

ARTICLE 5

ENVIRONMENTAL PROTECTION

501. EROSION CONTROL. The landowner, person and/or entity performing any earth disturbance shall utilize sufficient measures to prevent soil erosion and sedimentation of creeks.

501.A. The disturbed land area and the duration of exposure shall be kept to a practical minimum.

501.B. Except for agricultural activities, any earth disturbance over 5,000 square feet of land area shall require the submission of an adequate Erosion and Sedimentation Control Plan to the County Conservation District.

501.C. See State erosion control regulations (Note: as of 2007 in 25 PA. Code Chapter 102).

502. NUISANCES AND HAZARDS TO PUBLIC SAFETY.

502.A. No land owner, tenant nor lessee shall use or allow to be used any land or structures in a way that results or threatens to result in any of the following conditions:

1. Transmission of communicable disease, including conditions that may encourage the breeding of insects or rodents.
2. A physical hazard to the public, or a physical hazard that could be an attractive nuisance that would be accessible by children.
3. Pollution to groundwaters or surface waters, other than as authorized by a State or Federal permit.
4. Risks to public health and safety, such as but not limited to explosion, fire or biological hazards.
5. Interference with the reasonable use and enjoyment of property by a neighboring landowner of ordinary sensitivities.

502.B. Additional Information. If the Zoning Officer has reason to believe that the proposed use may have difficulty complying with the standards of this Article, then the Zoning Officer may require an applicant to provide written descriptions of proposed machinery, hazardous substances, operations and safeguards.

503. WETLANDS. See Section 308.

504. FP FLOODPLAIN DISTRICT (Flood-prone Areas).

504.A. Purposes. The FP Floodplain District is an overlay district to the underlying zoning districts. The FP district include areas that have been identified by the Federal Government as being subject to periodic inundation by floodwaters. This inundation needs to be managed to avoid loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, impairment of tax base, and other adverse effects on the public health, safety, and general welfare. The FP District is intended to manage development and alteration of floodplain areas to avoid incompatible or dangerous development. In addition to serving the purposes listed in Article 1, this Section is intended:

1. To prevent the erection of structures in areas with a known danger from flooding.
2. To protect public health and safety by protecting water quality and promoting safe drainage.
3. To control development which, alone or in combination with similar development, could create burdens on the community, governments, emergency service providers and individuals for the costs

of flood control works, rescue, relief, emergency preparedness measures, sandbagging, pumping, and temporary dikes or levees, as well as business interruptions, factory closings, disruptions of transportation routes, and interference with utility services, as well as other factors that result in loss of wages, sales, and production and generally adversely affect the economic well being of the community.

4. To maintain a stable tax base that is not threatened by the destruction of properties.
5. To permit certain uses which can appropriately be located in the floodplain as herein defined without impeding the flow of floodwaters or otherwise causing danger or damage to life or property at, above, or below their locations in the floodplain.
6. To permit certain uses in the floodplain in ways that preserve natural conditions conducive to the maintenance of ecological balance, wildlife and productive wildlife habitat, marine life and productive marine habitat, other healthy biotic systems, scenic and natural values, constant rates of water flow throughout the year, and areas for groundwater absorption for sustaining the subsurface water supply.
7. To provide sufficient unimpeded drainage courses and prohibit the restriction of their carrying capacities so as to safely carry abnormal flows of storm water from periods of heavy precipitation.
8. To encourage the utilization of appropriate construction practices which will minimize flood damage in the future.
9. To prevent the placement of materials which might be swept by floods onto other lands or downstream to the injury of others.
10. To provide for public awareness of flooding potential and to discourage and protect unwary individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.
11. To regulate uses, activities, development, and structures which, acting alone or in combination with existing or future uses, activities, development, or structures, will cause increases in flood heights, velocities, and frequencies.
12. To provide areas for the deposition of sediment.
13. To protect people and property in other municipalities within the same watershed from the impact of improper development in floodplains and the consequent increased potential for flooding.

504.B. Definitions. For the purposes of this Section 504, the following terms shall have the following meanings:

1. Alluvial Soil. Soil formed from the deposit of sediment in flowing water.
2. Basement. Any area of the building having its floor below ground level on all sides.
3. 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.
4. Channel. A natural or artificial watercourse with a definite bed and banks which confine and conduct continuously or periodically flowing water.
5. Channel Flow. That water which is flowing within the limits of a defined channel.
6. 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.
7. Conservation Plan. A plan including a map(s) and narrative that, at the very least, outlines an erosion and sedimentation control plan for an identified parcel of land.
8. 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.
9. Driveway. A private drive providing access between a public or private street or access drive and a permitted use or structure.

