACTIVITIES REQUIRING SPECIAL PERMITS

(A) General

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any Identified Floodplain Area unless a Special Permit has been issued by the City of York:

1. 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:
 - a. Hospitals
 - b. Nursing homes
 - c. Jails or prisons
2. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

(B) Application Requirements for Special Permits

Applicants for Special Permits shall provide five copies of the following items:

1. A written request including a completed Permit Application Form.
2. A small scale map showing the vicinity in which the proposed site is located.
3. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - a. North arrow, scale and date;

- b. Topography based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at intervals of two (2) feet;
 - c. All property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
 - d. The location of all existing streets, drives, other access ways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
 - e. The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development;
 - f. The location of the floodplain boundary line, information and spot elevations concerning the base flood elevation, and information concerning the flow of water including direction and velocities;
 - g. The location of all proposed buildings, structures, utilities, and any other improvements; and
 - h. Any other information which the municipality considers necessary for adequate review of the application.
4. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:
- a. Sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;
 - b. For any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;
 - c. Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood;
 - d. Detailed information concerning any proposed floodproofing measures;
 - e. Cross section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
 - f. Profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
 - g. Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.
5. The following data and documentation:
- a. 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;
- b. Certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the base flood;
 - c. 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 base flood, including a statement concerning the effects such pollution may have on human life;
 - d. 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 base flood elevation and flows;
 - e. 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 base flood elevation and the effects such materials and debris may have on base flood elevation and flows;
 - f. The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development;"
 - g. Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control;
 - h. Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and
 - i. An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.

(C) Application Review Procedures

Upon receipt of an application for a Special Permit by the City of York the following procedures shall apply in addition to those of Article 1713.03:

1. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the York City Planning Commission and York City engineer for review and comment.
2. If an application is received that is incomplete, the City of York shall notify the applicant in writing, stating in what respect the application is deficient.

3. If the City of York decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
4. If the City of York approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by registered or certified mail, within five (5) working days after the date of approval.
5. Before issuing the Special Permit, the City of York shall allow the Department of Community and Economic Development thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the City of York.
6. If the City of York does not receive any communication from the Department of Community and Economic Development during the thirty (30) day review period, it may issue a Special Permit to the applicant.
7. If the Department of Community and Economic Development should decide to disapprove an application, it shall notify the City of York and the applicant, in writing, of the reasons for the disapproval, and the City of York shall not issue the Special Permit.

(D) Special Technical Requirements

1. In addition to the requirements of Article 1713.05 of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Article 1713.05 of this Ordinance or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
2. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
 - a. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
 - i. The structure will survive inundation by waters of the base flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE.
 - ii. The lowest floor (including basement) will be elevated to at least one and one half (1 ½) feet above base flood elevation.
 - iii. The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood.
 - b. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in

sufficient detail to allow a thorough technical review by the City of York and the Department of Community and Economic Development.

1713.07 EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

(A) Existing Structures

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of 1713.07(B) shall apply.

(B) Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any Identified Floodplain Area:

1. No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.
2. No expansion or enlargement of an existing structure shall be allowed within AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
3. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
4. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009 IBC and the 2009 IRC or most recent revision thereof adopted by the State of Pennsylvania.
5. Within any Floodway Area/District (See 1713.04(B)), no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
6. Within any AE Area/District without Floodway (See 1713.04(B)(2)), no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

1713.08 VARIANCES

(A) General

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the City of York may, upon request, grant relief from the strict application of the requirements.

(B) Variance Procedures and Conditions

Requests for variances shall be considered by the City of York in accordance with the procedures contained in 1713.03(O) and the following:

1. No variance shall be granted within any Identified Floodplain Area that would cause any increase in BFE. In A Area/District, BFEs are determined using the methodology in 1713.04(C).
2. No variance shall be granted for any construction, development, use, or activity within any Floodway Area/District that would cause any increase in the BFE.
3. No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
4. Except for a possible modification of the Regulatory Flood Elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit (1713.06) or to Development Which May Endanger Human Life (1713.05(D)).
5. No variance shall be granted for: Prohibited Activities (1713.06)
6. If granted, a variance shall involve only the least modification necessary to provide relief.
7. In granting any variance, the City of York 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.
8. Whenever a variance is granted, the City of York 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.
9. In reviewing any request for a variance, the City of York 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.

