

ORDINANCE No. 116

An Ordinance amending Ordinance No. 52 of 1966 of the Township of Pymatuning, Mercer County, Pennsylvania, known as the Pymatuning Township Zoning Ordinance, amending the text by adding an additional zoning district known as the Flood Plain District, regarding utilization of appropriate construction practices to minimize flood damage and regulate development and areas subject to flooding within the township.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Pymatuning, Mercer County, Pennsylvania, and it is hereby enacted and ordained by and with the authority of the same as follows:

SECTION 1: That Article II of the Pymatuning Township Zoning Ordinance be amended by adding an additional Section 203 entitled "Flood Plain District" to read as follows:

"Section 203 - Flood Plain District Overlay Concept"

203.1 - The Flood Plain District shall be an overlay to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions the flood plain district shall serve as a supplement to the underlying district provisions.

203.2 - Where there happens to be any conflict between the provisions or requirements of the Flood Plain District and those of any underlying district the more restrictive provisions and/or those pertaining to the flood plain districts shall apply.

203.3 - In the event any provision concerning the Flood Plain District is declared inapplicable as a result of any legislative or administrative actions or judicial discretion, the basic underlying district provisions shall remain applicable."

SECTION 2: That the Pymatuning Township Zoning Ordinance be amended by adding an additional Article A IX entitled "FP" Flood Plain District to read as follows:

"Section A900 - Purpose of Flood Plain District"

- (1) To promote the general health, welfare, and safety of the Township;
- (2) To encourage the utilization of appropriate construction practices to minimize flood damage in the future;
- (3) To minimize danger to public health by protecting water supply and natural drainage;
- (4) To reduce financial burdens imposed on the Township, its governmental units, and its residents, by regulating development in areas subject to flooding.

Section A901 - Municipal Liability - The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes in the identified flood-prone 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 flood-prone 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.

Section A902 - Designation of Flood Plain District Area(s)

A902.1 - Identification - The "Flood Plain District" shall be any area(s) of the Township which are identified as being flood-prone on the Flood Hazard Boundary Map as issued by the Federal Insurance Administration dated January 31, 1975.

A902.2 - Determination of the Regulatory Flood Elevation - For the purposes of this ordinance, the regulatory flood elevation, i.e., the one hundred (100) year flood elevation shall be used. To determine the one hundred year flood elevation, the elevation at a given point on the boundary of the identified flood-prone area(s) which is nearest the construction site in question will be used. In helping to make this necessary elevation determination other sources of data where available shall be used such as:

- (1) Corps of Engineers - Flood Plain Information Reports;
- (2) U.S. Geological Survey-Flood-Prone Quadrangles;
- (3) U.S.D.A., Soil Conservation Service - County Soil Surveys (Alluvial Soils);
- (4) Known Highwater Marks from Past Floods; and
- (5) Other sources.

In lieu of the above, the municipality may require the applicant to determine the elevation 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.

A902.3 - Changes in Designation of Flood-Prone Area(s) - The delineation of any of the identified flood-prone area(s) may be revised by the Board of Supervisors where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, River Basin Commission or other qualified agency or individual documents the notification for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

A902.4 - Boundary Disputes - Should a dispute concerning the flood-prone area district boundary arise, an initial determination shall be made by the Zoning Officer and any party aggrieved by this decision may appeal to the Board of Adjustment (Zoning Hearing Board). The burden of the proof shall be on the appellant.

Section A903 - Use Regulations

A903.1 - Permitted Uses - In the Flood Plain 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 flood-proofing and related provisions contained within this and all other applicable codes and ordinances.

A903.2 - Prohibited Uses - It has been determined that the following activities and development present a special hazard to the health and safety of the general public, or may result in significant pollution, increased flood levels or flows, or debris endangering life and property if such development are located, either or partially, within an identified flood-prone area. Therefore the following uses are specifically prohibited within the Flood Plain District;

- (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 thereto;
- (5) facilities necessary for emergency response such as fire, ambulance, and police stations, civil defense preparedness buildings and facilities, emergency communications facilities, evacuation and emergency medical centers.

Section A904 - Building Permit Provision

A904.1 - Application Requirements - If any proposed construction or development is located, wholly or partially, within an identified flood-prone area, applicants for building permits shall also provide at least two (2) copies of the following specific information:

- (1) A plan which accurately delineates the area which is subject to flooding, the location of the proposed construction, the location of any other flood-prone development or structures, and the location of any existing or proposed stream improvements or protective works. Included shall be all plans for proposed subdivision and land development in order to assure that:
  - (a) all such proposals are consistent with the need to minimize flood damage;
  - (b) all utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage; and
  - (c) adequate drainage is provided so as to reduce exposure to flood hazards.

