

*Pennsylvania Flood Plain  
Management Act of 1978,  
Act 166*

*Pennsylvania Department of Community &  
Economic Development  
Delaware River Basin Commission  
Floodplain Regulations Evaluation Subcommittee  
February 2, 2009*

## *The PA Flood Plain Management Act 1978, Act 166*

- *Mandates Municipal Participation in & Compliance with the NFIP*
- *Adopts minimum requirements of the NFIP by reference*
- *Establishes Higher Regulatory Standards*
  - *Hazardous Materials*
  - *HIGH Risk Land Uses*
- *Designates DCED (GCLGS) as State Coordinator*

## *Mandatory NFIP Participation and Compliance*

- *Minimum regulation under the NFIP*
- *FEMA identified floodplain – 1% Annual Chance Flood*
- *State Treasurer empowered to withhold payment of all funds payable to the municipality from the General Fund or any other fund*

## *Higher Regulatory Standards*

- *Development which may endanger human health*
- *Regulation of high risk land uses*

## *Development Which May Endanger Human Health*

- *Any new or substantially improved structure which:*
  - *will be used for the production or storage of any of the following dangerous materials or substances;*  
*or,*
  - *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,*
  - *will involve the production, storage, or use of any amount of radioactive substances;*
  - *The following are considered dangerous to human health*

## *Development Which May Endanger Human Health*

1. *Acetone*
2. *Ammonia*
3. *Benzene*
4. *Calcium carbide*
5. *Carbon disulfide*
6. *Celluloid*
7. *Chlorine*
8. *Hydrochloric acid*
9. *Hydrocyanic acid*
10. *Magnesium*
11. *Nitric acid and oxides of nitrogen*
12. *Petroleum products (gasoline, fuel oil, etc.)*
13. *Phosphorus*
14. *Potassium*
15. *Sodium*
16. *Sulphur and sulphur products*
17. *Pesticides (including insecticides, fungicides, and rodenticides)*
18. *Radioactive substances, insofar as such substances are not otherwise regulated*

## *Development Which May Endanger Human Health*

- *Within any Floodway Area, any structure of the kind previously described, shall be prohibited.*
- *Where permitted within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be:*
  1. *elevated or designed and constructed to remain completely dry up to at least one and one half (1 ½) feet above the one hundred (100) year flood and,*
  2. *designed to prevent pollution from the structure or activity during the course of a one hundred (100) year flood.*

## *Regulation of High Risk Land Uses*

- *Special Permits* for the following types of development:
  - *Hospitals*
  - *Nursing Homes*
  - *Jails & Prisons*
  - *New Manufactured Home Park or Substantial Improvement to existing MHP*



## *Special Permits*

- *Review/Comment by County Planning Commission*
- *Approval by DCED*
- *1 1/2 foot freeboard – lowest floor*
- *Certify that occupants can remain inside for an indefinite period of time and be safely evacuated at any time during the one hundred (100) year flood.*

## *State Coordinator*

- *Department of Community and Economic Development*

### *GOVERNOR'S CENTER FOR LOCAL GOVERNMENT SERVICES (GCLGS)*

- \* *Technical Assistance*
- \* *Financial Assistance*
- \* *Annual Report*
- \* *Special Permit Review*
- \* *Other*

## CHAPTER 105. DAM SAFETY AND WATERWAY MANAGEMENT

- Provide for the comprehensive regulation and supervision of dams, reservoirs, water obstructions and encroachments in the Commonwealth in order to protect the health, safety, welfare and property of the people.



- Protect the natural resources, environmental rights and values secured by PA. CONST. art. I, § 27 and conserve and protect the water quality, natural regime and carrying capacity of watercourses.



## *§ 105.3. Scope*

- Dams used for the storage of water *not located on a watercourse and which have no contributory drainage* where the greatest depth of water measured at upstream toe of the dam at maximum storage elevation *exceeds 15 feet and the impounding capacity at maximum storage elevation exceeds 50 acre-feet.*
- *Water obstructions and encroachments* other than dams located in, along or across, or projecting into a watercourse, floodway or body of water, whether temporary or permanent.

## *§ 105.11. Permit requirements*

- A person may not construct, operate, maintain, modify, enlarge or abandon a dam, water obstruction or encroachment without first obtaining a written permit from the Department.
- A permit issued by the Department after July 1, 1979 for the construction and operation of a water obstruction or encroachment shall incorporate authorization for normal repairs and maintenance of permitted structures conducted within the original specifications for the water obstruction or encroachment.

## *§ 105.1. Definitions*

*Water obstruction*— A type of encroachment

- (i) *A dike, bridge, culvert, wall, wingwall, fill, pier, wharf, embankment, abutment or other structure* located in, along or across or projecting into a watercourse, floodway or body of water.

## § 105.1. Definitions.

- *Body of water*—A natural or artificial lake, pond, reservoir, swamp, marsh or wetland.
- *Dam*—**An artificial barrier**, together with its appurtenant works, constructed for the purpose of impounding or storing water or another fluid or semi fluid, or a refuse bank, fill or structure for highway, railroad or other purposes which does or may impound water or another fluid or semi fluid.
- *Encroachment*—A **structure or activity** which **changes, expands or diminishes** the **course, current or cross section** of a watercourse, floodway or body of water.

## § 105.1. Definitions

### *Water obstruction—*

- (i) A dike, bridge, culvert, wall, wingwall, fill, pier, wharf, embankment, abutment or other structure located in, along or across or projecting into a watercourse, floodway or body of water.
- (ii) In the case of ponds, lakes and reservoirs, a water obstruction is considered to be in or along the body of water if, at normal pool elevation, the water obstruction is either in the water or adjacent to and abutting the water's edge.
- *Watercourse—*A channel or conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow.



## § 105.1. Definitions

- *Floodplain*—The lands adjoining a river or stream that have been or may be expected to be inundated by flood waters in a 100-year frequency flood.
- *Floodway*—The channel of the watercourse and portions of the adjoining floodplains which are reasonably required to carry and discharge the 100-year frequency flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the 100-year frequency floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to 50 feet from the top of the bank of the stream

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## CHAPTER 106. FLOODPLAIN MANAGEMENT

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## CHAPTER 106. FLOODPLAIN MANAGEMENT

- *Encourage planning and development in floodplains which are consistent with sound land use practices.*
- *Protect people and property in floodplains from the dangers and damage of floodwaters and from materials carried by such floodwaters.*
- *Prevent and eliminate urban and rural blight which results from the damages of flooding.*

## *106.3. Scope.*

- *The following highway obstructions or obstructions when located in floodplains must meet the requirements of this chapter:*
  - *(1) Any highway obstruction or obstruction constructed, owned or maintained by the Commonwealth or a political subdivision of the Commonwealth; and*
  - *(2) Any obstruction constructed, owned or maintained by a public utility.*

# Governor's Center for Local Government Services

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*QUESTIONS???*