10. A complete record of all variance requests and related actions shall be maintained by the City of York. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent (1%) annual chance flood.

1713.09 DEFINITIONS

(A) General

Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its' most reasonable application.

(B) Specific Definitions

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.
2. Base flood - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent (1%) annual chance flood).
3. Base flood discharge - the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).
4. Base flood elevation (BFE) - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
5. Basement - any area of the building having its floor below ground level on all sides.
6. Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
7. 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.

8. Existing manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
9. Expansion to an existing manufactured home park or subdivision – the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
10. Flood - a temporary inundation of normally dry land areas.
11. Flood Insurance Rate Map (FIRM) - the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
12. Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
13. 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.
14. Floodproofing - any combination of structural and nonstructural 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.
15. Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
16. Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
17. Historic structures – any structure that is:
 - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of 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 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 that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior or
 - ii. Directly by the Secretary of the Interior in states without approved programs.
- 18. Identified Floodplain Area- this term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the community. See 1713.04(A) and 1713.04(B) for the specifics on what areas the community has included in the Identified Floodplain Area.
- 19. 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.
- 20. 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. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.
- 21. Manufactured home park or subdivision – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- 22. New construction - structures for which the start of construction commenced on or after the effective start date of this floodplain management ordinance and includes any subsequent improvements to such structures. Any construction started after 6/15/1977 and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.
- 23. New manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- 24. 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.
- 25. Post-FIRM Structure - is a structure for which construction or substantial improvement

occurred after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map (FIRM) dated 6/15/1977, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

26. Pre-FIRM Structure - is a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map (FIRM) dated 6/15/1977, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.
27. 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.
28. Regulatory Flood Elevation - the base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1 ½) feet.
29. Repetitive loss – flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.
30. Special permit - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks/ subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.
31. Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.
32. Start of construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it

include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

33. Structure – a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
34. Subdivision - the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions 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.
35. 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.
36. Substantial improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent 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. The term does not, however, include 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.
37. 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 State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

38. Variance- A grant of relief by a community from the terms of a floodplain management regulation.
39. Violation - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.



INTRODUCED BY: **Renee S. Nelson**

DATE: **October 6, 2015**

An Ordinance

Establishing Article 1730 "Foreclosure Property Registry and Maintenance" of the York City Codified Ordinances, and providing for purpose, intent and applicability of the ordinance; requiring the registration and maintenance of certain real property by mortgagees; providing for penalties and enforcement, as well as the regulation, limitation and reduction of blighted real property within the City of York; providing for severability, and an effective date.

WHEREAS, the present mortgage foreclosure crisis has serious negative implications for all communities trying to manage the consequences of property vacancies and lack of property maintenance; and

WHEREAS, the City of York (hereinafter "City") recognizes an ongoing and standing number of mortgage foreclosure properties located throughout the City; and

WHEREAS, the City is challenged to identify and locate owners or foreclosing parties to maintain the properties in the course of foreclosure; and

WHEREAS, the City finds that the presence of mortgage foreclosure properties can lead to a decline in property value, create attractive nuisances and lead to a general decrease in neighborhood and community aesthetics; and

WHEREAS, the City has formally adopted property maintenance codes to regulate building standards for the exterior of structures and the condition of the property as a whole; and

WHEREAS, the City desires to establish a foreclosed property registration process that will identify a contact person to address safety and aesthetic concerns and furthermore minimize the negative impacts and blighting conditions that occur as a result of the foreclosures; and

WHEREAS, the City has a vested interest in protecting neighborhoods against decay, including the consequences of neglected foreclosed properties and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration and certification requirements on properties subject to mortgage foreclosure located within the City pursuant to the City's police powers and authority to regulate property maintenance and housing standards under the Third Class City Code;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of York, Pennsylvania, that Article 1730 "Foreclosure Property Registry and Maintenance" of the York City Codified Ordinances is hereby established as attached hereto and incorporated herein by reference.