- (2) Such plan shall also include existing and proposed contours; information concerning one hundred (100) year flood elevations, and other applicable information such as uplift forces and other factors associated with the one hundred (100) year flood; size of structures, location and elevations of streets; water supply and sanitary sewage facilities; soil types, and flood-proofing measures.
- (3) All proposed lowest floor and basement elevations shall be shown in relation to mean sea level, based upon the National Geodetic Vertical Datum of 1929.
- (4) A document certified by a registered professional engineer or architect that the proposed construction has been adequately designed against flood damage and that the plans for the development of the site adhere to the restrictions cited in Article IV of this Ordinance.

Such statement shall include a description of the type and extent of flood-proofing measures which have been incorporated into the design of the structure.

#### A904.2 - Other Permit Issuance Requirements

- (1) Prior to any proposed alteration or relocation of any stream or any watercourse, etc. within the municipality, a permit shall be obtained from the Department of Environmental Resources, Bureau of Dam Safety Obstructions and Storm Water Management, 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.

- (2) 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.

A904.3 - Review by County Conservation District - A copy of all applications and plans for any proposed construction or development in any identified flood-prone area to be considered for approval shall be submitted by the Building Official to the County Conservation District for review and comment prior to the issuance of a building permit. The recommendations of the Conservation District shall be considered by the Building Official for possible incorporation into the proposed plan.

A904.4 - Review of Application by Others - A copy of all plans and applications for any proposed construction or development in any identified flood-prone area to be considered for approval may be submitted by the Building Official to any other appropriate agencies and/or individuals (e.g., planning commission, municipal engineer, etc.) for review and comment.

Section A905 - Specific Requirements

A905.1 - General

- (1) In the identified Flood-prone Area(s), the development and/or use of any land shall be permitted provided that the development and/or use adheres to the restrictions and requirements of all other applicable codes and ordinances in force in the municipality.
- (2) Within any identified Flood-prone Area(s), the elevation of the lowest floor (including basement) of any new or improved residential structures shall be at or above the regulatory flood elevation.
- (3) Within any identified flood-prone area(s), the elevation of the lowest floor (including basement) of non-residential structures shall be at or above the regulatory flood elevation or be flood-proofed up to that height.

Any structure, or part thereof, which will not be completely or adequately elevated, shall be flood-proofed in accordance with the provisions of this article. Additional information may be obtained from the publication entitled "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June, 1972).

A905.2 - Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed to be undertaken within any identified flood-prone area:

(1) Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The system shall insure drainage at all points along streets, and provide positive drainage away from buildings. The system shall also be designed away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

(2) Sanitary Sewer Facilities

All new or replacement sanitary sewer facilities, and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

(3) Water Facilities

All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system, and be located and constructed to minimize or eliminate flood damages.

(4) Streets

The finished elevation of proposed new streets shall be no more than one (1) foot below the regulatory flood elevation.

(5) Utilities

All utilities such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, elevated (where possible) and constructed to minimize the change or impairment during a flood.

(6) Fill

If fill is used, it shall:

- (a) extend laterally at least fifteen (15) feet beyond the building line from all points,
- (b) consist of soil or small rock materials only (excluding sanitary land fill material),
- (c) be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling,
- (d) be no steeper than one (1) vertical to two (2) horizontal, unless substantiated data, justifying steeper slopes are submitted to, and approved by the Township Building official,
- (e) be used to the extent to which it does not adversely affect adjacent properties.

(7) Placement of Buildings and Structures

All buildings and structures shall be designed, located and constructed, so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood waters.

(8) Anchoring

- (a) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
- (b) All air ducts, large pipes and storage tanks and other similar objects or components located at or below the regulatory flood elevation shall be firmly anchored or affixed to prevent flotation.

(9) Floors, Walls and Ceilings

Where located at or below the regulatory flood elevation:

- (a) Wood flooring shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without incurring structural damage to the building.
- (b) Plywood shall be of a "marine" or "water-resistant" variety.
- (c) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
- (d) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant material.

