

DELAWARE TOWNSHIP

ORDINANCE #19

*Removed from
Township books
2-1-89*

AN ORDINANCE SUPPLEMENTING ORDINANCE NO. 17 AND REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES AND CORPORATIONS TO OBTAIN A BUILDING PERMIT FOR THE CONSTRUCTION, RECONSTRUCTION, ENLARGEMENT, ALTERATION OR RELOCATION OF ANY BUILDING OR STRUCTURE: PROHIBITING DEVELOPMENT IN THE FLOOD PLAN AND PROVIDING FOR PENALTIES FOR ANY PERSONS WHO FAIL OR REFUSE TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE, HEREBY REENACTING ALL PROVISIONS OF ORDINANCE NO. 17 WHICH ARE NOT INCONSISTENT HERewith AND REPEALING ALL SECTIONS OF ORDINANCE NO. 17 INCONSISTENT HERewith.

BE IT ENACTED AND ORDAINED BY Delaware Township, Mercer County, Pennsylvania, and it is hereby enacted and ordained by the same as follows:

Section 1.03 Definitions

PART I

GENERAL PROVISIONS

Section 1.00 Statement of Intent

- A. Minimize flood damage in the future;
- B. Promote the general health, welfare and safety of the community;
- C. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing development in areas subject to flooding.
- D. To minimize danger to public health by protecting water supply and natural drainage.

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, if the cost of the same exceeds \$1,000.00 or if the same is larger in area the 8' by 12', unless an approved building permit has been obtained from the building permit officer.
- B. A building permit shall not be required for minor repairs up to \$2,000.00 to existing buildings or structures, provided that no structural changes or modifications are involved.
- C. In new construction or relocation, the building line must be seventy-five (75) feet from the center of the road.

- D. Any addition to an existing building or structure shall be in conformity with the existing building line of the original building or structure; provided that the building line shall be defined as a line, generally parallel to the center of the road, beyond which any portion of the addition or alteration may not project.
- E. Any addition of one time or any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of more than fifty (50) percent of its market value, shall be prohibited, unless it complies with the seventy-five (75) foot building line from the center of the road.

Section 1.02 Abrogation and Greater Restrictions

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

Section 1.03 Definitions

The following words or phrases when used in this ordinance, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this section. Words and phrases used in this ordinance and not specifically defined below shall be interpreted so as to give the ordinance its most reasonable application.

- A. Building- a combination of materials to form a permanent structure having walls and a roof. Included shall be all mobile homes and trailers to be used for human habitation.
- B. Construction- the construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of mobile homes.
- C. Development- any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, the subdivision of land, the placement of mobile homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging or drilling operations.
- D. Fill- sand, gravel, earth, or other materials placed or deposited so as to form an embankment or raise the elevation of the land surface.
- E. Flood- a general but temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers or other waters of the Commonwealth.
- F. 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.

- P. Substantial improvement- any repair, reconstruction,
- G. Flood-proofing- any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.
- H. Mobile home- means 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 operation, and constructed so that it may be used with or without a permanent foundation. The term does not include recreational vehicles or travel trailers.

Section 1.00 I. Mobile Home Park- a parcel of land under single ownership which has been planned and improved for the placement of two or more mobile homes for nontransient use.

J. Obstruction- any wall, dam, wharf, embankment, levee, dike, pile abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or flood-prone areas, 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 is placed where the flow of the water might carry the same downstream to the damage of life and property.

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

Section 2.00 Issuance of Permits

L. Person- an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

M. Regulatory flood elevation- the one hundred (100) year flood elevation.

Section 2.01 N. 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.

O. Subdivision- the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, or lease, transfer of ownership or building or lot development.

B. Name and address of owner of land on which proposed construction is to occur.

C. Name and address of contractor.

D. Site location.

E. Brief description of proposed work and estimated cost.

P. Substantial improvement- any repair, reconstruction, modification or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

Section 2. (1) before the improvement or repair is started; or

(2) if the structure has been damaged, and is being restored, before the damage occurred.

For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structure part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Section 2. In addition to the building permit, the Building Permit

Section 1.04 Warning and Disclaimer of Liability

The degree of flood protection sought by the provision 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 any identified floodplain area or that land uses permitted within such areas will be free from flooding or flood damage. This Ordinance shall not create liability on the part of the Township 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 Permits

The Building Permit Officer shall issue a building permit only after it has been determined that the proposed construction will be in conformance with all applicable requirements and regulations.

