

AN ORDINANCE REQUIRING ALL PERSONS PARTNERSHIPS, BUSINESSES AND CORPORATIONS TO OBTAIN A BUILDING PERMIT FOR THE CONSTRUCTION, RECONSTRUCTION, ENLARGEMENT, ALTERATION, RELOCATION OF ANY BUILDING OR STRUCTURE OR DEVELOPMENT IN BOROUGH OF OAKLAND PROVIDING FOR THE ISSUANCE OF SUCH BUILDING PERMITS; PROHIBITING ALL NEW CONSTRUCTION AND DEVELOPMENT IN THE FLOODPLAIN, AND PROVIDING FOR PENALTIES FOR ANY PERSONS WHO FAIL OR REFUSE TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

BE IT ENACTED AND ORDAINED BY the Borough of Oakland, Susquehanna County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

ARTICLE I GENERAL PROVISIONS

Section 1.00 - Statement of Intent

The intent of this Ordinance is to promote the general health, welfare, and safety of the community by:

- A. lessening the exposure of life and property to the danger of flooding.
- B. preventing the unnecessary obstruction of floodwaters and alteration of natural drainage.
- C. minimizing health hazards which result from the damage to sewage systems, the contamination of water supplies and the general unsanitary and unhealthful conditions which result from flooding.
- D. reducing financial burdens imposed on the community, its governmental units, and its residents, by minimizing flood damage in the future.
- E. providing for the availability of flood insurance through participation in the National Flood Insurance Program.

Section 1.01 - 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 Borough unless an approved building permit has been obtained from the Building Official.

- B. A building permit shall not be required for minor repairs to existing buildings or structures, provided that no structural changes or modifications are involved.

Section 1.02 - Abrogation and Greater Restrictions

This Ordinance supersedes any provisions currently in effect in floodplain areas. However, any underlying ordinance shall remain in full force and effect to the extent that those provisions are more restrictive.

Section 1.03 - Severability

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

Section 1.04 - Municipal Liability

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

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

ARTICLE II ADMINISTRATION

Section 2.00 - Issuance of Building Permit

- 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 and only after all other required permits have been obtained from any other office or agency.
- B. No building permit shall be issued for any proposed alteration or relocation of any watercourse within the municipality unless:
 1. a permit has been obtained from the Pennsylvania Department of Environmental Resources;
 2. all affected adjacent municipalities have been duly notified; and
 3. copies of such notifications have been forwarded to both the Federal Emergency Management Agency and the Pa. Department of Community Affairs.

Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels of any watercourse, drainage ditch, or any other drainage facility or system.

- C. After the issuance of a building permit, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Building Official.
- D. In addition to the building permit, the Building Official shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and be signed by the Building Official.

Section 2.01 - Application Procedures

- A. Application for such a building permit shall be made, in writing, to the Building Official on forms supplied by the Borough. Such application shall contain at least the following:
 1. Name and address of applicant.

2. Name and address of owner of land on which proposed construction and/or development is to occur.
3. Name and address of contractor.
4. Site location.
5. Brief description of proposed work and estimated cost.
6. A plan of the site showing the exact size and location of the proposed construction and/or development as well as any existing buildings or structures.

Section 2.02 - Fees

Applications for a building permit shall be accompanied by a fee, payable to the Borough based on the estimated cost of the proposed construction and/or development as determined by the Building Official at the following rates:

<u>Estimated Cost</u>	<u>Fee</u>
\$0.00 to \$500.00	\$.00
\$501.00 and up	\$.00

Section 2.03 - Start of Construction

Work on the proposed construction and/or development shall begin within six (6) months and shall be completed within twelve (12) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Building Permit Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation for basement, footings, 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.

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 Permit Officer to approve such a request.

Section 2.04 - Inspection and Revocation

During the construction and/or development period, the Building Official or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable Borough laws and ordinances, or that there has not been a false statement or misrepresentation by any applicant. If the inspection determines that there has been a violation, then the Building Official shall revoke the building permit and report such fact to the Council for whatever action they think necessary.

ARTICLE III ENFORCEMENT

Section 3.00 - Notices

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 provision of this Ordinance, or of any regulations adopted pursuant thereto, such authority shall give notice of such alleged violation as hereinafter provided. Such notice shall (a) be in writing; (b) include a statement of the reasons for its issuance; (c) allow a reasonable time for the performance of any act it requires; (d) be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this state; (e) contain an outline of remedial action which, if taken, will affect compliance with the provisions of this Ordinance, or any part thereof, and with the regulations adopted pursuant thereto.

Section 3.01 - Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order, or direction of the Building Official or any other authorized employee of the municipality, shall be guilty of an offense and, upon conviction, shall pay a fine to the Borough of not less than Twenty-five Dollars (\$25.00) nor more than Three Hundred Dollars (\$300.00), plus costs of prosecution. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed ten (10) days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation or noncompliance or permit it to continue, and all such persons shall be required to correct or remedy such violations and noncompliances within a reasonable time. Any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Borough Council to be a public nuisance and abatable as such.

