

TITLE NINE - SPECIAL DISTRICTS

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- 1393 Flood Control
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ARTICLE 1393 FLOOD CONTROL

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1393.01 INTENT

The intent of this Article 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. (13314 §1 1/5/95)

1393.02 APPLICABILITY

A. 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 area in the City of Allentown designated FW, FF or FA under this Article unless a building permit has been obtained from the Building Official. Said permit shall be subject to all requirements of the Building Code of the City of Allentown unless altered herein.

B. A building permit shall not be required for minor repairs to existing buildings or structures, unless required by another Article of the City of Allentown.

1393.03 ABROGATION AND GREATER RESTRICTIONS

This article supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other Article 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 Article, the more restrictive shall apply. This Article shall not be construed to authorize or permit any use or development otherwise expressly prohibited in any other City Article. (13314 §1 1/5/95)

1393.04 SEVERABILITY

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

1393.05 WARNING AND DISCLAIMER OF LIABILITY

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

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

1393.10 ISSUANCE OF BUILDING PERMIT IN FW, FF AND FA AREAS

A. The Building Official shall issue a building 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.

B. Prior to the issuance of any building permit, the Building Official shall review the application for permit to determine if all other necessary governmental 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 U.S. Clean Water Act, Section 404, 33, U.S.C. 1334; and the Pennsylvania Clean Streams Act (Act 1937-394, as amended). No permit shall be issued until this determination has been made. (13314 §1 1/5/95)

C. 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 first notified by the City of Allentown and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Regional Office, Wilkes-Barre. In addition, the Federal Insurance Administrator/FEMA and Pennsylvania Department of Community and Economic Development, shall be notified by the City of Allentown prior to any alteration or relocation of any watercourse. (13931 §1 10/4/01)

**1393.07 APPLICATION PROCEDURES AND REQUIREMENTS IN
FW, FF, FE AND FA AREAS
(13931 §1 10/4/01)**

A. Application for such a building permit shall be made, in writing, in the same form as is required under the Building Code of the City of Allentown.

B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for building permits shall provide all the necessary information in sufficient detail and clarity to enable the Building Official 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 Code and Articles;

2. All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and

3. Adequate drainage is provided so as to reduce exposure to flood hazards.

C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Building Official to make the above determination:

1. A completed building permit application form.

2. A plan of the entire site, clearly and legibly drawn at a scale of one (1") inch being equal to fifty (50') feet showing the following:

a. north arrow, scale, and date;

b. topographic contour lines;

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 and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;

e. the location of all existing streets, drives, and other accessways; and

f. 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 National Geodetic Vertical Datum of 1929; and

b. the elevation of the one hundred (100) year flood;

c. information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood; and

d. detailed information concerning any proposed flood-proofing measures.

4. The following data and documentation:

a. 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 one hundred (100) year flood elevations, pressures, velocities, impact and uplift forces associated with the one hundred (100) year flood.

Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.

b. detailed information needed to determine compliance with Section (e), Storage, and Section 1393.23, Development Which May Endanger Human Life, including: (13931 §1 10/4/01)

i. the amount, location and purpose of any materials or substances referred to in Sections 1393.22 (e) and 1393.23 which are intended to be used, produced, stored or otherwise maintained on site. (13931 §1 10/4/01)

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 Section 1393.23 during a one hundred (100) year flood. (13931 §1 10/4/01)

c. 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. (13931 §1 10/4/01)

d. the appropriate component of the Pennsylvania Department of Environmental Protection's "Planning Module for Land Development." (13314 §1 1/5/95; 13931 §1 10/4/01)

1393.08 REVIEW BY COUNTY CONSERVATION DISTRICT

A copy of all applications and plans for any proposed construction or development equal to or greater than one (1) acre in size and located in any identified floodplain area which are being considered by approval shall be submitted by the Building Official to the Conservation District for review and comment prior to the issuance of a building permit. The recommendations of the Conservation District shall be considered by the Building Official for possible incorporation into the proposed plan. (13931 §1 10/4/01)

1393.09 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 Building Official to any other appropriate agencies and/or individuals (e.g. Planning Commission, City Engineer, etc.) for review and comment.

1393.10 CHANGES

After the issuance of a building permit by the Building Official, no change of any kind shall be made to the application without the written consent or approval of the Building Official. Requests for any such change shall be in writing, and shall be submitted by the applicant to the Building Official for consideration. (13931 §1 10/4/01)

1393.11 START OF CONSTRUCTION

A. Work on the proposed construction and/or development shall begin within six (6) months after the date of issuance of the building permit.

B. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footing, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings or the installation of sewer, gas and water pipes or electrical or other service lines from the street.