10. 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.
11. Fill. Material placed or deposited so as to form an embankment or raise the surface elevation of the land, including but not limited to levees, bulkheads, dikes, jetties, embankments, and causeways.
12. 500-Year Flood. A flood which is likely to be equaled or exceeded once every 500 years (i.e., that has a one-fifth of one percent chance of being equaled or exceeded in any given year).
13. 500-Year Flood Boundary. The outer boundary of an area of land that is likely to be flooded once every 500 years (i.e., that has one-fifth of one percent chance of being flooded each year). A study by the Federal Insurance Administration, the United States Army Corps of Engineers, the U.S. Natural Resources Conservation Service, the United States Geological Survey, the Susquehanna River Basin Commission, or a licensed professional engineer registered by the Commonwealth of Pennsylvania is necessary to define this boundary.
14. 500-Year Flood Elevation. The water surface elevations of the 500-Year Flood.
15. Flood. A temporary inundation of normally dry land areas.
16. Flood, Flooded, or Flooding. A partial or complete inundation of normally dry land areas from the overflow of a watercourse or other body of surface water, or from the unusual and rapid accumulation or runoff of surface waters from any source.
17. Flood of Record. The flood which has reached the highest flood elevation above mean sea level at a particular location.
18. Floodplain or 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.
19. Floodproof, Floodproofed, or Floodproofing. Any combination of structural and/or nonstructural provisions, additions, changes, or adjustments to structures or contents which are designed or adapted primarily to reduce or eliminate flood damage to those structures or contents.
20. Floodway. The designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Chapter, the floodway shall be capable of accommodating a flood of the 100-year magnitude.
21. Hazardous Material. Materials which have the potential to damage health or impair safety. Hazardous materials include but are not limited to inorganic mineral acids or sulfur, fluorine, chlorine, nitrogen, chromium, phosphorous, selenium, and arsenic and their common salts, lead, nickel, and mercury and their inorganic salts or metallo-organic derivatives; coal tar acids, such as phenols and cresols, and their salts; petroleum products; and radioactive material. Also included are floatable materials with the potential to cause physical damage, such as logs, storage tanks, and large containers.
22. Historic Structure. Any structure that is:
 - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) by an approved state program as determined by the Secretary of the Interior; or
 - (2) directly by the Secretary of the Interior or in states without approved programs.

23. Identified Floodplain Area. The floodplain area specifically identified in this Ordinance as being inundated by the 100-year flood.
24. 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 designated and built so that the structure is in violation of the applicable non-elevation design requirements of this Chapter.
25. 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.
26. Manufactured Home Park. A parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for non-transient use.
27. Maximum Flood Elevation. The water surface elevations of a flood which would completely fill the floodplain to the boundaries of the Floodplain District.
28. Mean Sea Level. The average height of the sea for all stages of the tide, using the National Geodetic Vertical Datum of 1929.
29. Minor Repair. The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition, or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.
30. Mobile Home. A manufactured home.
31. Mobile or Manufactured Home. A transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. For the purposes of this Article, any travel trailer contained on the same parcel for more than 180 days in any calendar year shall be considered a mobile home.
32. New Construction. Structures for which the start of construction commenced on or after April 17, 1978, and includes any subsequent improvements thereto.
33. Obstruction. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, or other matter in, along, across, or projecting into any channel, watercourse, or floodplain, 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 that is placed where the flow of water might carry the same downstream to cause damage to life or property.
34. 100-Year Flood. A flood that, on the average, is likely to occur once every 100 years (i.e., that has one percent chance of occurring each year, although the flood may occur in any year).
35. 100-Year Flood Boundary. The outer boundary of an area of land that is likely to be flooded once every 100 years (i.e., that has a one percent chance of being flooded each year). Unless stated otherwise by this Ordinance, the official Federal Floodplain Mapping issued by the Federal Insurance Administration or its successor agency shall be the determinant of the boundaries of the 100 year floodplain.
36. 100-Year Flood Elevation. The water surface elevations of the 100-year flood.