Section 2.01 Note: If any proposed new construction is located within a designated flood-prone area, prospective building permit applicants shall also comply with the provisions of Part II of this Ordinance.

Section 2.01 Application Procedures

Application for such a building permit shall be made, in writing, to the Building Permit Officer on forms supplied by the Township. Such application shall contain at least the following:

- A. Name and address of applicant.
- B. Name and address of owner of land on which proposed construction is to occur.
- C. Name and address of contractor.
- D. Site location.
- E. Brief description of proposed work and estimated cost.

Section 2.06 Fees

F. A sketch of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

Section 2.02 Changes

After the issuance of a building permit by the Building Permit Officer, 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 Permit Officer.

Section 2.03 Placards

In addition to the building permit, the Building Permit Officer 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 Permit Officer.

Section 2.04 Start of Construction

Work on the proposed construction shall begin within six (6) 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 shall be considered to have started with the first placement of permanent construction of the site, such as the pouring of slabs or footings or any work beyond the stage of excavation. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation, or the affixing of any pre-fabricated structure or mobile home to its permanent site. Permanent construction does not include land preparation, land clearing, grading, filling, excavation for basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed sub-surface footings, or the installation of sewer, gas and water pipes, or electric or other service lines from the street.

Section 2.05 Inspection and Revocation

During the construction period, the Building Permit Officer or other authorized officials 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 municipal laws and ordinances. In the event the Building Permit Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Building Permit Officer shall revoke the building permit and report such fact to the Delaware Township Supervisors for whatever action they consider necessary.

Section 2.06 Fees

Applications for a building permit shall be accompanied by a fee, payable to the municipality, based upon the estimated cost of the proposed construction as determined by the Building Permit Officer at the following rates:

Section 3.00 Identification and prohibition

Estimated Cost- \$0.00 to \$2,000.00, Fee \$0.00.

A. For Estimated Cost- \$2,001.00 to \$10,000.00, Fee \$10.00.

Estimated Cost- Each additional \$1,000.00 or part thereof beyond the first \$10,000., Fee \$1.00.

Estimated Cost Building Permit Fee for installation of mobile home, Fee \$10.00.

Section 2.07 Appeals

Any person aggrieved by the Building Permit Officer's estimate of the cost of the proposed construction may appeal to the Delaware Township Supervisors. Such appeal must be filed, in writing, within thirty (30) days after the determination by the Building Permit Officer. Upon receipt of such appeal, the Delaware Township Supervisors shall set a time and place 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. The determination of the estimated cost by the Delaware Township Supervisors shall be final in all cases.

Section 2.08 Penalties

Section 3.01 Alterations to a Watercourse

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 Permit Officer or any other authorized employee of the Township shall be guilty of an offense and, upon conviction, shall pay a fine to Delaware Township of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) 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 non-compliance with, this Ordinance shall not excuse the violation or non-compliance or permit it to continue; and all such persons shall be required to correct or remedy such violations and non-compliances within a reasonable time. Any structure or building constructed, reconstructed, enlarged, altered, or relocated, in non-compliance with this Ordinance, may be declared by the Delaware Township Supervisors to be a public nuisance and abatable as such.

extent or amount of less than fifty (50) percent of its market value, shall be prohibited, unless it complies with 75 foot building line from the center of the road.

PART II FLOODPLAIN REGULATIONS

Section 3.00 ARTICLE III PROVISIONS FOR FLOODPLAIN AREA

Section 3.00 Identification and prohibition

- A. For the purposes of this Ordinance, the identified floodplain area shall be those areas of the Township which have been identified as being subject to flooding by a one hundred (100) year flood. These areas are shown on the Flood Insurance Rate Map for Delaware Township, Mercer County, Pennsylvania, dated July 30, 1982 and prepared by the Federal Insurance Administration.
- B. The identified floodplain area may be revised or modified by the Township Supervisors 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 Insurance Administration.
- C. Should a dispute concerning any identified floodplain boundary arise, any party aggrieved by such determination may appeal to the Township Supervisors. The burden of proof shall be on the appellant.
- D. No new construction or development (including substantial improvements) shall take place within any identified floodplain area of the Township.

Section 3.01 Alterations to a Watercourse

No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Township, and until all required permits or approvals have been first obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.

In addition, the Federal Insurance Administrator and Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified by the Township Prior to any alteration or relocation of any watercourse.