Section 3.02 - Appeals

Any person aggrieved by an action or decision of the Building Official may appeal to the Council. Such appeal must be filed, in writing, within thirty (30) days after the decision or action of the Building Official. Upon receipt of such appeal, the Council shall set a time and place, within not less than ten (10) nor more than thirty (30) days, for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties, at which time they may appear and be heard. Any person aggrieved by any decision of the Council may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

ARTICLE IV FLOODPLAIN PROVISIONS

Section 4.00 - No Construction or Development

- A. No construction or development shall take place within any identified floodplain area of the Borough.
- B. Repairs, improvements, or modifications to an existing structure which amount to less than fifty (50) percent of the market value are permitted provided such work does not result in the expansion or enlargement of the structure.

Section 4.01 - Identification

- A. For the purposes of this Ordinance, the areas considered to be floodplain within the Borough shall be those areas identified as being subject to the one hundred (100) year flood in the Flood Insurance Study prepared for the Borough by the Federal Emergency Management Agency, dated July 2, 1980. A map showing all areas considered to be subject to the one hundred (100) year flood is available for inspection at the Borough offices. The floodplain is composed of the following:
 - FW (Floodway Area) - the areas identified as "Floodway" in the Flood Insurance Study prepared by the FEMA.
 - FF (Flood-Fringe Area) - the areas identified as "Floodway Fringe" in the Flood Insurance Study prepared by the FEMA.
- B. The identified floodplain area may be revised or modified by the Council where studies or information provided by a qualified agency or person documents the need for such revision or modification. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.
- C. Should a dispute concerning any identified floodplain boundary arise, any party aggrieved by such determination may appeal to the Council. The burden of proof shall be on the appellant.

ARTICLE V VARIANCES

Section 5.01 - Variances

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the Council may, upon request, grant relief from the strict application of the requirements. Requests for variances shall be considered by the Council in accordance with the procedures contained in Section 3.02 and the following:

- A. If granted, a variance shall involve only the least modification necessary to provide relief. If it should be necessary to grant a variance, the applicant shall be required to comply with all applicable requirements of the National Flood Insurance Program regulations (60.3, a, b, c, and d) including the requirements for elevation, flood-proofing and anchoring. The applicant must also comply with any other requirements considered necessary by the Borough.
- B. In granting any variance, the Borough shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.
- C. Whenever a variance is granted, the Borough shall notify the applicant in writing that:
 - a. the granting of the variance may result in increased premium rates for flood insurance.
 - b. such variances may increase the risks to life and property.
- D. In reviewing any request for a variance, the Council shall consider, at a minimum, the following:
 - a. that there is good and sufficient cause.
 - b. that failure to grant the variance would result in exceptional hardship to the applicant.
 - c. that the granting of the variance will (i) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense, (ii) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable State or local ordinances and regulations.

- E. A complete record of all variance requests and related actions shall be maintained by the Borough. In addition, a report of all variances granted during the year shall be included in the Annual Report to the Federal Emergency Management Agency.

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.

- F. Notwithstanding the provisions of this Article, no variance shall be granted for:

1. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
 - a. hospitals
 - b. nursing homes
 - c. jails or prisons
2. The commencement of, or any construction of, a new mobile home park or mobile home subdivision, or substantial improvement to an existing mobile home park or mobile home subdivision.
3. any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume or any amount of radioactive substances) or any of the following dangerous materials or substances on the premises:
 - a. Acetone
 - b. Ammonia
 - c. Benzene
 - d. Calcium carbide
 - e. Carbon disulfide
 - f. Celluloid
 - g. Chlorine
 - h. Hydrochloric acid
 - i. Hydrocyanic acid
 - j. Magnesium
 - k. Nitric acid and oxides of nitrogen
 - l. Petroleum products (gasoline, fuel oil, etc.)
 - m. Phosphorus
 - n. Potassium
 - o. Sodium
 - p. Sulphur and sulphur products
 - q. Pesticides (including insecticides, fungicides, and rodenticides)
 - r. Radioactive substances, insofar as such substances are not otherwise regulated.

ARTICLE VI DEFINITIONS

Section 6.00 General

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

Section 6.01 Specific Definitions

- A. Construction - the construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of mobile homes.
- B. Development - any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of mobile homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.
- C. 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.
- D. Mobile 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 complete 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 does not include recreational vehicles or travel trailers.
- E. One hundred year flood - a flood that, on the average, is likely to occur once every one hundred (100) years (i.e. that has a one (1) percent chance of occurring each year, although the flood may occur in any year).
- F. Structure - anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, mobile homes, and other similar items.
- G. Substantial Improvement - 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 either (a) before the improvement, modification, or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

BOROUGH OF OAKLAND, SUSQUEHANNA COUNTY

ENACTED AND ADOPTED THIS 12th day of
June, 1986, to be effective five (5) days
from the date hereof.

BOROUGH COUNCIL

Gerald W. Belmer Pres.

ATTEST:

Karen Sec.