37. Pesticide. Any substance or mixture of substances intended for use in preventing, destroying, repelling, sterilizing, or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds, or other forms of plant or animal life.
38. Petroleum Product. Oil or petroleum of any kind and in any form, including crude oil and derivatives of crude oil. It may be alone, as a sludge, as oil refuse, or mixed with other wastes.
39. Radioactive Material. Any natural or artificially produced substance which emits radiation spontaneously.
40. 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; and (d) not designed for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
41. Regulatory Flood Elevation. The 100-year flood elevation plus a freeboard safety factor of 1-1/2 feet.
42. 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 an average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.
43. Soil Survey. The latest published version of the United States Department of Agriculture's Soil Survey for Northampton County, Pennsylvania or successor information.
44. Soil Waste. Garbage, sludge, refuse, trash, rubbish, debris, and other discarded materials, including, but not limited to, solid and liquid waste materials resulting from industrial, commercial, agricultural, residential, and community activities.
45. Special Permit. A special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.
46. 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.
47. 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 50 percent or more of the market value of the structure before the damage occurred.
48. Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 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 either:
 - a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - b. Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure."
49. Uniform Construction Code (UCC). The construction code in effect in Upper Nazareth Township, including but not limited to the International Residential Code (IRC) and the International Building Code (IBC).
50. Watercourse. A permanent or intermittent stream, river, brook, run, creek, channel, swale, pond, lake, or other body of surface water, carrying or holding surface water, whether natural or man-made.
51. Watershed. All the land from which water drains into a particular watercourse.

504.C. Relationship to Other Articles.

1. The provisions of this Article create an overlay zoning district which is applicable within floodplains in all other zoning districts established by this Zoning Ordinance. To the extent the provisions of this Article are applicable and more restrictive, they shall supersede conflicting provisions within all other Articles of this Ordinance and all other ordinances of the Township. However, all other provisions of all other Articles of this Zoning Ordinance and all other ordinances of the Township shall remain in full force.

504.D. Lands in Floodplain District.

1. The FP Floodplain District is hereby defined to include all of the following lands within Upper Nazareth Township:
 - a. All those areas identified as being subject to the 100-year flood in the latest officially issued Flood Insurance Study (FIS) and the accompanying maps prepared by the Federal Emergency Management Agency.
 - b. Where the complete and definitive information necessary to delineate the boundary of the Floodplain District is not available to the Zoning Officer in his/her consideration of an application for a permit, he/she shall require that the applicant prepare and submit such on-site studies and/or surveys to be made as are necessary to fix the precise boundaries of the Floodplain District as defined in Section 504.B of this Article. Such studies and surveys shall be certified by a licensed professional engineer registered by the State. Copies of such studies and surveys shall be submitted by the Zoning Officer to the Township Engineer, who shall have 30 days to comment. Any property owner whose property is so studied and/or surveyed to justify an application for a permit shall pay all costs of these studies.
 - c. The floodplain shall consist of subdistricts as follows, if so categorized by the Official Federal Floodplain Mapping.
 - (1) 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.
 - (2) FF (Flood-Fringe Area) - the remaining portions of the 100-year floodplain in those areas identified as an AE Zone in the FIS where a floodway has been delineated. The basis for the outermost boundary of this area shall be the 100-year flood elevations as shown in the flood profiles contained in the FIS.
 - (3) FE (Special Floodplain Area) - the areas identified as Zone AE in the FIS where 100-year flood elevations have been provided, but no floodway has been delineated.
 - (4) FA (General Floodplain Area) - the areas identified as Zone A in the FIS for which no 100-year flood elevations have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the 100-year elevation, as well as a floodway area, if possible. When no other information is available, the 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.

504.E. Boundary Disputes.

1. Should a dispute concerning any boundary of the Floodplain District arise, the initial determination of the Zoning Officer may be appealed to the Zoning Hearing Board. The burden of proof in such an appeal shall be on the property owner. The Zoning Hearing Board shall conduct a hearing and render its decision in accordance with the procedures listed in Section 1003 of this Ordinance.

2. All changes to the boundaries of the Floodplain District which affect areas identified in Section 504.D. of this Article are subject to the review and approval of the Federal Insurance Administrator for compliance with the Rules and Regulations of the National Flood Insurance Program.

504.F. Permitted by Right Uses.