Section 3.02 Existing Structures in Identified Flood-Prone Areas

Structures existing in any identified flood-prone area prior to the enactment of this Ordinance, but which are not in compliance with these provisions, may continue to remain subject to the following:

- (1) Any modification, alteration, reconstruction, addition, or improvement of any kind to an extent or amount of less than fifty (50) percent of its market value, shall be prohibited, unless it complies with 75 foot building line from the center of the road.

ARTICLE IV VARIANCES

Section 4.00 General

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to and prospective builder, developer, or landowner, the Township Supervisors may, upon request, grant relief from the strict application of the requirements.

Section 4.01 Variance Procedures and Conditions

Requests for variances shall be considered by the Supervisors in accordance with the procedures contained in Section 2.01 of Ordinance 17 and the following:

- A. Notwithstanding the provisions of this article, no variance shall be granted for the following obstructions and activities if located entirely or partially within an identified floodplain area:
 - 1. Hospitals (public or private)
 - 2. Nursing homes (public or private)
 - 3. Jails or prisons, the Township shall attach whatever reasonable conditions and safeguards it considers necessary.
 - 4. New mobile home parks and mobile home subdivisions, and substantial improvements to existing mobile home parks
- B. Any new or substantially improved structure which will be used for the production or storage of any of the following materials or substances or which will be used for any activity or non-activity requiring the maintenance of a supply (more than 500 gallons or other comparable volume or any amount of radioactive substances) of any of the following materials or substances on the premises; above, on, or underground; whether in the floodplain area or elsewhere within the township.
 - a. Acetone or arsenic
 - b. Ammonia
 - c. Benzene
 - d. Calcium carbide
 - e. Carbon disulfide
 - f. Celluloid
 - g. Chlorine or Dioxin
 - h. Hydrochloric acid, additional threats
 - i. Hydrocyanic acid extraordinary public cause
 - j. Magnesium or create nuisances, conflict
 - k. Nitric acid and oxides of nitrogen
 - l. Petroleum products (gasoline, or local fuel oil, etc.)
 - m. Phosphorus
 - n. Potassium
 - o. Sodium
 - p. Sulphur and sulphur products
- C. A complete record of requests and related actions shall be maintained by the Township. In addition, a report of requests and actions during the year shall be included in the annual report to the Federal Insurance Administration.

Notwithstanding any of the above, structures shall have the capability to resist a year flood.

ARTICLE 7. MISCELLANEOUS PROVISIONS

- q. Pesticides (including insecticides, fungicides, and rodenticides)
- r. Radioactive substances, insofar as such substances are not otherwise regulated
- s. Nuclear by-products or waste and any other material or materials foreign to the environment (soil, water or air.)

Section 7.1 Repeal

This Ordinance shall supplement Ordinance No. 17:
 B. When applying for a variance in the floodplain, the applicant shall follow the procedures for obtaining a building permit as outlined in Ordinance number 17. In addition, the applicant shall be required to comply with all applicable requirements of the National Flood Insurance Program Regulations (60.3 a and b) including the requirements for elevation, floodproofing and anchoring. The applicant must also comply with any other requirements considered necessary by the Township.

Section 7.2

- C. If granted a variance shall involve only the least modification necessary to provide relief.
- D. In granting any variance, the Township 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.
- E. Whenever a variance is granted, the Township shall notify the applicant in writing that:

- a. the granting of the variance may result in increased premium rates for flood insurance.
- b. such variance may increase the risks to life and property.

ATTEST:

Eleanor C. Hays
Township Secretary

- F. In reviewing any request for a variance, the Supervisors 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.

Note: This Ordinance was typed from the original document exactly as
 September 11, 1987
 Shari J. Ray

G. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.

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 7. MISCELLANEOUS PROVISIONS

Section 7.1 Repeal

This Ordinance shall supplement Ordinance No. 17; effective April 14, 1976, and all provisions of Ordinance No. 17 which are not inconsistent herewith are hereby reenacted. However, any other ordinance or part of any other Ordinance conflicting with this Ordinance is hereby repealed insofar as the same affects this Ordinance.

Section 7.2 Effective Date

This Ordinance shall become effective immediately upon passage.

ORDAINED AND ENACTED by the Supervisors of Delaware Township at a regular meeting held this 7day of September, 1983.

BY: Clifford J. Schaller
Chairman, Board of Supervisors,
Delaware Township
Paul R. Snyder
Supervisor
Horace F. Reichard
Supervisor

ATTEST:

Eleanor C. Haws
Township Secretary

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Note: This Ordinance was typed from the original document exactly as written.

September 11, 1987
Shari J. Ray
Secretary/Treasurer