C. The permit shall expire if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work.

D. The permit shall expire twelve (12) months after the date of issuance. Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Building Official to approve such a request. (13931 §1 10/4/01)

1393.12 INSPECTION AND REVOCATION

A. During the construction period, the Building Official 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 City of Allentown laws and Ordinances. He shall make as many inspections during and upon completion of the work as are necessary.

B. In the discharge of his duties, the Building Official 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 Article.

C. In the event the Building Official 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 Building Official shall revoke the building permit and shall take whatever action he considers necessary.

D. Any Appeal from a determination by the building official with reference to the administration of the Flood Control Ordinance shall be heard by the Zoning Hearing Board, consistent with Section 1393.16(a). (13014 §24 11/7/90)

E. A record of all such inspections and violations of the Article shall be maintained.

1393.13 FEES

Applications for a building permit shall be accompanied by a fee, payable to the City of Allentown. Said fee shall be established pursuant to Section 1703 of the Codified Ordinances of the City of Allentown.

1393.14 ENFORCEMENT

A. Whenever the Building Official or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of Article, or of any regulation adopted pursuant thereto, the Building Official shall give notice of such alleged violation as hereinafter provided. Such notice shall :

1. Be in writing;
2. Include a statement of the reasons for its issuance;
3. Allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
4. 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;
5. Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Article.

1393.15 APPEALS

A. Any person aggrieved by any action or decision of the Building Official involving the administration of the provisions of this Article may appeal to the Zoning Hearing Board of the City of Allentown. Such appeal must be filed, in writing, within thirty (30) days after the decision or action of the Building Official. (13014 §25 11/7/90)

B. The Board shall fix a reasonable time, not to exceed sixty (60) days from the date of application, for the hearing of an appeal, give Public Notice thereof as well as due notice at least six (6) days prior to the hearing, by mail, to the parties in interest at the address filed with the appeal, and decide the same within forty-five (45) days

from the date of hearing completion. Upon the hearing, any party may appear in person, by agent or by attorney. (13014 §25 11/7/90)

C. Any person aggrieved by any decision of the Board may seek relief therefrom by appeal to court, as provided by the laws of this Commonwealth including the Pennsylvania Flood Plain Management Act.

D. Fee for Appeals. All persons hereafter taking an appeal from the decision of the Building Officer to the Board shall be subject to the payment of a reasonable fee, same to be decided upon from time to time by the Mayor of the City of Allentown, for the filing, docketing, hearing and recording of such appeal, as well as for the service of notices thereof. The fee or charge shall be paid to the City of Allentown prior to the entry or filing thereof. The Zoning Officer shall collect and receive all such appeal fees and pay the same over to the City Treasurer, at the end of each and every month, and shall accompany such payment with a full and complete report of all appeal fees received during the course of the month. (13014 §25 11/7/90)

1393.16 DESIGNATION OF FLOODPLAIN AREAS

For the purposes of this Article, the areas considered to be floodplain within the City of Allentown shall be those areas identified as being subject to the one-hundred (100) year flood in the Flood Insurance Study (FIS) dated November 7, 2001 and accompanying maps prepared for the City of Allentown by the Federal Emergency Management Agency (FEMA), or the most recent revision thereof. (13314 §1 1/5/95; 13931 §1 10/4/01)

A map showing all areas considered to be subject to the one-hundred (100) year flood is available for inspection at the City of Allentown offices. For the purposes of this Article, the following nomenclature is used in referring to the various kinds of floodplain areas:

FW (Floodway Area) - the areas identified as "Floodway" in the AE Zone in the Flood Insurance Study prepared by the FEMA. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance study prepared by the FEMA. (12760 §1 3/18/87; 13314 §1 1/5/95)

FE (Special Floodplain Area) - the areas identified as Zone AE in the Flood Insurance Study, where one hundred (100) year flood elevations have been provided, but no floodway has been delineated. (13931 §1 10/4/01)

FF (Flood-Fringe Area) - the remaining portions of the one hundred (100) year floodplain in those areas identified as an AE Zone in the Flood Insurance Study prepared by the FEMA, where a floodway has been delineated. The basis for the outermost boundary of this area shall be the one hundred (100) year flood elevations as shown in the flood profiles contained in the Flood Insurance Study. (12760 §1 3/18/87; 13314 §1 1/5/95)

FA (General Floodplain Area) - the areas identified as Zone A in the Flood Insurance Study prepared by the FEMA, for which no one hundred (100) year flood elevations have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the one hundred (100) year elevation, as well as a floodway area, if possible. When no other information is available, the one hundred (100) year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question. (12760 §1 3/18/87; 13314 §1 1/5/95)

In lieu of the above, the Building Official 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 Building Official. (13314 §1 1/5/95)