1. The following uses and others are permitted in the Floodplain District, provided they are allowed in the underlying zoning district and provided they do not involve any grading or filling which would cause any increase in flood heights or frequency, and provided they comply with other sections of this Ordinance.
 - a. Forestry.
 - b. Erosion and sedimentation control measures, facilities, and structures, provided no increase in flood heights or frequency, unhealthful ponding, or other unsanitary conditions shall occur.
 - c. Public and private recreational uses such as parks, swimming areas (excluding swimming pools), play areas, day camps, campgrounds (excluding camp sites), picnic groves, lawns, gardens, golf courses, driving ranges, archery ranges, game farms, areas or clubs for hunting, fishing, and/or boating (including marker or anchor buoys), paved bicycle paths, and hiking and horseback riding trails, all excluding any structures, and excluding any grading or filling which would cause any increase in flood heights or frequency.
 - d. Crop farming, not including buildings.
 - e. Activities related to the preservation of natural amenities, including wildlife sanctuaries, nature preserves, woodland preserves, botanical gardens, or arboreta, excluding any structures, and excluding any grading or filling which would cause any increase in flood heights or frequency.
 - f. Stream improvements whose sole purpose is to improve aquatic life habitat, and which are approved by the Fish and Boat Commission and reviewed by the County Conservation District, and subject to the provisions of Section 504.Q of this Article.
 - g. Fences of a design that does not obstruct flood waters.
 - h. Picnic tables, park benches, fireplaces and grills, and playground equipment, all if anchored to prevent flotation.
 - i. Blinds for the shooting or observation of wildlife.
 - j. Circuses, carnivals, and similar transient enterprises, provided that natural vegetative ground cover is not destroyed, removed, or covered in such a way as to create erosion or sedimentation.
 - k. Farm ponds which are constructed in accordance with a Conservation Plan reviewed by the County Conservation District and which do not create any increase in flood heights or frequency, and subject to the provisions of Section 504.Q of this Article.
 - l. Floodproofing of structures in compliance with State and Federal regulations.
 - m. Public utility facilities (except buildings) under the exclusive jurisdiction of the State Public Utility Commission and specifically exempted from control by municipal zoning ordinances, subject to the provisions of Section 504.Q of this Article.
 - n. Water monitoring devices, docks, piers and boat launching ramps.
 - o. Utility lines.

504.G. Prohibited Uses.

1. The following uses are prohibited in the Floodplain District:
 - a. All uses prohibited either expressly or implicitly in the underlying zoning district for the land in question.
 - b. All structures, with the exception of those specifically allowed in Section 504.F and 504.H of this Article.

- c. Sanitary landfills, dumps, junk and salvage yards, and outdoor storage of hazardous materials.
- d. Placing, depositing, or dumping any spoil, fill, or solid waste, except such grading or filling necessary to accomplish and carry out those uses permitted in Section 504.F and 504.H of this Article; provided, however, that no grading or filling is permitted which would cause any increase in flood heights or frequency.
- e. Grading or filling that could cause any increase in flood heights or frequency.
- f. Damming or relocation of any watercourse, except as provided for in Sections 504.F and 504.H of this Article.
- g. Fences of a type that could obstruct floodwaters.
- h. Storage of herbicides, pesticides, domestic or industrial waste, radioactive materials, petroleum or other flammable materials, explosives, poisonous materials, hazardous materials, or other materials which, if flooded, would pollute the watercourse or be injurious to human, animal, or plant life.
- I. Cemeteries for humans or animals.
- j. Any development, structure, or use which may, whether alone or in combination with others, and except where specifically authorized elsewhere in this Article:
 - (1) Obstruct, impede, retard, change, or increase the velocity, direction, or flow of floodwaters.
 - (2) Increase the surface elevation of floods, or the frequency of floods.
- k. The construction, expansion, or enlargement of any structure or building associated with the following uses:
 - (1) Hospitals
 - (2) Nursing homes
 - (3) Jails
 - (4) Prisons
 - (5) Mobile/manufactured home parks
- l. Any new structure or building, or any expansion or addition to an existing structure or building that will be used for the production or storage or any of the following dangerous materials or substances, or that will be used for any activity requiring the maintenance of a supply of any of the following substances in quantities exceeding 550 gallons.
 - (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) Sulfur and sulfur products
 - (17) Pesticides (including insecticides, fungicides, and rodenticides)
 - (18) Radioactive substances, insofar as such substances are not otherwise regulated.

504.H. Special Exception Uses.

1. Within the 100-year floodplain, any allowed parking lot that will include spaces for 4 or more motor vehicles and any allowed commercial or industrial outdoor storage area shall need special exception approval. Such uses shall not be allowed if they would violate Section 312.

504.I. Standards and Criteria for Special Exceptions.

