

ORDINANCE OF WAYNE TOWNSHIP NO. 4 of 2011

An Ordinance of Wayne Township, Lawrence County, Pennsylvania. Requiring All Persons, Partnerships, Businesses and Corporation to Obtain a Building Permit for Any Construction or Development within Areas Designated as Floodway Areas, Floodplain Areas and Flood-Fringe Areas; Providing for the Issuance of Such Building Permits; Setting Forth Certain Minimum Requirements for New Construction and Development within Said Areas of the Township and Establishing Penalties for Failure or Refusal to Comply with the Requirements of this Ordinance.

WHEREAS, the Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry.

THEREFORE, BE IT ORDAINED AND ENACTED by the Wayne Township Board of Supervisors adopt this ordinance for the regulation of floodway areas, floodplain areas and flood-fringe areas.

ARTICLE I - GENERAL PROVISIONS

Section 1.00 Intent

The intent of this Ordinance is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or 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 excessive development in areas subject to flooding.

Section 1.01 Applicability

It shall be unlawful for any person, partnership, business, or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township unless a Building Permit has been obtained from the Floodplain Administrator. A Building Permit shall not be required for minor repairs to existing buildings or structures.

Section 1.02 Abrogation, Greater Restrictions and Repealer

This Ordinance amends Ordinance No. 1 of 1982 in order to comply with the requirements of the Federal Emergency Management Agency concerning requirements for the National Flood Insurance Program. This Ordinance supersedes any other conflicting provisions that may be in effect in identified floodplain areas. However, any other ordinance provisions 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 shall 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 Warning and Disclaimer of Liability

The degree of flood protection established 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. 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 Designation of the Floodplain Administrator

The Building Permit Officer is hereby appointed to administer and enforce this ordinance and is referred to herein as the Floodplain Administrator.

Section 2.01 Building Permits Required

Building Permits shall be required before any construction or development is undertaken within any area of the Township.

Section 2.02 Issuance of Building Permit

- A. The Floodplain Administrator 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 Floodplain Administrator shall review the application for permit to determine if all other necessary governmental

permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended) the U.S. Clean Water Act, Section 404, 33, U.S.C. 1334; and the Pennsylvania Clean Streams Act (Act 1937-94, as amended). No permit shall be issued until this determination has been made.

- C. 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 municipality and until all required permits or approvals have been first obtained from the Department of Environmental Protection.
- D. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
- E. In addition, the Federal Emergency Management Agency and the Pennsylvania Department of Community and Economic Development, shall be notified by the municipality prior to any alteration or relocation of any watercourse.
- F. Technical or scientific data shall be submitted to FEMA for a Letter of Map Revision (LOMR) within six (6) months of the completion of any new construction, development, or other activity resulting in changes in the BFE.

Section 2.03 Application Procedures and Requirements

- A. Application for such a building permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Township. Such application shall contain 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. Listing of other permits required.
 - 6. Brief description of proposed work and estimated cost.

7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Building Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
1. all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
 2. all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
 3. adequate drainage is provided so as to reduce exposure to flood hazards.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
1. A completed Building Permit Application form.
 2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one-hundred (100) feet or less, showing the following:
 - a. north arrow, scale, and date;
 - b. topographic contour lines, if available;
 - c. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
 - d. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development.
 - e. the location of all existing streets, drives, and other accessways; and
 - f. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.

3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - a. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988.
 - b. the elevation of the one-hundred (100) year flood;
 - c. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one-hundred (100) year flood; and
 - d. detailed information concerning any proposed flood-proofing measures.
4. The following data and documentation:
 - a. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the one-hundred (100) year flood elevations, pressures, velocities, impact and uplift forces associated with the one-hundred (100) year flood.