1393.17 CHANGES IN FLOODPLAIN AREA DELINEATIONS

The areas considered to be floodplain may be revised or modified by the Council of the City of Allentown where studies or information provided by a qualified agency or person documents the need or possibility for such revision. However, prior to any such change, approval must be obtained from the Federal Insurance Administration. (FIA) (13014 §26 11/7/90; 13314 §1 1/5/95; 13931 §1 10/4/01)

1393.18 BOUNDARY DISPUTES

Should a dispute arise concerning the identification of any floodplain area, an initial determination shall be made by the Planning Commission and any party aggrieved by such decision may appeal to the Zoning Hearing Board. The burden of proof shall be on the appellant. (13014 §27 11/7/90; 13314 §1 1/5/95)

1393.19 TECHNICAL PROVISIONS; GENERAL

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 been first obtained from the Department of Environmental Protection, Regional Office, Wilkes-Barre. (13314 §1 1/5/95; 13931 §1 10/4/01)

In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development shall be notified prior to any alteration or relocation of any watercourse. (13931 §1 10/4/01)

B. 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 Article and any other applicable codes, ordinances and regulations.

1393.20 SPECIAL FLOODWAY AND STREAM SETBACK REQUIREMENTS

A. Within any FW (Floodway Area), the following provisions apply:

1. Any new construction, development, use, activity, or encroachment shall be prohibited, unless the applicant shall prove that the same will not cause any increase in flood heights.

2. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection, Regional Office, Wilkes-Barre. (13314 §1 1/5/95; 13931 §1 10/4/01)

B. Within any FE (Special Floodplain Area), no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one (1') foot at any point. (13931 §1 10/4/01)

C. Within any FE (Special Floodplain Area) or FA (General Floodplain Area), the following provisions apply: (13931 §1 10/4/01)

1. No new construction or development shall be located within the area measured fifty (50') feet landward from the top-of-bank of any water course, unless a permit is obtained from the Department of Environmental Protection, Regional Office, Wilkes-Barre. (13314 §1 1/5/95; 13931 §1 10/4/01)

2. Any new construction or development which would cause any increase in flood heights, shall be prohibited within any floodway area identified in studies by Federal, State or other acceptable sources. (13314 §1 1/5/95)

1393.21 ELEVATION AND FLOODPROOFING REQUIREMENTS

A. Residential Structures

Within any identified floodplain area the lowest floor (including basement) of any new residential structure or substantial improvement of a residential structure shall be at least one and one-half (1 1/2') feet above the one hundred (100) year flood elevation. (13314 §1 1/5/95)

B. Non-residential Structures

1. Within any identified floodplain area the lowest floor (including basement) of any new non-residential structure or substantial improvement of a non-residential structure shall be at least one and one-half (1 1/2') feet above the one hundred (100) year flood elevation, or be designed and constructed so that the space

enclosed by such structure shall remain either completely or essentially dry during any flood up to that height. (13314 §1 1/5/95)

2. Any non-residential structure, or part thereof, having a lowest floor which is not elevated to at least one and one half (1-1/2') feet above the one hundred (100) year flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" (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. (13314 §1 1/5/95)

C. Space Below the Lowest Floor

Within any identified floodplain area, fully enclosed space below the lowest floor (including basement) is prohibited. Partially closed space below the lowest floor (including basement) is prohibited. Partially closed space below the lowest floor (including basement) 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 floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "partially enclosed space" also includes crawl spaces. (13314 §1 1/5/95)

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

A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1') foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (12896 §1 12/88)

D. Accessory Structures

Within any identified floodplain area, structures accessory to a principal building need not be elevated or floodproofed to remain dry. Any new accessory structures shall comply at a minimum, with the following requirements:

1. 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.

2. Floor area shall not exceed six hundred (600) square feet and the structure will have a low damage potential. (13931 §1 10/4/01)

3. The structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.

4. Power lines, wiring, and outlets will be at least one and one half (1-1/2') feet above the one hundred (100) year flood elevation.

5. Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc., are prohibited.

6. Sanitary facilities are prohibited.

7. The structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

a. A minimum of two (2) openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.

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

c. Openings may be equipped with screens, louvers, etc., or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (13314 §1 1/5/95)

1393.22 DESIGN AND CONSTRUCTION STANDARDS

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area: (13931 §1 10/4/01)

A. Fill

If fill is used, it shall:

1. Extend laterally at least fifteen (15') feet beyond the building line from all points,
2. Consist of soil or small rock materials only. Sanitary landfills shall not be permitted,
3. Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling,
4. 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 City Engineer. (13931 §1 10/4/01)
5. Be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities (13931 §1 10/4/01)

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. Water and Sanitary Sewer Facilities and Systems

1. All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
3. No part of any on-site sewage 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. 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.

E. 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 Section 1393.23, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or floodproofed to the maximum extent possible.

F. 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.

G. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
2. 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.