1. Where special exception approval is required for a use within the Floodplain District, the Zoning Hearing Board shall also determine that the following standards and criteria have been complied with:
 - a. That danger to life and property due to increased flood heights, velocities, or frequencies caused by encroachments, is minimized.
 - b. That the danger that floodwaters or materials may be swept onto other lands or downstream to cause injury to others is minimized.
 - c. That a possibility of disease, contamination, and unsanitary conditions, is minimized and especially that any proposed water supply or sanitation systems are able to prevent these problems.
 - d. That the susceptibility of the proposed facility and its contents to flood damage, the effect of such damage on the individual owners, and the need for and effect of floodproofing, are minimized.
 - e. That the proposed facility and its services are important to the community.
 - f. That there are no available alternate locations not subject to flooding for the proposed use.
 - g. That the proposed use is compatible with existing and anticipated development.
 - h. That the proposed use is consistent with any floodplain management program for the area.
 - i. That the safety of access to the property in times of flooding for ordinary and emergency vehicles is assured.
 - j. That the expected area, height, depth, velocity, pressure, frequency, duration, rate of rise, seasonality, and sediment, debris, and pollutant load of floodwaters expected at the site is not inconsistent with the proposed use.
 - k. That the proposed activity will not unduly alter natural water flow or water temperature.
 - l. That historic sites and structures and high quality wildlife habitats will not be degraded or destroyed.
 - m. That the natural, scenic, and aesthetic values at the proposed site will be conserved.
 - n. That the danger, damage, and injury to all adjoining properties on both sides of any watercourse, regardless of municipality, is minimized. In this regard, any proposal affecting an adjacent municipality shall be submitted to that municipality's planning commission and governing body for review and comment.
 - o. That the granting of the special exception will not result in any of the following:
 - (1) Increases in flood heights.
 - (2) Additional threats to public safety.
 - (3) Extraordinary public expense.
 - (4) Creation of nuisances.
 - (5) Conflict with local laws or ordinances.
 - p. With any FW (Floodway Area), the following provisions apply:
 - (1) Any new construction, development, use, activity, or encroachment that would cause any increase in flood heights shall be prohibited.
 - (2) No new construction or development shall be allowed, unless a permit is obtained from DEP, as applicable.

- q. 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 100-year flood more than one foot at any point.

504.J. Application Requirements.

- 1. In hearing and deciding upon special exceptions to be granted or denied under the provisions of this Article, the burden of proof shall be on the applicant. The Zoning Hearing Board may require the applicant to submit such plans, specifications, and other information as it may deem necessary to assist it in arriving at a fair and impartial determination. Such required information may include, but is not limited to, the following:
 - a. Plans drawn to scale showing the nature, location, dimensions, and elevations of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the channel.
 - b. A typical valley cross-section showing the channel of the watercourse, elevations of land area adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
 - c. A plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply facilities, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.
 - d. A profile showing the slope of the bottom of the channel or flow line of the watercourse.
 - e. Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of material, water supply facilities, and sanitary facilities.

504.K. Referrals. In hearing and deciding upon special exceptions to be granted or denied under the provisions of this Article, the Zoning Hearing Board shall solicit the comments and recommendations of the Township Planning Commission, and any other experts or authorities it may deem necessary to assist it in arriving at a fair and impartial determination.

504.L. Conditions of Approval. In granting any special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Zoning Ordinance, as it may deem necessary to implement the purposes of this Zoning Ordinance.

504.M. Fees for Special Exceptions. Any fees assessed an applicant for a special exception, whether for a hearing, a flood study, or any other purpose, shall not exceed those costs directly associated with the particular application.

504.N. Variances.

- 1. Variances from the provisions of this Article are discouraged. Where, however, a variance is essential, the following requirements of the National Flood Insurance Program must be complied with in addition to all other variance provisions of this Zoning Ordinance and the Pennsylvania Municipalities Planning Code, as amended. In all variance proceedings the burden of proof shall be on the applicant.
 - a. No variance shall be granted for any development, structure, use, or activity within the Floodplain District which would cause any increase in flood levels during the 100-year flood as defined by Section 504.B of this Article.

- b. No variance shall be granted for any of those prohibited uses listed in Sections 504.G of this Article.
- c. Variances shall only be granted upon:
 - (1) A showing of good and sufficient cause.
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with any other applicable laws, ordinances, or regulations.
 - (4) A determination that the granting of a variance will not jeopardize the Township's participation in the National Flood Insurance Program.
- d. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e. 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.
- f. A complete record of all variance requests and actions, including justifications for granted variances, shall be maintained by the Board.

504.O. Nonconforming Uses and Buildings in the Floodplain District.

