

Ordinance 81-5

Floodplain

9/30/1981

ORDINANCE 81-5

AN ORDINANCE ESTABLISHING REGULATIONS FOR FLOOD PLAIN MANAGEMENT BY DESIGNATING FLOOD PLAIN DISTRICTS: RESTRICTING USES, ACTIVITIES AND DEVELOPMENT OCCURRING WITHIN ANY FLOOD PLAIN DISTRICT: PROVIDING FOR THE GRANTING OF SPECIAL EXCEPTIONS AND VARIANCES: PROVIDING FOR THE CONTINUED USE OF EXISTING STRUCTURES AND PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE AND PENALTIES FOR VIOLATION THEREOF AND DEFINING CERTAIN WORDS AND TERMS HEREIN:

BE IT ORDAINED AND ENACTED by the Commissioners of the Township of Hopewell, Beaver County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same:

ARTICLE I GENERAL PROVISIONS

Section 1.1 - Purpose

The purpose of these provisions is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- A. Regulating uses, activities, and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies.
- B. Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
- C. Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage.
- D. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

Section 1.2 - Applicability

These provisions shall apply to all lands within the jurisdiction of the Township of Hopewell, Beaver County, Penna., located within the boundaries of the designated flood plain districts which are considered as a part of the Official Zoning Map.

Section 1.3 - Compliance

No structure or land shall hereafter be used and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

Section 1.4 - Warning and Disclaimer of Liability

The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. 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 the flood plain districts, or that land uses permitted within such districts, will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the Township of Hopewell, Beaver County, Penna. 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 ESTABLISHMENT OF ZONING DISTRICTS

Section 2.1 - Description of Districts

A. Basis of Districts

The various flood plain districts shall include areas subject to inundation by waters of the one hundred (100) year flood. The basis for the delineation of these districts shall be the Flood Insurance Study for the Township of Hopewell, Beaver County, Penna. prepared by the Federal Insurance Administration dated May 4, 1981.

1. The Floodway District (FW) is delineated for purposes of this Ordinance using the criteria that a certain area within the flood plain must be capable of carrying the waters of the one hundred (100) year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in the Floodway Data Table of the above referenced Flood Insurance Study and shown on the accompanying Flood Boundary and Floodway Map.

2. The Flood-Fringe District (FF) shall be that area of the 100 year flood plain not included in the Floodway District. The basis for the outermost boundary of this District shall be the one hundred (100) year flood elevations contained in the flood profiles of the above referenced Flood Insurance Study (FIS) and as shown on the accompanying Flood Boundary and Floodway Map.
3. The General Flood Plain District (FA) shall be that flood plain area for which no detailed flood profiles or elevations have been provided. They are shown on the Maps accompanying the FIS prepared by FIA. Where the specific 100 year flood elevation cannot be determined for this area using other sources of data such as the U. S. Army Corps of Engineers, Flood Plain Information Reports, U. S. Geological Survey - Flood Prone Quadrangles, etc. then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township.

B. Overlay Concept

1. The Flood Plain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the Flood Plain Districts shall serve as a supplement to the underlying district provisions.
2. Where there happens to be any conflict between the provisions or requirements of any of the Flood Plain Districts and those of any underlying district the more restrictive provisions and/or those pertaining to the Flood Plain Districts shall apply.
3. In the event any provision concerning a Flood Plain District is declared inapplicable as a result of any legislative or administrative actions or judicial discretion, the basic underlying district provision shall remain applicable.

Section 2.2 - Zoning Map

The boundaries of the Flood Plain Districts are established as part of the Official Zoning Map of the Township of Hopewell, Beaver County, Pennsylvania which is declared to be a part of this Ordinance and which shall be kept on file at the Hopewell Township offices.

Section 2.3 - District Boundary Changes

The delineation of any of the flood plain districts may be revised by the governing body where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U. S. Army Corps of Engineers, a River Basin Commission or other qualified agency or individual documents the notification for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

Section 2.4 - Interpretation of District Boundaries

Initial interpretations of the boundaries of the Flood Plain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the Districts, the Zoning Hearing Board shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

ARTICLE III DISTRICT PROVISIONS

All uses, activities, and development occurring within any flood plain district shall be undertaken, only, in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances such as the Township Building Code, and Township Subdivision Ordinance, Flood Plain Management Ordinance and Township Zoning Ordinance. In addition, all such uses, activities, and development shall be undertaken only in compliance with Federal or State laws including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.