H. Floors, Walls and Ceilings

1. 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.
2. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
3. 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.
4. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other "water-resistant" material.

I. Paints and Adhesives

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

J. Electrical Components

1. Electrical distribution Panels shall be at least three (3') feet above the one-hundred (100) year flood elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

K. Equipment

1. 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.

L. Fuel Supply Systems

1. 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.

M. Streets

1. The finished elevation of all new streets shall be no more than one (1') foot below the Regulatory Flood Elevation. (13314 §1 1/5/95)

1393.23 DEVELOPMENT WHICH MAY ENDANGER HUMAN LIFE

- A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Pennsylvania Department of Community and Economic Development as required by the Act, any new or substan-

tially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which 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) 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: (13931 §1 10/4/01)

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. Phosphorous
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.

B. Within any FW (Floodway Area), any structure of the kind described in subsection A above, shall be prohibited.

C. Within any FE (Special Floodplain Area) FA (General Floodplain Area), any new structure or substantial improvement to a structure of the kind described in Subsection A above shall be prohibited within the area measured fifty (50') feet landward from the top-of-bank of any water course. (13314 §1 1/5/95; 13931 §1 10/4/01)

D. Where permitted within any identified floodplain area, any 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 1/2') 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.

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 flood-proofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972, amended March, 1992) or with some other equivalent watertight standard. (13314 §1 1/5/95)

1393.24 PROHIBITED

The following obstructions and activities are prohibited if located entirely or partially within an identified floodplain area:

- A. Hospitals (public or private) (12670 §2 3/18/87)
- B. Nursing homes (public or private) (12670 § 2 3/18/87)
- C. Jails or prisons (12670 §2 3/18/87)

D. New manufactured home, new manufactured home parks and new manufactured home subdivision and substantial improvements to existing manufactured home parks. (12670 §2 3/18/87)

No variance as set forth in Section 1393.27 shall be granted which would allow the above listed obstructions and activities to locate within any identified flood plain area. (12670 §2 3/18/87; 13314 §1 1/5/95; 13931 §1 10/4/01)

1393.25 EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS; GENERAL

The provisions of this Article do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to an existing structure located within any identified floodplain area, it is subject to the following provisions:

A. No expansion or enlargement of an existing structure shall be allowed within any identified floodway that would cause any increase in the elevation of the one hundred (100) year flood. (13314 §1 1/5/95)

B. No expansion or enlargement of an existing structure shall be allowed within any FE area that would, together with all other existing and anticipated development increase the one hundred (100) year flood elevation more than one (1') foot at any point. (13931 §1 10/4/01)

C. 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 Article.

D. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than fifty (50%) percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

1393.26 SPECIAL REQUIREMENTS FOR MANUFACTURED HOMES

A. As stated in Section 1393.24, Prohibited, new manufactured homes are prohibited if located entirely or partially within an identified floodplain area. (12670 §3 3/18/87; 13314 §1 1/5/95; 13931 §1 10/4/01)

B. Manufactured homes presently existing in any identified flood plain area prior to the enactment of this Article may continue subject to the provisions in Section 1393.25, Existing Structures In Identified Floodplain Area. (12670 §1 3/18/87; 13931 §1 10/4/01)

C. Any existing manufactured home located in any floodplain, other than the floodway, can be replaced by another home, if said replacement conforms to all other Articles of the City of Allentown. Said replacement manufactured home shall meet the following requirements: (13314 §1 1/5/95)

1. Anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the American National Standards as specified in the Standard for Installation of Manufactured Homes Including Manufactured Home Park Requirements (NFPA No. 501-A-1974) (ANSI A119.3-1975) as amended for Manufactured Homes in Hurricane Zones or other appropriate standards such as the following: (13931 §1 10/4/01)

a. Over-the-top ties shall be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations for units fifty (50') feet or more in length, and one (1) additional tie per side for units less than fifty (50') feet in length. (12670 §3 3/18/87)

b. Frame ties shall be provided at each corner of the manufactured home, with five (5) additional ties per side at intermediate locations for units fifty (50') feet or more in length, and four (4) additional ties per side for units less than fifty (50') feet in length. (12670 §2 3/18/87)

c. All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds. (12670 §3 3/18/87)

d. Be placed on a permanent foundation. (13931 §1 10/4/01)

2. Elevated in accordance with the following requirements:

- a. Be elevated on compacted fill and placed on permanent foundations so that the lowest floor of the manufactured home will be one and one-half (1 1/2') feet or more above the elevation of the one-hundred (100) year flood. (12670 §3 3/18/87; 12896 §2 12/88)
- b. Adequate surface drainage is provided. (12670 §3 3/18/87)
- c. Adequate access for a hauler is provided. (12670 §3 3/18/87)
- d. Where pilings are used for elevation, the lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than ten (10') feet apart; reinforcement shall be provided for pilings that will extend for six (6') feet or more above the ground level. (12670 §3 3/18/87)

