

ORDINANCE NO. 186

AN ORDINANCE OF THE BOROUGH OF MILESBERG, CENTRE COUNTY, PENNSYLVANIA, REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES AND CORPORATIONS TO OBTAIN BUILDING PERMITS FOR THE CONSTRUCTION, RECONSTRUCTION, ENLARGEMENT, ALTERATION OR RELOCATION OF ANY BUILDING OR STRUCTURE, PROVIDING FOR THE ISSUANCE OF SUCH BUILDING PERMITS, SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTIONS WITHIN AREAS OF THE BOROUGH OF MILESBERG WHICH ARE SUBJECT TO FLOODING, AND ESTABLISHING PENALITIES FOR ANY PERSONS WHO FAIL OR REFUSE TO COMPLY WITH THE REQUIREMENTS OR ANY PROVISIONS OF THIS ORDINANCE.

WHEREAS, the Borough of Milesburg, in order to secure and protect the rights of the citizens of the Borough to obtain Federal Flood Insurance on properties located within flood-prone areas, has enacted necessary legislation to enroll in the Federal Flood Program; and

WHEREAS, the federal government, through its various agencies, has established rules and regulations requiring the Borough to enact a building code for the Borough, and has further specified the provisions to be contained in said building code,

NOW, THEREFORE, be it enacted and ordained by the Borough of Milesburg, Centre County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

ARTICLE ONE. GENERAL PROVISIONS

Section 100. 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 burden imposed on the community, its governmental units and its residents by preventing excessive development in areas subject to flooding;

E. Maintain the Borough's compliance with the requirements and directives of the federal government, as required by its various agencies and departments.

Section 101. Applicability.

A. It shall be unlawful for any person, partnership, business or corporation to undertake or cause to be undertaken the construction, reconstruction, enlargement, alteration or relocation of any building or structure unless an approved building permit has been obtained from the proper designated Borough official.

B. A building permit shall not be required for minor repairs to existing structures or buildings, provided that no structural change or modification is involved.

Section 102. 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 103. 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 severable.

Section 104. Municipal Liability.

The granting of a building permit or approval of a subdivision or land development plan in any identified flood-prone area shall not constitute a representation, guarantee or warranty of any kind by the Borough or by any officer or employe thereof of the practicability or safety of the proposed use, and shall create no liability upon the Borough, its officials or employes.

ARTICLE TWO. ADMINISTRATION

Section 200. Building Permits Required.

Building permits shall be required before any new construction, reconstruction, enlargement, alteration or relocation of any building or structure is undertaken.

Section 201. Issuance of Building Permit.

The designated Borough official or building permit officer 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.

Section 202. Application Procedures.

Application for such a building permit shall be made in writing to the designated Borough official or the building permit officer on forms supplied by the Borough. Such application shall contain at least the following:

- A. Name and address of applicant;
- B. Name and address of owner of land or structure 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;
- F. A plan of the site showing the exact size and location of the proposed construction, as well as any existing buildings or structures.

If any proposed new construction is located within or adjacent to any flood-prone area, applicants for building permits shall also provide the following specific information:

- A. A plan which accurately locates the construction proposal with respect to the flood-prone area boundaries, stream channel and existing flood-prone developments. Included shall be all plans for proposed subdivision and/or land development to assure that:

(1) All such proposals are consistent with the need to minimize flood damage;

(2) All public utilities and facilities, such as sewer, gas, electrical and water systems, are located, elevated and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided so as to reduce exposure to flood hazards.

B. Such plan shall also include existing and proposed contours and elevation of the ground, storage elevation, size of the structure, location and elevations of streets, water supply, sanitary facilities, soil types and flood-proofing measures.

C. A document certified by a registered professional engineer or architect that adequate precautions against flood damage have been taken with respect to the design of any building or structure, and that the plans for the development of the site adhere to the requirements and provisions in Article Four of this Ordinance, if requested by the designated Borough official or building permit officer.

Section 203. Review by County Conservation District.

A copy of all applications and plans for new construction in any flood-prone area to be considered for approval shall be submitted by the designated Borough official or building permit officer 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 permit officer for possible incorporation into the proposed plan. In the event the County Conservation District shall not comment on the proposed building plan within three days of submission, such comment will deem to have been waived.

Section 204. Review of Application by Others.

A copy of all plans and applications for new construction in any flood-prone area to be considered for approval may be submitted

by the designated Borough official or building permit officer to any other appropriate agencies or individuals for review and comment.

Section 205. Changes.

After the issuance of a building permit by the designated Borough official or building permit officer, no changes or 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 approval of the designated official.

Section 206. 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 designated Borough official or building permit officer.

Section 207. Start of Construction.

Work on the proposed construction shall begin within six 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 designated Borough official or the building permit officer. Construction shall be considered to have started with the first placement of permanent construction on 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, start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundations, 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, excavations for basement, footings, piers or foundations, erections 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 208. Inspection and Revocation.

