

ORDINANCE 95-2

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 HOP BOTTOM BOROUGH 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. THIS ORDINANCE SUPERSEDES ORDINANCE 89-3.

BE IT ENACTED AND ORDAINED BY the Hop Bottom Borough Council, 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 the 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 HOP BOTTOM BOROUGH unless an approved building permit has been obtained from the Building Code 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 office or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

ARTICLE II ADMINISTRATIONSection 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 Pennsylvania 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

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 building 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:

Estimated Cost	Fee
\$ 0.00 to \$ 200.00	\$0.00
\$201.00 to \$1000.00	\$5.00
Each additional \$1000.00 or part thereof	\$1.00/per thousand

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 extension 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 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 the 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 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 HOP BOTTOM 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 construction, 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 BOROUGH 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 BOROUGH 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 BOROUGH COUNCIL may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

ARTICLE IV - FLOODPLAIN PROVISION

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 identified floodplain area shall be those areas of the BOROUGH which have been identified as being subject to flooding by a one hundred (100) year flood. These areas are identified in the Flood Insurance Study (FIS) dated May 17, 1989 and the accompanying Flood Insurance Rate map (FIRM) prepared for the Borough by the Federal Emergency Management Agency, or the most recent revision thereof.
- B. The identified floodplain area may be revised or modified by the BOROUGH 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 BOROUGH 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 BOROUGH COUNCIL may, upon request, grant relief from the strict application of the requirements. Requests for variance shall be considered by the BOROUGH COUNCIL in accordance with the procedures contained in Section 3.02 and the following:

- A. 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 manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured 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, in so far as such substances are not otherwise regulated.
 4. Any activity within an identified floodway which would cause any increase in flood levels during a 100 year flood.
- B. If granted, a variance shall involve only the least modification necessary to provide relief. If it should become necessary to grant any variance, the applicant shall be required to comply with all applicable requirements of the national Flood Insurance Program Regulations (Section 60.3C) including the requirements for elevation, flood proofing, and anchoring. The applicant must also comply with any other requirements considered necessary by the BOROUGH.
 - C. In granting any variance, the BOROUGH COUNCIL 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.
 - D. Whenever a variance is granted, the BOROUGH COUNCIL 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.

- E. In reviewing any request for a variance the BOROUGH COUNCIL shall consider, at a minimum, 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 (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.
- F. A complete record of all variance requests and related actions shall be maintained by the BOROUGH COUNCIL. In addition, a report on 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.

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 manufactured 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 manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging or drilling operations ... the storage of materials and equipment.
- 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. 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 connected to the required utilities. The term includes park trailers, travel trailers, recreational, and other similar vehicles placed on a site for more than 120 consecutive days.
- E. 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.

F. 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).

G. 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.

H. 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:

1. 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
2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

I. Floodway - the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.

J. Historic structure - any structure that is:

- (i) 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;
- (ii) 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;
- (iii) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (iv) 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 in states without approved programs.

- K. 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 projections; (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.
- L. 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.

ARTICLE VII - EFFECTIVE DATE

This ordinance shall become effective June 6 1995, and shall remain in force until modified, amended, or rescinded, by the BOROUGH OF HOP BOTTOM, SUSQUEHANNA COUNTY, Pennsylvania.

ENACTED and ORDAINED by BOROUGH COUNCIL of the BOROUGH OF HOP BOTTOM this 6th day of June 1995.

BOROUGH OF HOP BOTTOM

Lana M Benedict
MAYOR

ATTEST

Terma Isaac
SECRETARY

Arlene M. Zebrowsky
COUNCIL PRESIDENT