

ORDINANCE NO. 55

AN ORDINANCE ESTABLISHING A FLOODPLAIN AREA WITHIN THE BOROUGH, PROHIBITING ALL NEW CONSTRUCTION AND DEVELOPMENT, INCLUDING SUBSTANTIAL IMPROVEMENTS TO EXISTING DEVELOPMENT, WITHIN THE ESTABLISHED FLOODPLAIN AREA; SETTING FORTH CERTAIN DEFINITIONS; AND ESTABLISHING CERTAIN PROCEDURES AND CONDITIONS PERTAINING TO THE GRANTING OF ANY VARIANCE THAT MAY BECOME NECESSARY.

BE IT ENACTED and ORDAINED by Indian Lake Borough, Somerset County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

Section 1.00 Intent

The intent of this Ordinance is to:

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

Section 2.00 Floodplain Regulations

- A. No new construction or development (including substantial improvements) shall take place within any identified floodplain area of the Borough.
- B. Improvements or modifications to an existing structure involving less than fifty (50) percent of the fair market value shall be permitted, but they shall be elevated or floodproofed as much as possible.

Section 2.01 Identification of the Floodplain

- A. For the purposes of this Ordinance, the identified floodplain area shall be those areas of the Borough which have been identified as being subject to flooding by a one hundred (100) year flood. These areas are shown on the Flood Hazard Boundary Map for Indian Lake Borough, Somerset County, Pennsylvania, dated October 15, 1976.

B. The identified floodplain area may be revised or modified by the Borough Council 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 Borough Council. The burden of proof shall be on the appellant.

Section 2.02 Encroachment or 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 Borough 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 Borough prior to any alteration or relocation of any watercourse.

Section 2.03 Abrogation and Greater Restrictions

This Ordinance supersedes any other conflicting provisions which 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 2.04 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 2.05 Municipal Liability

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes in the identified floodplain areas. 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 any debris. This Ordinance does not imply that areas outside any identified floodplain area will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the Borough 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 3.00 Variances

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

Section 3.01 Variance Procedures and Conditions

Requests for variances for any construction or development in the floodplain shall be considered by the Council in accordance with the following:

A. Notwithstanding the provisions of this article, no variance shall be granted for any construction or development intended to be used for the following purposes 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 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 floodproofing, anchoring, and elevation.

C. If a variance is granted, the applicant must obtain a building permit for any construction or development in the floodplain. In addition to meeting the requirements of Subsection 3.01 B., the applicant must meet all the provisions of the Borough's Ordinance Number 10 and any amendments thereto. The applicant must also comply with any other requirements considered necessary by the Borough.

D. In granting any variance, the Borough 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 Borough 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.

F. In reviewing any request for a variance, the Council 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.

G. A complete record of all variance requests and related actions shall be maintained by the Borough. 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.

Section 4.00 Definitions

Words and phrases used in this Ordinance shall be interpreted so as to give

this Ordinance its most reasonable application except for the following 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. 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).

E. 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.

ORDAINED AND ENACTED this 12th day of July, 1983.

s/s Frank A. Bedois
President of Council

Attest:

/s/ Beverly J. Brown
Secretary

Examined and approved by me this 12th day of July, 1983.

/s/ John E. Meehan, Sr.
Mayor