During the construction period the building permit officer or designated Borough 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 Borough 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, error or misrepresentation by any applicant, the building permit officer shall revoke the building permit and report such fact to the Borough Council for whatever action the governing body of the Borough considers necessary.

Section 209. Fees.

A. Applications for building permit shall be accompanied by fee payable to the Borough, based upon the estimated cost of the proposed construction, as determined by the building permit officer at the following rates:

Estimated cost \$ 00000 to \$1,000-- \$2.00;
Each additional \$1,000 or part thereof beyond the
first \$1,000-- \$1.00.

B. Any person agrieved by the building permit officer or designated Borough official's estimate of the cost of the proposed construction may appeal to the Borough Council. Such appeal must be filed in writing within thirty (30) days after the determination by the building permit officer.

Section 210. Notices, Hearings, Orders and Appeals.

A. Notices. Whenever the building permit officer or designated Borough official determines that there are reasonable grounds to believe that there has been a violation of any provisions of this ordinance or any regulation adopted pursuant thereto, such authority shall give notice of such alleged violations as hereinafter provided.

Such notices shall:

(A.) Be in writing;

(B.) Include a statement of the reason for its issuance;

(C.) Allow reasonable time for the performance of any act it requires;

(D.) Be served upon the property owner, contractor 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 the Commonwealth;

(E.) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this ordinance or any part thereof and with the regulations adopted hereto.

B. Hearings. Any persons 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 Borough Council, provided that such person shall file with the Borough Secretary a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the notice was served. Such petition shall be accompanied by a check in the amount of \$25.00 to cover the costs of advertising. The filing of the request for a hearing shall operate as a stay of the notice and the suspension. Upon receipt of such petition, the Borough 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 twenty (20) days after the day on which the petition was filed, provided that upon application of the

petitioner, the Borough Secretary may postpone the date of such hearing for a reasonable time beyond such twenty-day period, when in his judgment the petitioner has submitted good and sufficient reasons for such postponement.

C. Findings and Orders. After such hearing, the Council 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. Records and Appeals. The proceedings at such a hearing, including the findings and decisions of the Borough Council, together with a copy of every notice and order related thereto, shall be entered as a matter of public record in the Borough records, but the transcript of the proceedings need not be transcribed unless judicial review of this decision is sought as provided by this section. A person so aggrieved by a decision of the Borough Council may seek relief therefrom in any Court of competent jurisdiction, as provided by the laws of this Commonwealth.

E. Borough Council may appoint an appellate body to hear and dispose of all appeals under this section. Said determinations and decisions of such appellate board of review shall be reviewed by Council at regularly scheduled meetings.

Section 211. 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 or order or direction of the designated Borough official or the building permit officer, shall be guilty of an offense, and upon conviction shall pay a fine to the Borough of Milesburg of not less than \$25.00 nor more than \$300.00, plus costs of prosecution. In default of such payment, such person shall be imprisoned in the County Prison for a period not to exceed ten (10)

days. Each day during which 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 noncompliance with this ordinance shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct and remedy such violations and noncompliances within a reasonable time. Any structure or building constructed, reconstructed, enlarged, altered or relocated in noncompliance of this ordinance may be declared by the Borough of Milesburg to be a public nuisance and abatable as such.

ARTICLE THREE. DESIGNATION OF FLOOD-PRONE AREAS

Section 300. Identification.

All flood-prone areas of the Borough of Milesburg shall be those areas identified as such in the Flood Insurance Study dated the 2nd day of August , 1976 , prepared for the Borough by the Federal Flood Insurance Administration.

Section 301. Mapping.

For the purposes of this ordinance, the boundaries of all identified flood-prone areas within the Borough are shown on the official map of flood-prone areas of the Borough of Milesburg, which is available for inspection at the Borough offices.

Section 302. Changes in Boundaries.

For the purposes of this ordinance, the boundaries of areas considered to be flood prone may be revised or modified by the municipality only where necessary because of natural or man-made changes which have occurred and/or were more detailed. Studies undertaken by a qualified agency or individual may document the

need for such revision, or upon the orders or directions of the Federal Insurance Administration or other agencies of the federal government.

Section 303. Boundary Disputes.

Should a dispute arise concerning the boundary of any flood-prone area, an initial determination shall be made by the designated Borough official or building permit officer, and any party aggrieved by this decision may appeal to the Council. The determination of the building permit officer shall be presumed correct, and the burden of proof shall be on the appellant.

ARTICLE FOUR. TECHNICAL PROVISIONS.

Section 400. General.

A. Where a floodway has been determined and delineated, no new construction, development, storage of materials or equipment, or encroachments of any kind shall be permitted (except two-wire fences) except where the effect of such construction, storage, or encroachment is fully offset by accompanying stream improvements which have been approved by all appropriate local and/or State authorities.