PASSED FINALLY: **October 20, 2015**

BY THE FOLLOWING VOTE:

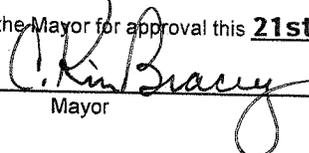
YEAS: Helfrich, Nixon, Satterlee, Nelson, Hill-Evans - 5

NAYS: None

ATTEST:


Dianna L. Thompson-Mitchell, City Clerk
Carol Hill-Evans, President of Council

Presented to the Mayor for approval this 21st day of October 2015

Approved:  10/21/15
Mayor Date

Morpheus/Bills_2015/Article-1730-Foreclosure-Registration

Vetoed: _____
Mayor Date

ARTICLE 1730
Foreclosure Property Registry and Maintenance

1730.01 PURPOSE AND INTENT

It is the purpose and intent of the City to establish a process to address the deterioration and blight of City neighborhoods caused by an increasing amount of properties subject to mortgage foreclosure located within the City, and to identify and regulate foreclosure properties located within the City. It is the City's further intent to establish a registration program as a mechanism to protect neighborhoods from becoming blighted due to the lack of adequate maintenance and security of foreclosure properties.

1730.02 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Accessible Property/Structure shall mean a property that is accessible through a comprised/breached gate, fence, wall, etc., or a structure that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

Codified Ordinances shall mean all applicable provisions of the Codified Ordinances of York, Pennsylvania, as amended from time to time ("Codified Ordinances"), including but not limited to the City's: Zoning Code (Part 13, Article 1301 et seq.), Building and Housing Code (Part 17, Titles 1, 3, and 5, Art. 1700 et seq.), Health and Sanitation Regulations (Part 11, Title 3), General Offenses (Part 7, Art. 705 et seq.), Fire Prevention Ordinances (Part 15, Art. 1501 et seq.).

Blighted Property, for the purposes of this Article only, shall include (a) properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing; (b) properties whose maintenance is not in conformance with the maintenance or other neighboring properties causing a decrease in value of the neighboring properties; (c) properties deemed a public nuisance by the Nuisance Abatement Board; or (d) properties that endanger the public's health, safety, or welfare because the properties or improvements thereon are dilapidated, deteriorated, or violate minimum health and safety standards or lacks maintenance as required by the Codified Ordinances.

Foreclosure Action shall mean a legal action of mortgage foreclosure filed by a Lender in a court of competent jurisdiction.

Foreclosure Property shall mean any real property located in the City, whether vacant or occupied, that is subject to a mortgage foreclosure action filed by a Lender in a court of competent jurisdiction or where title to the property has been transferred to a Lender under a deed in lieu of foreclosure or other such conveyance of title to a Lender. The designation as a "Foreclosure Property" shall remain in place until such time as the property is sold or transferred to a new Owner, other than a Lender, or when the foreclosure action has been withdrawn or concluded in favor of the mortgagor as evidenced by court records.

Enforcement Officer shall mean any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector or building inspector, or other person authorized by the City to enforce the Codified Ordinances.

Lender shall mean any person, bank, trust company, credit union, trust, or any other legal entity or other party that holds a mortgage or security interest against any real property located within the City.

Mortgage Foreclosure Action shall mean a legal action of mortgage foreclosure filed by a Lender in a court of competent jurisdiction.

Owner shall mean any person, legal entity or other party having any ownership interest, whether legal or equitable, in real property. This term shall also apply to any person, legal entity or agent responsible for the construction, maintenance or operation of the property involved.