(10) Electrical Systems and Components

- (a) Electrical water heaters, furnaces, air conditioning and ventilating systems, and other electrical equipment or apparatus shall not be located below the regulatory flood elevation and other electrical equipment or apparatus shall be permitted only at elevations above the regulatory flood elevation.
- (b) Electrical distribution panels shall be at least three (3) feet above the level of the One Hundred (100) Year Flood Elevation.
- (c) Separate electrical circuits shall serve lower levels and shall be dropped from above.

(11) Plumbing

- (a) Water heaters, furnaces, and other mechanical equipment or apparatus shall not be located below the regulatory flood elevation.
- (b) On-site sewage disposal systems shall be located to avoid impairment to them or contamination from them during flooding. At a minimum, all systems shall meet the requirements of Act 537, The Pennsylvania Sewage Facilities Act, as amended.
- (c) Water supply systems and sanitary sewage systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters.
- (d) All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

(12) Paints and Adhesives

When used at or below regulatory flood elevation:

- (a) paints or other finishes shall be of a "marine" or water-resistant quality.
- (b) adhesives shall be of a "marine" or water resistant quality.

(13) Storage

No materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal or plant life, shall be stored below the regulatory flood elevation.

A905.3 - Special Requirements for Mobile Homes

- (1) All mobile homes and any additions thereto shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the following:

11. Nitric acid and oxides of nitrogen
  12. Petroleum products (gasoline, fuel oil, etc.)
  13. Phosphorus
  14. Potassium
  15. Sodium
  16. Sulphur and sulphur products
  17. Pesticides (including insecticides, fungicides and rodenticides)
  18. Radioactive substances, insofar as such substances are not otherwise regulated.
- (2) Within any FF (Flood-Fringe Area) or FA (General Floodplain Area), any structure of the kind described in Section A, above shall be:
- (a) elevated or designed and constructed to remain completely dry up to at least one and one-half (1-1/2) feet above the one-hundred (100) year flood, and
  - (b) designed to prevent pollution from the structure or activity during the course of a one-hundred (100) year flood.

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry flood-proofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

Section A906 - 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, provided that 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, shall be undertaken only in full compliance with the provisions of this Ordinance."

SECTION 3: That Article XV Zoning Hearing Board of the Pymatuning Township Zoning Ordinance be amended by adding an additional section 1502.1 entitled Variance from Flood-proofing Requirements to read as follows:

"1502.1 - Variance from Flood-proofing Requirements - If compliance with the elevation of flood-proofing requirements of this Ordinance would result in an exceptional hardship for a prospective building, developer, or landowner, the Township may, upon request, grant relief from the strict application of the requirement.

- (1) No variance shall be granted for any of the requirements pertaining specifically to development regulated by Section A905.4 - Development Which May Endanger Human Life.
- (2) If granted, a variance shall involve only the least modification necessary to provide relief.



- (3) In granting any variance, the Zoning Hearing Board 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.
- (4) Whenever a variance is granted, the Zoning Hearing Board 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.
- (5) In reviewing any request for a variance, the Zoning Hearing Board shall consider, but not be limited to, 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 not result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimization of the public, or conflict with any other applicable Federal, State, or local ordinance and regulations.
- (6) A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board. 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 capability of resisting the one hundred (100) year flood."

SECTION 4: That Article XIX - Definitions of the Pymatuning Township Zoning Ordinance be amended by adding the following:

"Building: Included shall be all mobile and trailers to be used for human habitation. (This sentence is added to the existing definition of "Building")

Construction: The construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of mobile homes.

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.

Flood: A temporary inundation of normally dry land areas.

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.

Flood-prone 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.

Obstruction: Any wall, dam, wharf, embankment, levee, dike, pike 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 area, 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.

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).

Regulatory flood elevation: The one hundred (100) year flood elevation.

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; provided however, that 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."

SECTION 5: That all ordinances and amendments hereto executed pertaining to the subject matter of this Ordinance or parts thereto, inconsistent with this Ordinance, are hereby repealed.

SECTION 6: That in all other respects, Ordinance No. 52 of 1966 of the Township of Pymatuning, Mercer County, Pennsylvania, be and the same is hereby ratified and confirmed.

ORDAINED AND ENACTED this 11<sup>TH</sup> day of JUNE, 1981, by the Board of Supervisors of Pymatuning Township, Mercer County, Pennsylvania.

ATTEST:

Spide Sakman  
Township Secretary

TOWNSHIP OF PYMATUNING

By Charles E. Gearhart  
Joseph A. Copher  
Harry H. Crang  
Supervisors