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

Prior to any proposed alteration or relocation of any stream, watercourse, etc. within the municipality, a permit shall be obtained from the Department of Environmental Resources, Dams and Encroachment Division. Further notification of the proposal by

the Township of Hopewell, Beaver County, Pennsylvania, shall be given to all affected adjacent municipalities. Copies of such notifications shall be forwarded to both the Federal Insurance Administration and the Department of Community Affairs.

Section 3.1 - Flooway District (FW)

In the Floodway District no development shall be permitted except where any rise in flood heights caused by the proposed development will be fully offset by accompanying improvements which have been approved by all appropriate local and/or State authorities as required above.

A. Permitted Uses

In the Floodway District the following uses and activities are permitted provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boatlaunching and swimming areas, hiking, and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
3. Accessory residential uses such as yard areas, gardens, play areas, and pervious parking areas.
4. Accessory industrial and commercial uses such as yard areas, pervious parking and loading areas, airport landing strips, etc.

B. Uses Permitted by Special Exception

The following uses and activities may be permitted by Special Exception provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other Ordinance:

1. Structures except for mobile homes accessory to the uses and activities in Section A above.
2. Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipe lines, water and sewage treatment plants, and other similar or related uses.
3. Water-related uses and activities such as marinas, docks, wharves, piers, etc.
4. Extraction of sand, gravel, and other materials.
5. Temporary uses such as circuses, carnivals, and similar activities.
6. Storage of materials and equipment provided that they are not buoyant, flammable or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, and/or can be readily removed from the area within the time available after flood warning.
7. Other similar uses and activities provided they cause no increase in flood heights and/or velocities. All uses, activities, and structural developments, shall be undertaken in strict compliance with the floodproofing provisions contained in all other applicable codes and ordinances.

Section 3.2 - Flood-Fringe District (FF)

In the Flood-Fringe District the development and/or use of land shall be permitted in accordance with the regulations of the underlying district provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in all other applicable codes and ordinances.

Section 3.3 - General Flood Plain District (FA)

- A. In the General Flood Plain District no development, use or activity (including fill, grading and/or substantial improvements to structures, etc.) shall be permitted unless the applicant for the proposed development, use or activity has demonstrated that the proposed undertaking, when combined with all other existing and anticipated development, uses

and activities, will not increase the water surface elevation of the one hundred (100) year flood more than one (1) foot at any point. The engineering principle, equal reduction of conveyance, shall be used to make the determination of increases in flood heights.

- B. In the floodway portion of the District no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements. Only those uses and/or activities provided for in the Floodway District (FW) shall be permitted in the floodway portion of this District.
- C. All uses, activities and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in all other applicable codes and ordinances.

ARTICLE IV SPECIAL EXCEPTIONS AND VARIANCES - Additional Factors To Be Considered

In passing upon applications for Special Exceptions and Variances the Zoning Hearing Board shall consider all relevant factors and procedures specified in other sections of the Zoning Ordinance and the following:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments. No special exception or variance shall be granted for any proposed use, development, or activity that will cause any increase in flood levels in the Floodway District.
2. The danger that materials may be swept on to other lands or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a waterfront location.

7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood or ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
12. Such other factors which are relevant to the purpose of this Ordinance.

The Zoning Hearing Board may refer any application and accompanying documentation pertaining to any request for a special exception or variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.

Special exceptions and/or variances shall only be issued after the Zoning Hearing Board has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense, (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

ARTICLE V EXISTING STRUCTURES IN FLOOD PLAIN DISTRICTS

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions but which is not in conformity with these provisions may be continued subject to the following conditions:

1. Existing structures and/or uses located in any floodway district shall not be expanded or enlarged. (unless the effect of the proposed expansion or enlargement of flood heights is fully offset by accompanying improvements)

2. Any modifications, alterations, repairs, reconstruction, or improvement of any kind to a structure and/or use located in any flood plain district 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 regardless of its location in the flood plain district.
3. The modifications, alteration, repair, reconstruction or improvement of any kind to a structure and/or use regardless of its lcoation in the flood plain district to an extent or amount of 50% or of its market value shall be undertaken only in full compliance with the provisions of this and any other applicable ordinance.
4. Uses or adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

ARTICLE VI ADMINISTRATION

Appropriate permits shall be required for all construction and development which includes but is not limited to paving, filling, grading, excavation, mining, dredging or drilling operations, etc.