1. Nonconformities.

- a. Continuation. All uses or buildings lawfully existing in the Floodplain District as the effective date of this Ordinance which are not in conformity with the provisions of this Section 504, shall be deemed nonconforming uses or buildings. Such nonconforming uses or structures may be continued, maintained, repaired and floodproofed, except as otherwise provided for in this Article. However, such nonconforming uses or structures may at any time be improved to comply with existing Pennsylvania or Township health, sanitary or safety code specifications which are necessary solely to assure safe living conditions.
- b. Expansion and Modification. A nonconforming use or building may not be expanded or modified in any manner which would a) increase or aggravate flooding or flood hazards; or b) causes it to occupy more ground area within the Floodplain District than was occupied by it on the effective date of this Article.
- c. Replacement and Rebuilding.
 - (1) A nonconforming use or structure may be replaced, repaired or rebuilt if it is damaged or destroyed by any means, including floods, to the extent of less than 50 percent of its fair market value at the time of its damage or destruction. In such a case, however, the nonconformity of the new use or structure with respect to requirements as expressed in provisions of this Zoning Ordinance shall not exceed that of the original use or structure which was damaged or destroyed. Nothing shall be done which would otherwise violate any of the provisions of this Article.
 - (2) A nonconforming use or structure which has been damaged or destroyed by any means, including floods, to the extent of 50 percent or more of its fair market value at the time of its damage or destruction may not be replaced, restored, repaired, reconstructed, improved, or rebuilt in any way other than in complete conformity and full compliance with this Ordinance, and all other ordinances of the Township.
 - (3) The Zoning Hearing Board may waive, as a special exception, the requirements of this paragraph where it is shown that such requirements could not be met on land owned by the appellant or where such requirements would impose undue hardship to the appellant in the

efficient operation of the premises. In such a case, the Zoning Hearing Board shall be authorized to grant only the minimum relief necessary, and the least modification possible of the purposes and intents of this Article.

- (4) The Zoning Officer shall have the initial responsibility of determining the percent of damage or destruction and the fair market value of the damaged or destroyed use or structure at the time of its damage or destruction, and may call on any experts or authorities he may deem necessary to assist him in arriving at a fair and impartial determination. Appeals of the decision of the Zoning Officer may be made to the Zoning Hearing Board.
- d. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the 100-year flood. No expansion or enlargement of an existing structure shall be allowed within any floodplain area outside of the floodway that would, together with all other existing and anticipated development, increase the 100-year flood elevation more than one foot at any point. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of 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. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than 50 percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.
- e. Notwithstanding the foregoing Paragraphs (1) and (2), any modification, alteration, reconstruction, or improvement of any kind which meets the definition of repetitive loss shall be undertaken only in full compliance with all provisions of this Ordinance.

504.P. Historic Structures. The Zoning Hearing Board shall have the right to waive, as a special exception, any of the requirements of this Section and Section 504.Q for any structure listed on the National Register of Historic Places or the Pennsylvania Register of Historic Sites and Landmarks, and the provisions of Section 504.I, 504.J, 504.K and 504.L of this Article shall be applied in such a case.

504.Q. Design and Performance Standards.

1. Applicability. If two provisions of Township regulations address the same matter, the provision that is more restrictive upon development shall apply.
2. Regulations and Reviews by Other Agencies.
 - a. Where applicable and where possible, all necessary permits or other written approvals will be obtained from all other agencies before any approvals of plans, special exceptions, variances, or permits may be granted by Upper Nazareth Township or its agencies, officials, or employees.
 - b. Where necessary, permits or written approvals from other agencies cannot be obtained prior to action by the Township, any approval of plans, special exceptions, variances, or permits by the Township or its agencies, officials, or employees shall be conditioned upon receiving such other agencies' permits or written approvals.
 - c. No regulations of the Commonwealth governing watercourses are amended or repealed by this Ordinance. Prior to any proposed alteration or relocation of any watercourse, a permit shall be obtained from DEP, and notification of any such proposal shall be given to all affected adjacent municipalities. Copies of such permit application and municipal notifications shall be forwarded to the Federal Insurance Administration and to the State Department of Community and Economic Development.
3. Placement and Construction of Authorized Uses and Structures.
 - a. All uses and structures shall be designed, constructed and placed so as to offer the minimum obstruction possible to the flow of water, and shall be designed to have a minimum effect upon the flow, velocity or height of floodwaters. Whenever possible, structures shall be constructed

with the longitudinal axis parallel to the direction of flood flow, and, so far as is practicable, structures shall be placed approximately on the same flood flowlines as those of nearby structures.