Property Management Company shall mean a local property manager, property maintenance company or similar entity responsible for the maintenance of a Foreclosure Property.

Vacant shall mean any building or structure that is not legally occupied.

1730.03 APPLICABILITY

These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but rather be an additional remedy available to the City above and beyond any other state, county or local provisions for same.

1730.04 ESTABLISHMENT OF A REGISTRY

The City or designee shall establish a registry cataloging each Foreclosure Property within the City, containing the information required by this chapter.

1730.05 REGISTRATION OF FORECLOSURE PROPERTY

- (a) Any Lender who holds a mortgage or other security interest on real property located within the City shall perform an inspection of the property to determine vacancy or occupancy, upon the filing of a mortgage foreclosure action against the property. The Lender shall, within ten (10) days of the inspection register the property with the Office of Permits, Planning and Zoning, or designee, on forms or website access provided by City, and indicate whether the property is vacant or occupied. A separate registration is required for each Foreclosure Property, whether it is found to be vacant or occupied.
- (b) If the property is occupied, it shall be inspected monthly by the Lender or their designee to verify continued occupancy. If the property becomes vacant or shows evidence of vacancy, the Lender shall within ten (10) days of that inspection, update the property registration to a vacancy status on forms provided by the City.
- (c) Registration pursuant to this section shall contain the name of the Lender and mortgage servicer, the direct mailing address of the Lender and the mortgage servicer, a direct contact name and telephone number for both parties, facsimile number and e-mail address for both parties, the folio or tax number, and the name and twenty-four (24) hour contact phone number of the property management company responsible for the security and maintenance of the property.
- (d) A non-refundable annual registration fee in the amount of \$200.00 per Foreclosure Property, shall accompany the registration form or website registration. The annual registration fee shall not be prorated.
- (e) This section shall also apply to properties where title to the property has been transferred to a Lender under a deed in lieu of foreclosure or other such conveyance of title to a Lender.
- (f) Properties subject to this section shall remain under the annual registration requirement, and the inspection, security and maintenance standards of this chapter until such time as the property is sold or transferred to a new Owner, other than a Lender, or when the foreclosure action has been withdrawn or concluded in favor of the mortgagor as evidenced by court records.
- (g) Any Lender that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.

(h) Failure of the Lender to properly register or to update the registration form from time to time to reflect a change of circumstances as required by this section is a violation of this section and shall be subject to enforcement.

(i) Pursuant to any administrative or judicial finding and determination that any property is in violation of this section, the City may take the necessary action to ensure compliance with and place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance.

1730.06 MAINTENANCE REQUIREMENTS

- (a) Properties subject to this chapter shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.
- (b) The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- (c) Front, side, and rear yards, including landscaping, shall be maintained in accordance with the Codified Ordinances.
- (d) Yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.
- (e) Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape and removal of all trimmings.
- (f) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris and shall comply with the regulations set forth in the City Code.
- (g) Failure of the Lender to properly maintain the property may result in a violation of the Codified Ordinances and issuance of a Citation or Notice of Violation. Pursuant to a finding and determination by the Enforcement Officer or a court of competent jurisdiction, the City may take the necessary action to ensure compliance with this chapter.

(h) In addition to the above, the property is required to be maintained in accordance with the Codified Ordinances.

1730.07 SECURITY REQUIREMENTS

- (a) Properties subject to this chapter shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- (b) A "**secure manner**" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured by re-glazing of the window.
- (c) If a foreclosure property has become vacant, a property manager shall be designated by the Lender to perform the work necessary to bring the property into compliance with the Codified Ordinances, and the property manager must perform regular inspections to verify compliance with the requirements of this chapter, and any other applicable laws.