1393.27 VARIANCES

If compliance with any of the requirements of this Article would result in an exceptional hardship for a prospective builder, developer, or landowner, the Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements. (13014 §28 11/7/90)

Requests for variances shall be considered by the Board in accordance with the following:

A. No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the one hundred (100) year flood elevation.

B. No variance shall be granted for any construction, development, use or activity within any FE area that would, together with all other existing and anticipated development, increase the one hundred (100) year flood elevation more than one (1') foot at any point. (13931 §1 10/4/01)

C. Except for a possible modification of the one and one half (1-1/2') foot freeboard requirements involved, no variance shall be granted for any Development Which May Endanger Human Life (Section 1393.34). (13314 §1 1/5/95)

D. If granted, a variance shall involve only the least modification necessary to provide relief.

E. In granting any variance, the Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Article.

F. Whenever a variance is granted, the Board shall notify the applicant in writing that:

- 1. The granting of the variance may result in increased premium rates for flood insurance.
- 2. Such variances may increase the risks to life and property.

G. In reviewing any request for a variance, the Board shall consider, but not be limited to the following:

- 1. That there is good and sufficient cause.
- 2. That failure to grant the variance would result in exceptional hardship to the applicant.
- 3. That the granting of the variance will (a) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extra-ordinary public expense; (b) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable State statute or regulation, or local ordinance or regulation.

H. A complete record of all variance requests and related actions shall be maintained by the Board. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency. (13314 §1 1/5/95)

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one hundred (100) year flood.

1393.28 DEFINITIONS

A. General

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

1393.29 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. **Basement** - any area of the building having its floor below ground level on all sides. (13314 §1 1/5/95)
3. **Board** - The Zoning Hearing Board of the City of Allentown. (13014 §29 11/7/90)
4. **Building** - a combination of materials to form a permanent structure having walls and a roof. Included shall be all mobile homes and trailers to be used for human habitation.
5. **Completely dry space** - a space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.
6. **Construction** - the construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of mobile homes.
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, excavation, mining, dredging; drilling operations; storage of equipment or materials; and the subdivision of land. (13314 §1 1/5/95)
8. **Essentially dry space** - a space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.
9. **Flood** - a temporary inundation of normally dry land areas.
10. **Floodplain** - 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.
11. **Floodproofing** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.
12. **Floodway** - the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Article, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude. (13314 §1 1/5/95)
13. **Historic Structure** - 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. (13314 §1 1/5/95)
14. **Identified floodplain area** - the floodplain area specifically identified in this Article as being inundated by the one-hundred (100) year flood. Included would be areas identified as Floodway (FW), Flood-Fringe (FF), and General Flood Plain (FA).

15. **Land development** - any of the following activities:

(a) the improvement of one lot, or two or more contiguous lots, tracts, or parcels of land for any purpose involving:

(1) a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single non-residential building on a lot or lots regardless of the number of occupants or tenure, or;

(2) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features;

(b) a subdivision of land. (13314 §1 1/5/95)

16. **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. (13314 §1 1/5/95)

17. **Manufactured Home** - a transportable single family dwelling intended for permanent occupancy, office or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site completed and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than one hundred eighty (180) consecutive days. (12670 §4 3/18/87; 13314 §1 1/5/95)

18. **Manufactured home park** - a parcel (or contiguous parcels) of land which has been planned and improved for the placement of two or more manufactured homes. (12670 §5 3/18/87)

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

20. **New Construction** - structures for which the start of construction commenced on or after April 21, 1982, and includes any subsequent improvements hereof. (13314 §1 1/5/95)

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

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

23. **Person** - an individual, partnership, public or private association of 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.

24. **Public Notice** - The notice given not more than thirty (30) days in the case of the first publication, and not less than seven (7) days in the case of the second publication in advance of any public hearing required by this Zoning Ordinance. Such notice shall be published once a week for two (2) successive weeks in a newspaper of

general circulation in the City. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. (13014 §29 11/7/90)

25. **Recreational Vehicle** - a vehicle which is (i) built on a single chassis; (ii) not more than four hundred (400) square feet, measured at the largest horizontal projects; (iii) designed to be self-propelled or permanently towable by a light-duty truck; (iv) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. (13314 §1 1/5/95)

26. **Regulatory flood elevation** - the one-hundred (100) year flood elevation plus a freeboard safety factor of one and one-half (1 1/2) feet.