- b. All new construction and substantial improvement shall be constructed with materials and utility equipment resistant to flood damage, and shall be constructed by methods and practices that minimize flood damage.
 - c. All new or replacement drains, water supply facilities or sanitary sewage facilities shall be designed to preclude infiltration or back-up of sewage or floodwaters into the facilities or structures and discharges from the facilities into floodwaters.
 - d. All new construction and substantial improvements of permanent nonresidential structures shall either (1) have the lowest floor (including basement) elevated to one foot above the 100-year flood elevation as defined by Section 504.B of this Ordinance, or (2) together with attendant utility and sanitary facilities, be floodproofed so that below one foot above the 100-year flood elevation as defined by Section 504.B of this Ordinance the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - e. All authorized improvements or additions to existing residential structures shall, to the greater extent possible, be elevated. Any portion of the structure not elevated to one foot above the 100-year flood elevation as defined by Section 504.B of this Ordinance shall be floodproofed.
 - f. All authorized new residential structures shall have the lowest floor (including basement) elevated to one foot above the 100-year flood elevation as defined by Section 504.B of this Ordinance.
4. Floodproofing. Where floodproofing is authorized by this Article, it shall be done according to the standards and provisions for floodproofing regulations officially issued by the U.S. Army Corps of Engineers. Where reference is made in such Flood-Proofing Regulations to the "RFD" (Regulatory Flood Datum), it shall be interpreted to mean the 100-year flood elevation as defined by this Article. The floodproofing of a new residential building shall not cause the construction of the building be permitted.
 5. Anchoring. All structures, including buildings, air ducts, large pipes, and storage tanks within the Floodplain District, shall be firmly anchored to prevent flotation, movement, or collapse, thus reducing the possibility of the blockage for bridge openings and other restricted sections of the watercourse.
 6. Surface Drainage. Adequate drainage shall be provided for all new development to reduce exposure to flood hazards.
 7. 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 this Section, to the extent that they are more restrictive and/or supplement the requirements of this Section. (Note: As of 2006, the following were some relevant sections of the construction codes: International Building Code: Sections 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G; International Residential Building Code: Sections R104, R105, R109, R323, Appendix AE101, Appendix E, and Appendix J.)
 8. 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.

504.R. Zoning Permits.

1. Within the Floodplain District, building permits shall be required for all proposed development, construction, reconstruction, placement, replacement, expansion, extension, repair, or other improvement of uses or structures, regardless of value, including the placement of mobile homes and

activities such as mining, dredging, filling grading, logging, paving, excavation, or drilling operations. Building permits shall not be required for normal maintenance.

2. Every zoning permit application for work or uses within the Floodplain District shall include or be accompanied by all information necessary for the Zoning Officer to determine that the proposal meets all of the provisions of this Article and this Zoning Ordinance.
3. The following information is specifically required to accompany all zoning permit applications involving structures within the Floodplain District:
 - a. The elevation (in relation to mean sea level) of the lowest floor (including basement).
 - b. Whether or not the structure includes a basement.
 - c. If the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed.
 - d. Where floodproofing is proposed to be utilized for a particular structure, the zoning permit application shall be accompanied by a document certified by a licensed professional engineer registered by the State or a licensed professional architect registered by the State certifying that the floodproofing methods used meet the provisions of Section 504.Q of this Zoning Ordinance and are adequate to withstand the flood depths, pressures, velocities, impact, uplift forces, and other factors associated with the 100-year flood as defined by Section 504.B of this Article, and indicating the specific elevation (in relation to mean sea level) to which such structure is floodproofed.
 - e. A copy of all plans and applications for proposed construction or other improvements within the Floodplain District to be considered for approval may be submitted by the Zoning officer to any other appropriate agencies and/or individuals for review and comment.
 - f. Site location including address.
 - g. Brief description of proposed work and estimated cost, including a breakout of the flood-related cost and the market value of the building before the flood damage occurred.
 - h. The elevation of the 100-year flood.
 - I. The following data and documentation:
 - (1) 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.
 - (2) Certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the 100-year flood.
 - (3) 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 100-year flood, including a statement concerning the effects such pollution may have on human life.
 - (4) 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 100-year flood elevations and flows.
 - (5) 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 100-year flood elevation and the effects such materials and debris may have on 100-year flood elevations and flows.
 - (6) The appropriate component of the DEP Planning Module for Development.
 - (7) Where any excavation or grading is proposed, a plan meeting the requirements of the DEP to implement and maintain erosion and sedimentation control.

- (8) Any other applicable permits such as, but not limited to, a permit for any activity regulated by the DEP under Section 302 of Act 1978-166.
- (9) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a 100-year flood.

504.S. Municipal Liability.

The lawful granting of a permit or making of any other administrative decision under this Article shall not constitute a representation, guarantee, or warranty of any kind by Upper Nazareth Township, or by any official, agent, or employee thereof, of the practicability or safety of any structure, use, or other plan proposed with respect to damage from flood or otherwise, and shall create no liability upon, or a cause of action against, such public body, official, agent, or employee for any flood damage that may result pursuant thereto or as a result of reliance on this Article. There is also no assurance that lands not included in the Floodplain District are now or ever will be free from flooding or flood damage.

