

# FLOOD PLAIN ORDINANCE

ORDINANCE NO. 83-2

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 SCHUYLKILL TOWNSHIP PROVIDING FOR THE ISSUANCE OF SUCH BUILDING PERMITS; PROHIBITING ALL NEW 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 SCHUYLKILL TOWNSHIP, SCHUYLKILL 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:

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

### 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 Schuylkill Township 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 flood-

plain 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 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 Application Procedures

- A. Application for such a building permit shall be made, in writing, to the Building Official on forms supplied by the Township. 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 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 as well as any existing buildings or structures.

### Section 2.01 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.
- B. Prior to the issuance of any building permit the Building Official shall review the application for permit to determine if all other necessary governmental permits such as those required by state and federal laws have been obtained including those required by Act 537, the Pennsylvania Sewage Facilities Act, and the Federal Water Pollution Control Act Amendments of 1972, Section 404, 33, U.S.C. 1334. No permit shall be issued until this determination has been made.

### Section 2.02 Alteration or Relocation of Watercourse

- A. Prior to any proposed alteration or relocation of any stream or any watercourse, etc. within the township, a permit shall be obtained from the Department of Environmental Resources, Dams and Waterways Management Bureau as specified in the Water Obstruction Act of 1913 as amended. Further, notification of the proposal 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.

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.

#### Section 2.03 Changes

After the issuance of a building permit by the Building Official, 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.

#### Section 2.04 Placards

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 2.05 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 Official. Construction shall be considered to have started with the first placement of permanent construction on the site, such as the pouring of slabs or footing or any work beyond the state 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 prefabricated 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 subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

#### Section 2.06 Inspection and Revocation

During the construction 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 Township 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 Township Supervisors for whatever action they think necessary.

#### Section 2.07 Fees

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

<u>Estimated Cost</u>	<u>Fee</u>
\$0.00 to \$500.00	\$0.00
\$501.00 and up	\$5.00

#### Section 2.08 Enforcement

##### A. Notices

Whenever the Building Official or other authorized township 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.

##### B. Hearings

Any person affected by any notice which has been issued in connection with the enforcement of any provisions of this Ordinance, or of any regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Township Supervisors provided that such person shall file with the Township Supervisors a written petition

requesting such hearing and setting forth a brief statement of the grounds therefore within ten (10) days after the notice was served. The filing of the request for a hearing shall operate as a stay of the notice and the permit suspension. Upon receipt of such petition, the Township Secretary shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice shall be modified or withdrawn. The hearing shall be commenced not later than ten (10) days after the day on which the petition was filed; provided that upon application of the petitioner, the Township Secretary may postpone the date of the hearing for a reasonable time beyond such ten (10) day period when, in his judgment, the petitioner has submitted good and sufficient reasons for such postponement.

C. Findings and Order

After such hearing, Township Supervisors shall make findings as to compliance with the provisions of this Ordinance and regulations issued thereunder and shall issue an order, in writing, sustaining, modifying, or withdrawing the notice which shall be served as provided in subsection A of this Section.

D. Record of Hearing

The proceedings at such a hearing, including the findings and decision of the Supervisors and together with a copy of every notice and order related thereto shall be entered as a matter of public record in the Township, but the transcript of the proceedings need not be transcribed unless judicial review of the decision is sought as proved by this Section.

E. 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 township, shall be guilty of an offense and, upon conviction, shall pay a fine to Schuylkill Township 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 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 construction, reconstructed, enlarged, altered, or relocated, in non-compliance with this Ordinance may be declared by the Township Supervisors to be a public nuisance and abatable as such.

#### Section 2.09 Appeals

- A. Any person aggrieved by an action or decision of the Building Official, or by any of the requirements of this Ordinance, may appeal to the Township Supervisors. 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 Supervisors 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.
- B. Any person aggrieved by any decision of the Township Supervisors, may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

## ARTICLE III FLOODPLAIN PROVISIONS

### Section 3.00 Identification

- 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 Schuylkill Township, Schuylkill County, Pennsylvania, dated March 11, 1983, and prepared by the Federal Emergency Management Agency.
- 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 Emergency Management Agency.
- 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.

### Section 3.01 Floodplain Regulations

- A. No construction or development shall take place within any identified floodplain area of the Township.
- B. Any modification, alteration, reconstruction or other improvement of any kind to an existing structure which amounts to less than fifty (50) percent of the market value of the structure shall be permitted provided that such improvement is elevated and/or flood-proofed to the greatest extent possible.

## ARTICLE IV VARIANCES

### Section 4.00 General

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a 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 2.09 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
  4. New mobile home parks and mobile home subdivisions, and substantial improvements to existing mobile home parks
  5. 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) of 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.

- 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 (60.3 a and b) including the requirements for elevation, flood-proofing and anchoring. The applicant must also comply with any other requirements considered necessary by the Township.
- C. 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.
- D. Whenever a variance is granted, the Township 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 Supervisors 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 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 V DEFINITIONS

### Section 5.00 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 5.01 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.
- D. 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.

- H. 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, of lease, transfer of ownership or building or lot development. The division of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access, shall be exempted.
- 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.

ENACTED AND ORDAINED this 7<sup>TH</sup> day of DECEMBER 1983.

BOARD OF SUPERVISORS OF THE TOWNSHIP  
OF SCHUYLKILL

Joseph Zelinsky  
Joseph Zelinsky, Chairman

John Bashago  
John Bashago, Supervisor

Joseph J. Rudy  
Joseph J. Rudy, Supervisor

Attest: Thomas P. Zalusky, Jr.  
Thomas P. Zalusky, Jr.

SEC. TREAS.