27. **Structure** - anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, manufactured homes, and other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land. (13931 §1 10/4/01)

28. **Subdivision** - the division or redivision of a lot, tract, or parcel of land by any means into two (2) or more lots, tracts, parcels, or other division of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or building, or lot development, provided however, that the division of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access, or any residential dwelling, shall be exempted. (13314 §1 1/5/95)

29. **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. (13314 §1 1/5/95)

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

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the Building Official and which have been identified by the Building Official and which are the minimum necessary to assure safe living conditions, or:

b. Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." (13314 §1 1/5/95)

1393.99 PENALTIES

A. Any person violating the provisions of this Article or section of this Article shall upon conviction be fined not more than Six Hundred (\$600.00) Dollars or imprisoned not more than ninety (90) days or both. The imposition of a fine or penalty for any violation of, or non-compliance with, this Article shall not excuse the violation or non-compliance or permit it to continue; and all such persons shall be required to correct or remedy such violations and non-compliances within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in non-compliance with this Article may be declared by the Building Code Board of Appeals of the City of Allentown to be a public nuisance and abatable as such.

B. However, any violation relating to stormwater discharge which results in damaging effects to human health or aquatic ecosystems through the introduction of pollutants of high volumes causing physical modifications shall result in a fine of not more than One Thousand (\$1,000) Dollars plus the costs of prosecution and, in default of payment, imprisonment for not more than ninety (90) days. (13198 §1 5/20/93)

ARTICLE 1395 ALLENTOWN-BETHLEHEM-EASTON AIRPORT AND QUEEN CITY MUNICIPAL AIRPORT

1395.01 Adoption

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1395.01 ADOPTION

This Article is adopted pursuant to the authority conferred by The Pennsylvania Airport Zoning Act P.S. 1550 et. seq. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Allentown-Bethlehem-Easton Airport and Queen City Municipal Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Allentown-Bethlehem-Easton Airport and the Queen City Municipal Airport; and that an obstruction may reduce the size of areas available for the landing, take-off, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Allentown-Bethlehem-Easton Airport and Queen City Municipal Airport and the public investment therein. Accordingly, it is declared:

A. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Allentown-Bethlehem-Easton Airport and Queen City Municipal Airport;

B. That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and

C. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation. (12518 §1 10/20/82)

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land. (12518 §1 10/20/82)

1395.02 SHORT TITLE

This Article shall be known and may be cited as the Allentown-Bethlehem-Easton Airport and Queen City Municipal Airport Zoning Ordinance. (12518 §1 10/20/82)

1395.03 DEFINITIONS

As used in this Article, unless the context otherwise requires:

1. **Airport** - Allentown-Bethlehem-Easton Airport and Queen City Municipal Airport. (12518 §1 10/20/82)

2. **Airport Elevation** - The highest point of an airport's usable landing area measured in feet from sea level. (12518 §1 10/20/82)

3. **Airport Operator** - A person operating an airport as defined herein. (12518 §1 10/20/82)

4. **Approach Surface** - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 1395.05 of this Article. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone. (12518 §1 10/20/82)

5. **Approach, Transitional, Horizontal, and Conical Zones** - These zones are set forth in Section 1395.04 of this Article. (12518 §1 10/20/82)

6. **Board of Adjustment** - For the purpose of this Article, the Building Code Board of Appeals of the City of Allentown shall be the Board of Adjustment under this Article. (12518 §1 10/20/82)

7. **Conical Surface** - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of four thousand (4,000') feet. (12518 §1 10/20/82)

8. **Hazard to Air Navigation** - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace. (12518 §1 10/20/82)

9. **Height** - For the purpose of determining the height limits in all zones set forth in this Article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified. (12518 §1 10/20/82)

10. **Horizontal Surface** - A horizontal plane one hundred fifty (150') feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone. (12518 §1 10/20/82)

11. **Larger than Utility Runway** - A runway that is constructed for and intended to be used by propeller driven aircraft of greater than twelve thousand five hundred (12,500) pounds maximum gross weight and jet powered aircraft. (12518 §1 10/20/82)

12. **Nonconforming Use** - Any pre-existing structure object of natural growth, or use of land which is inconsistent with the provisions of this Article or an amendment thereto. (12518 §1 10/20/82)

13. **Nonprecision Instrument Runway** - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned. (12518 §1 10/20/82)

14. **Obstruction** - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 1395.05 of this Article. (12518 §1 10/20/82)

15. **Person** - An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity: includes a trustee, a receiver, an assignee, or a similar representative of any of them. (12518 §1 10/20/82)

16. **Precision Instrument Runway** - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document. (12518 §1 10/20/82)

17. **Primary Surface** - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section 1395.04 of this Article. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. (12518 §1 10/20/82)

18. **Runway** - A defined area on an airport prepared for landing and take-off of aircraft along its length. (12518 §1 10/20/82)

19. **Structure** - An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines. (12518 §1 10/20/82)