Such statement shall include a description of the type and extent of floodproofing measures that have been incorporated into the design of the structure and/or the development.
 - b. detailed information needed to determine compliance with Section 4.03 F, Storage, and Section 4.04, Development Which May Endanger Human Life, including:
 - i. the amount, location and purpose of any materials or substances referred to in Sections 4.03 F and 4.04 which are intended to be used, produced, stored or otherwise maintained on site.
 - ii. A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 4.04 during a one-hundred (100) year flood.
 - c. the appropriate component of the Department of Environmental Resources' "Planning Module for Land Development."

- d. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources to implement and maintain erosion and sedimentation control.

D. Applicants for Special Permits Shall provide five copies of the following items:

1. A written request including a completed Building Permit Application form.
2. A small-scale map showing the vicinity in which the proposed site is located.
3. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one-hundred (100) feet or less, showing the following:
 - a. north arrow, scale and date;
 - b. topography based upon the North American Vertical Datum of 1988, showing existing and proposed contours at intervals of two (2) feet;
 - c. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
 - d. the location of all existing streets, drives, other accessways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
 - e. the location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development;
 - f. the location of the flood plain boundary line, information and spot elevations concerning the one-hundred (100) year flood elevations, and information concerning the flow of water including direction and velocities;
 - g. the location of all proposed buildings, structures, utilities, and any other improvements; and
 - h. any other information which the municipality considers necessary for adequate review of the application.
4. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:

- a. sufficiently detailed architectural or engineering drawings including floor plan sections, and exterior building elevations, as appropriate;
 - b. for any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;
 - c. complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the one-hundred (100) year flood;
 - d. detailed information concerning any proposed floodproofing measures;
 - e. cross-section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
 - f. profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
 - g. plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.
5. The following data and documentation:
- a. certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
 - b. certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the one hundred (100) year flood;
 - c. a statement certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a hundred (100) year flood, including a statement concerning the effects such pollution may have on human life;
 - d. a statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the one-hundred (100) year flood elevation and the effects such materials and debris may have on one-hundred (100) year flood elevations and flows;

- e. the appropriate component of the Department of Environmental Protections' "Planning Module for Land Development";
- f. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control;
- g. any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and
- h. an evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a one-hundred (100) year flood.

Section 2.04 Review by County Conservation District

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Floodplain Administrator to the County Conservation District for review and comment prior to the issuance of a building permit. The recommendations of a Conservation District shall be considered by the Floodplain Administrator for possible incorporation into the proposed plan.

Section 2.05 Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified flood plain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g., planning commission, municipal engineer, etc.) for review and comment.

Section 2.06 Changes

After the issuance of a building permit by the Floodplain Administrator, 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 Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to the Floodplain Administrator for consideration.

Section 2.07 Placards

In addition to the building permit, the Floodplain Administrator shall issue a placard that 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 Floodplain Administrator.

Section 2.08 Start of Construction

Work on the proposed construction and/or development shall begin within six (6) months and shall be completed within twelve (12) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation for basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

Time Extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request.

Section 2.09 Inspection and Revocation

- A. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable Wayne Township laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.
- B. In the discharge of his duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.
- C. In the event the Floodplain Administrator 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 application, the Floodplain Administrator shall revoke the building permit and report such fact to the Board for whatever action it considers necessary.
- D. A record of all such inspections and violations of this ordinance shall be maintained.
- E. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or latest revisions thereof.

Section 2.10 Fees

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

Estimated Cost	Fee
\$0.00 to \$200.00	\$0.00
\$201.00 to \$1,000.00	\$5.00
Each additional \$1,000.00 or part thereof beyond the first \$1,000.00	\$1.00

Section 2.11 Enforcement

A. Notices

Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulation adopted pursuant thereto, the Floodplain Administrator 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 not to exceed a period of thirty (30) days 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 effect compliance with the provisions of this Ordinance.

B. 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 Floodplain Administrator or any other authorized employee of the municipality shall be guilty of an offense and, upon conviction, shall pay a fine to the Township of not less than Twenty-five (\$25) dollars or more than three hundred (\$300) dollars 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-compliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in non-compliance with this Ordinance may be declared by the Board to be a public nuisance and abatable as such.