1730.08 PUBLIC NUISANCE.

For the purpose of this Article only, all blighted real property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the City. Nothing herein shall be deemed to alter or otherwise supersede the terms "Public Nuisance" or "Nuisance" as used elsewhere in the Codified Ordinances.

1730.09 INSPECTIONS FOR VIOLATIONS

Adherence to this Article does not relieve any person, legal entity or agent from any other obligations set forth in the Codified Ordinances, which may apply to the property. Upon transfer of title of a foreclosure property to a new Owner, other than a Lender, the Owner shall be responsible for all violations of the Codified Ordinances and the Owner shall be responsible for meeting with the Office of Permits, Planning, and Zoning within twenty (20) days of the date of transfer for a final inspection report and the Owner shall abate all violations cited in the inspection report with forty-five (45) days of the date of the report.

1730.10 ADDITIONAL AUTHORITY

- (a) If the enforcement officer has reason to believe that a property subject to the provisions of this chapter is posing a serious threat to the public health safety and welfare, the enforcement officer may temporarily secure the property at the expense of the Lender or new Owner.
- (b) The enforcement officer shall have the authority to require the Lender or new Owner of record of any property affected by this chapter, to implement additional maintenance and/or security measure including, but not limited to, securing any and all doors, windows or other openings, employment of an on-site security guard or other measures as may be reasonably required to help prevent further decline of the property.
- (c) If the enforcement officer has reason to believe that a property subject to the provisions of this chapter is posing a serious threat to the public health, safety and welfare, then the enforcement officer may recommend that the City abate the violations and the City may abate the violations and charge the Lender or new Owner with the cost of the abatement.
- (d) If the Lender or new Owner does not reimburse the City for the cost of temporarily securing the property or of any abatement thereof, within thirty (30) days of the City sending an invoice then the City may lien the property with such cost, along with an administrative fee of \$500.00 to recover the administrative personnel services.

1730.11. IMMUNITY OF ENFORCEMENT OFFICER

Any enforcement officer or any person authorized by the City to enforce the provisions of this chapter shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon real property while in the discharge of duties imposed by this chapter.

1730.12 SEVERABILITY. If any provision, sentence, clause, section, or part of this ordinance or the application thereof to any person or circumstance is for any reason found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, such unconstitutionality, illegality or invalidity shall not effect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Council of the City of York that this ordinance would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section, or part not been included herein.

1730.13 EFFECTIVE DATE. This ordinance shall take effect on January 1, 2016. Foreclosure properties existing on the effective date hereof or thereafter are intended to be subject to the requirements of this ordinance.

1730.99 PENALTIES

Any person or entity who shall violate the provisions of this article may be cited and fined pursuant to the Codified Ordinances of the City of York, and/or state or federal law. The following table shows violations of this Article, as may be amended from time to time, which may be enforced pursuant to the provisions of this Article; and the dollar amount of the fine for violation of this Article as it may be amended. The descriptions of "violations" below are for informational purposes only and are not meant to limit or define the nature of the violations. For each section of this Article listed in the schedule of penalties, the entirety of the section may be enforced by the fine provided, regardless of whether all activities prescribed or required are described in the "Description of Violation" column. To determine whether a particular activity is prescribed or required by this Article, the relevant section shall be examined.

Description of Violation	Penalty
Failure to register foreclosed upon or abandoned real property on annual basis and/or any violation of Article 1730.05.	\$500.00
Failure to maintain foreclosed upon or abandoned real property as described in Article 1730.06.	\$100.00 for the first offense; \$250.00 for the second offense; \$500.00 for the third and subsequent offense. A violation is considered a subsequent offense if the violation occurs at the same property as the former violation and ownership has not changed since the former violation.
Failure to secure foreclosed upon or abandoned real property or failure to designate a property manager as described in Article 1730.07.	\$100.00 for the first offense; \$250.00 for the second offense; \$500.00 for the third and subsequent offense. A violation is considered a subsequent offense if the violation occurs at the same property as the former violation and ownership has not changed since the former violation.