20. **Transitional Surfaces** - These surfaces extend outward at ninety (90⁰) degree angles to the runway centerline and the runway centerline extended at a slope of seven (7') feet horizontally for each foot vertically from

the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of five thousand (5,000') feet measured horizontally from the edge of the approach surface and at ninety (90⁰) degree angles to the extended runway centerline. (12518 §1 10/20/82)

21. **Tree** - Any object of natural growth. (12518 §1 10/20/82)

22. **Utility Runway** - A runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less. (12518 §1 10/18/82)

23. **Visual Runway** - A runway intended solely for the operation of aircraft using visual approach procedures. (12518 §1 10/20/82)

1395.04 AIRPORT ZONES

In order to carry out the provisions of this Article, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Allentown-Bethlehem-Easton Airport and Queen City Municipal AirPort. Such zones are shown on the Allentown-Bethlehem-Easton Airport zoning map and the Queen City Municipal Airport zoning map, the former consisting of two (2) sheets prepared by G. Edwin Pidcock Company and dated July, 1981 and the latter consisting of one (1) sheet prepared by G. Edwin Pidcock Company, and dated September, 1981 which are attached to this Article and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. **Utility Runway Visual Approach Zone** - The inner edge of this approach zone coincides with the width of the primary surface and is two hundred (200') feet wide. The approach zone expands outward uniformly to a width of one thousand two hundred fifty (1,250') feet at a horizontal distance of five thousand (5,000') feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (12518 §1 10/20/82)

2. **Utility Runway Nonprecision Instrument Approach Zone** - The inner edge of this approach coincides with the width of the primary surface and is five hundred (500') feet wide. The approach zone expands outward uniformly to a width of two thousand (2,000') feet at a horizontal distance five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (12518 §1 10/20/82)

3. **Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Nonprecision Instrument Approach Zone** - The inner edge of this approach zone coincides with the width of the primary surface and is five hundred (500') feet wide. The approach zone expands outward uniformly to a width of three thousand five hundred (3,500') feet at a horizontal distance of ten thousand (10,000') feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (12518 §1 10/20/82)

4. **Precision Instrument Runway Approach Zone** - The inner edge of this approach zone coincides with the width of the primary surface and is one thousand (1,000') feet wide. The approach zone expands outward uniformly to a width of sixteen thousand (16,000') feet at a horizontal distance of fifty thousand (50,000') feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (12518 §1 10/20/82)

5. **Transitional Zones** - The transitional zones are the areas beneath the transitional surfaces. (12518 §1 10/20/82)

6. **Horizontal Zone** - The horizontal zone is established by swinging arcs of ten thousand (10,000') feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones. (12518 §1 10/20/82)

7. **Conical Zone** - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of four thousand (4,000') feet. (12518 §1 10/20/82)

1395.05 AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Article to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. **Utility Runway Visual Approach Zone** - Slopes twenty (20') feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand (5,000') feet along the extended runway centerline. (12518 §1 10/20/82)

2. **Utility Runway Nonprecision Instrument Approach Zone** - Slopes twenty (20') feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand (5,000') feet along the extended runway centerline. (12518 §1 10/20/82)

3. **Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Nonprecision Instrument Approach Zone** - Slopes thirty-four (34') feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of ten thousand (10,000') feet along the extended runway centerline. (12518 §1 10/20/82)

4. **Precision Instrument Runway Approach Zone** - Slopes fifty (50') feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of ten thousand (10,000') feet along the extended runway centerline; thence slopes upward forty (40') feet horizontally for each foot vertically to an additional horizontal distance of forty thousand (40,000') feet along the extended runway centerline. (12518 §1 10/20/82)

5. **Transitional Zones** - Slope seven (7') feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty (150') feet above the airport elevation which is four hundred three (403') feet above mean sea level for Allentown-Bethlehem-Easton Airport, and three hundred ninety-nine (399') feet above mean sea level for Queen City Municipal Airport. In addition to the foregoing, there are established height limits sloping seven (7') feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7') feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of five thousand (5,000') feet measured at ninety (90⁰) degree angles to the extended runway centerline. (12518 §1 10/20/82)

6. **Horizontal Zone** - Established at one hundred fifty (150') feet above the airport elevation or at a height of five hundred fifty-three (553') feet above mean sea level for Allentown-Bethlehem-Easton Airport, and five hundred forty-nine (549') feet above mean sea level for Queen City Municipal Airport. (12518 §1 10/20/82)

7. **Conical Zone** - Slopes twenty (20') feet outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty (150') feet above the airport elevation and extending to a height of three hundred fifty (350') feet above the airport elevation. (12518 §1 10/20/82)

8. **Excepted Height Limitation** - Nothing in this Article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to thirty-five (35') feet above the surface of the land. (12518 §1 10/20/82)