505. NOISE.

505.A. No principal or accessory use, or operations or activities on its lot, shall generate a sound level exceeding the limits established in the table below, when measured at the specified locations:

Sound Level Limits by Receiving Land Use/ District

LAND USE OR ZONING DISTRICT RECEIVING THE NOISE	HOURS/ DAYS	MAXIMUM SOUND LEVEL
1. At a Lot Line of a Residential Use in a Residential District	1) 7 a.m. to 9 p.m. other than Sundays, Christmas Day, Thanksgiving Day, New Years Day, Labor Day and Memorial Day 2) 9 p.m. to 7 a.m. plus all of the following days: Sundays, Christmas, Thanksgiving, New Years, Easter Sunday, Labor Day and Memorial Day	1) 62 dBA 2) 55 dBA
2. Lot Line of a Principal Residential Use that is not in a Residential District	1) Same as above 2) Same as above	1) 65 dBA 2) 62 dBA
3. Any Lot Line other than "1." or "2."	All times and days	70 dBA

Note- dBA means "A" weighted decibel.

505.B. The maximum permissible sound level limits set forth in the above table shall not apply to any of the following noise sources:

- 1. Sound needed to alert people about an emergency.
- 2. Repair or installation of utilities or construction of structures, sidewalks or streets between the hours of 6 a.m. and 9 p.m., except for clearly emergency repairs which are not restricted by time.
- 3. Lawnmowers, snowblowers, leaf blowers, and household power tools between the hours of 6 a.m. and 9 p.m.

4. Agricultural activities, livestock and other animals.
5. Public celebrations specifically authorized by the Township Supervisors or a County, State or Federal Government agency or body.
6. Unamplified human voices.
7. Routine ringing of bells and chimes by a place of worship or municipal clock.
8. Vehicles lawfully operating on or off a street, railroads and aircraft.
9. Noises that continue for less than 15 total minutes per day.

506. ODORS AND DUST. No use shall generate odors or dust that are offensive to persons of average sensitivities beyond the boundaries of the subject lot. This provision shall not apply to Normal Farming Activities that are exempted under the Pennsylvania Right to Farm Act.

507. CONTROL OF LIGHT AND GLARE. This section 507 shall only regulate exterior lighting that spills across lot lines or onto public streets.

- 507.A. Street Lighting Exempted. This Section 507 shall not apply to: a) street lighting that is owned, financed or maintained by the Township or the State, or b) an individual porch light of a dwelling (not including a spot light).
- 507.B. Height of Lights. No luminaire, spotlight or other light source that is within 200 feet of a lot line of an existing dwelling or approved residential lot shall be placed at a height exceeding 35 feet above the average surrounding ground level. This limitation shall not apply to lights needed for air safety nor lights intended solely to illuminate an architectural feature of a building, nor lighting of outdoor public recreation facilities or a ski resort.
- 507.C. Diffused. All light sources, including signs, shall be properly diffused as needed with a translucent or similar cover to prevent exposed bulbs from being directly visible from streets, public sidewalks, dwellings or adjacent lots.
- 507.D. Shielding. All light sources, including signs, shall be shielded around the light source and carefully directed and placed to prevent the lighting from creating a nuisance to reasonable persons in adjacent dwellings, and to prevent the lighting from shining into the eyes of passing motorists.
- 507.E. Flickering. Flashing, flickering or strobe lighting are prohibited, except for non-advertising seasonal lights between October 25th and January 10th.
- 507.F. Spillover. Exterior lighting on an institutional, commercial or industrial property shall not cause a spillover of light onto a residential lot that exceeds 0.5 horizontal foot-candle at a distance 10 feet inside the residential lot line.
- 507.G. Gasoline Sales Canopies. Any canopy over gasoline pumps shall have light fixtures recessed into the canopy or screened by an extension around the bottom of the canopy so that lighting elements are not visible from another lot or street.
- 507.H. Horizontal Surface Lighting. For the lighting of predominantly horizontal surfaces such as, but not limited to parking areas, streets, driveways, pedestrian walkways, outdoor sales and storage areas, vehicle fueling facilities, vehicle sales areas, loading docks, recreational areas, and building entrances, fixtures shall be aimed downward.

- 507.I. Non-Horizontal Lighting. For lighting of predominantly non-horizontal surfaces such as, but not limited to, facades, signs, and displays, fixtures shall be fully shielded and shall be installed and aimed so as to not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway.
1. However, lighting shall be allowed onto the United States flag from dusk to dawn, provided the light source shall have a beam spread no greater than necessary to illuminate the flag.