ARTICLE VII DEFINITIONS

1. 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 and the subdivision of land.
2. Flood - a temporary inundation of normally dry land areas.
3. Flood Fringe - that portion of the flood plain outside the floodway.
4. Flood Plain - (1) a relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.
5. Floodway - the designated area of a flood plain required to carry and discharge waters of a given magnitude. For purposes of this Ordinance the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.

6. Flood Plain Districts - those flood plain districts specifically designated in the Township Zoning Ordinance as being inundated primarily by the one hundred (100) year flood. Included would be areas identified as Floodway District (FW), Flood-Fringe District (FF), and General Flood Plain District (FA).
7. One Hundred Year Flood - a flood that, on the average, is likely to occur once every 100 years (i.e. that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

ARTICLE VIII ENFORCEMENT

Section 7.1 - Enforcement

The provisions of this Ordinance shall be enforced by the Township Board of Commissioners or such person as shall be designated by that Board. The Zoning Enforcement Officer shall require that applications for zoning approval shall contain all the information necessary to enable him to ascertain whether the proposed building alteration or use, or use of land complies with the provisions of this Ordinance.

Section 7.2 - Remedies

In case any building or structure or sign is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of any provision of this Ordinance or of any regulations made pursuant thereto, in addition to other remedies provided by law, any appropriate action or proceeding may be instituted or taken at law or in equity by the Township Board of Commissioners, the Zoning Enforcement Officer duly appointed by the Township Board of Commissioners, or any taxpayer or taxpayers aggrieved, to prevent or restrain such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about said premises.

Section 7.3 - Penalties

For violation of any provisions of this Ordinance the owner, general agent or contractor of a building or premises shall be liable on conviction thereof to a fine or penalty not less than TWENTY FIVE (\$25.00) DOLLARS and not exceeding THREE HUNDRED (\$300.00) DOLLARS, which fines and penalties may be collected by suit or summary proceedings brought in the name of the Township before any District Magistrate. Proceedings

for the violation of this Ordinance or any provision thereof and for the collection of fines and penalties imposed herein may be commenced by warrant, or by summons, at the discretion of the District Magistrate before whom the proceeding is begun. All fines and penalties collected for the violation of this Ordinance shall be paid over to the Township treasury. Upon judgment against any person by summary conviction or by proceedings by summons on default of the payment of the fine or penalty imposed and the costs the defendant may be sentenced and committed to Township lockup for a period not exceeding five (5) days or to the County jail or workhouse for a period not exceeding (30) days. Whenever such person shall have been notified by the Township Board of Commissioners, the Zoning Enforcement Officer, or by service of a summons in a prosecution or in any other way that he is committing such violation, each day's continuance of such violation, after such notifications, shall constitute a separate offense punishable by a like fine or penalty.

ARTICLE IX ENACTMENT

ORDAINED AND ENACTED into law this 13th day of

October.

James Albert
Pres. Board of Commissioners

ATTEST:

Evelyn Grande
BY: Secretary

Approved this 13 day of October.

James Albert
BY: Pres. Board of Commissioners

PROOF OF PUBLICATION

The **Beaver County Times**, a daily newspaper of general circulation published by BEAVER NEWSPAPERS, INC., a Pennsylvania corporation, 400 Fair Avenue, West Bridgewater, Beaver County, Pennsylvania, established in 1946, and has been issued regularly, except legal holidays, since said date.

The attached advertisement, which is exactly as printed and published, appeared in the regular issue on **9/30/81**

BEAVER NEWSPAPERS,

STATE OF PENNSYLVANIA,)
COUNTY OF BEAVER,) SS:

By *James R. Miller*

Before me, a Notary Public in and for such county and state, personally appeared **JAMES R. MILLER**, who being duly sworn according to law says that he is

TREASURER of BEAVER NEWSPAPERS, INC.; that neither affiant nor said corporation is interested in the subject matter of the attached advertisement; and that all of the allegations of the foregoing statement including those as to the time, place and character of publication are true.

Sworn to and subscribed before me

this **30TH** day of **SEPTEMBER 1981**

The costs of advertising and proof, has been paid.

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