1395.06 USE RESTRICTIONS

Notwithstanding any other provisions of this Article, no use may be made of land or water within any zone established by this Article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. (12518 §1 10/20/82)

1395.07 NONCONFORMING USES

A. Regulations Not Retroactive

The regulations prescribed by this Article shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Article, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Article, and is diligently prosecuted. (12518 §1 10/20/82)

B. Marking and Lighting

Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Operator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Airport Operator. (12518 §1 10/20/82)

1395.08 PERMITS

A. Future Uses

Except as specifically provided in (1), (2), and (3) hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted if said application complies with all Articles of the City of Allentown. No permit for a use inconsistent with the provisions of this Article shall be granted unless a variance has been approved in accordance with Section 1395.08 (d). (12518 §1 10/20/82)

1. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five (75') feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones. (12518 §1 10/20/82)

2. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than four thousand two hundred (4,200') feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five (75') feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones. (12518 §1 10/20/82)

3. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zones, no permit shall be required for any tree or structure less than seventy-five (75') feet of vertical height above the ground, except when such tree or structure, because of the terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones. (12518 §1 10/20/82)

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Article except as set forth in Section 1395.05 (h). (12518 §1 10/20/82)

B. Existing Uses

No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Article or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted. (12518 §1 10/20/82)

C. Nonconforming Uses Abandoned or Destroyed

Whenever the City determines that a nonconforming tree or structure has been abandoned or more than eighty (80%) percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning requirements. (12518 §1 10/20/82)

D. Variances

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Article, may apply to the Board of Adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Article. Additionally, no application for variance to the requirements of this Article may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Operator for advice as to the aeronautical effects of the variance. If the Airport Operator does not respond to the application within fifteen (15) days after receipt, the Board of adjustment may act on its own to grant or deny said application. (12518 §1 10/20/82)

E. Obstruction Marking and Lighting

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of adjustment, this condition may be modified to require the owner to permit the Airport Operator at its own expense, to install, operate, and maintain the necessary markings and lights. (12518 §1 10/20/82)

1395.09 ENFORCEMENT

It shall be the duty of the City Engineer or his designee to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the City Engineer or his designee upon a form published for that purpose. Applications required by this Article to be submitted to the City Engineer or his designee shall be promptly considered and granted or denied. Application for action by the Board of adjustment shall be forthwith transmitted by the City Engineer or his designee. For the purposes of this Article such applications or permits may be incorporated into those existing under the Building Code of the City of Allentown. (12518 §1 10/20/82)

1395.10 BOARD OF ADJUSTMENT

A. The Building Code Board of Appeals of the City of Allentown shall act as the Board of Adjustment under this article and shall have and exercise the following powers:

1. To hear and decide appeals from any order, requirement, decision, or determination made by the City Engineer or his designee in the enforcement of this Article;
2. To hear and decide special exceptions to the terms of this Article upon which such Board of Adjustment under such regulations may be required to pass;
3. To hear and decide specific variances. (12518 §1 10/20/82)

B. The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Article.

C. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the City Engineer or his designee or decide in favor of the applicant on any matter upon which it is required to pass under this Article, or to effect variation to this Article. (12518 §1 10/20/82)

1395.11 APPEALS

A. Any person aggrieved, or any taxpayer affected, by any decision of the City Engineer or his designee made in the administration of the Article, may appeal to the Board of Adjustment. (12518 §1 10/20/82)

B. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing a notice of appeal specifying the grounds thereof. The City Engineer or his designee shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. (12518 §1 10/20/82)

C. An appeal shall stay all proceedings in furtherance of the action appealed from unless the City Engineer or his designee certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the City Engineer or his designee cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Board of Adjustment on notice to the City Engineer or his designee and on due cause shown. (12518 §1 10/20/82)

D. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. (12518 §1 10/20/82)

E. The Board of Adjustment may, in conformity with the provisions of this Article, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances. (12518 §1 10/20/82)

F. Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment, may appeal to the Court as provided by law. (12518 §1 10/20/82)

1395.12 PENALTIES

Each violation of this Article or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine of not more than Three Hundred (\$300.00) Dollars or imprisonment for not more than ninety (90) days or both; and each day a violation continues to exist shall constitute a separate offense. (12518 §1 10/20/82)

1395.13 CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Article and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail. (12518 §1 10/20/82)

1395.14 SEVERABILITY

If any of the provisions of this Article or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end, the provisions of this Article are declared to be severable. (12518 §1 10/20/82)

1395.15 EFFECTIVE DATE

Whereas, the immediate operation of the provisions of this Article is necessary for the preservation of the public health, public safety, and general welfare, and EMERGENCY is hereby declared to exist, and this Article shall be in full force and effect from and after its passage by the City Council of the City of Allentown and publication and posting as required by law. (12518 §1 10/20/82)