B. Where detailed information is available concerning the one hundred (100) year flood (elevations and profile information) and a floodway has not been delineated, new construction, development, uses and activities shall be allowed to occur within any flood-prone area, provided that the applicant has documented that the proposed new construction, development, use or activity, together with all other existing and anticipated development, uses and activities, will not increase the water surface elevation of the one-hundred (100) year flood more than one (1) foot at any point, and that the proposed new construction, development, use or activity shall be undertaken in compliance with the regulations of this and any other applicable codes, ordinances and regulations.

C. Where detailed information is not available concerning the one hundred (100) year flood (elevations and profile information), new constructions, development, uses and activities shall be allowed to occur anywhere within the flood-prone area, provided that they shall be undertaken in compliance with the requirements of this and any other applicable codes, ordinances and regulations.

D. All first floor levels (including basements) in residential structures shall be constructed at an elevation of at least one and one-half (1 1/2) feet above the one hundred (100) year flood elevation.

E. First floor levels in non-residential buildings may be constructed below the level of the one-hundred (100) year flood, provided that they and their attendant utilities and sanitary facilities are flood-proofed up to an elevation of at least one and one-half (1 1/2) feet above the one hundred (100) year flood.

Section 401. 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. Sanitary landfills shall not be permitted;

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 substantiating data, justifying steeper slopes are submitted to and approved by the building permit officer;

E. Be used to the extent to which it does not adversely affect adjacent properties.

Section 402. 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 water.

Section 403. Anchoring.

A. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourses.

B. All air ducts, large pipes and storage tanks located at or below the first floor level shall be firmly anchored to prevent flotation.

Section 404. Floors, Walls and Ceilings.

A. Wood flooring used at or below the first floor level 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 used at or below the first floor level shall be of any "exterior" or "marine" grade and of a water-resistant or waterproof variety.

C. Basement ceilings in non-residential structures shall have sufficient wet strength and be so installed as to survive inundation.

D. Window frames, door frames and door jambs used at or below the first floor level shall be made of metal.

Section 405. Electrical Systems.

A. All electric water heaters, electric furnaces, electric air conditioning and ventilating systems, and other critical electrical installations shall be permitted only at elevations of one and one-half (1 1/2) feet or more above the one-hundred (100) year flood elevation.

B. No electrical distribution panels shall be allowed at an elevation less than 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.

Section 406. Plumbing.

A. Water heaters, furnaces and other critical mechanical installations shall be permitted only at elevations of one and one-half (1 1/2) feet or more above the one hundred (100) year flood elevation.

B. No part of any on-site sewage disposal system shall be constructed within any flood-prone area.

C. Water supply systems and sanitary sewage systems shall be designed to preclude infiltration of flood waters into the systems and discharges from the systems into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

Section 407. Paints and Adhesives.

A. Adhesives used at or below the first floor level shall have a bonding strength that is unaffected by inundation.

B. Doors and all wood trim at or below the first floor level shall be sealed with a waterproof paint or similar product.

C. Paints or other finishes used at or below the first floor level shall be capable of surviving inundation.

Section 408. 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 an elevation one and one-half (1 1/2) feet above the one hundred (100) year flood elevation.

ARTICLE FIVE. EXISTING STRUCTURES IN FLOOD-PRONE AREAS

Structures in any flood-prone area which lawfully existed before the enactment of this ordinance, but which are not in compliance with these provisions, may continue to remain, subject to the following:

A. Existing structures located in a floodway area shall not be expanded or enlarged unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying stream improvements.

B. Any modification, alteration, reconstruction or improvement of any kind to an existing structure to an extent or amount of less than fifty percent (50%) of its value shall be elevated and/or floodproofed to the greatest extent possible.

C. Any modification, alteration, reconstruction or improvements of any kind to an existing structure to an extent or amount of fifty percent (50%) or more of its value shall be undertaken only in full compliance with the provisions of this ordinance.

ARTICLE SIX. DEFINITIONS

Section 600. General.

Unless specifically defined below, words and phrases used in this ordinance shall be interpreted so as to give them the meaning as they have in common usage and so as to give this ordinance its most reasonable application.

Section 601. Specific Definitions.

A. Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

B. 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.

C. 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.

D. Floodway area - the channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood of the one-hundred (100) year magnitude.

E. Land development - (i) the improvement of one lot, or two or more contiguous lots, tracts or parcels of land for any purpose involving (a) a group of two or more buildings, or (b) the division or allocation of land or space between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features; (ii) a subdivision of land.

F. Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep; but not including any addition, change or modification in construction, exit facilities, or permanent fixtures or equipment.

G. New construction - the construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building, structure and/or improvements, such as streets, utilities, etc. Also for the purposes of this ordinance, all proposed subdivision and/or land development shall be considered to be new construction.

H. 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 area, which may impede, retard or change the direction of the flow of water might carry the same downstream to the damage of life or property.

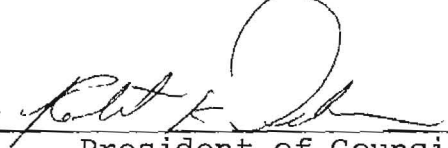
I. One-hundred year flood - a flood that, on the average, is likely to occur once every one hundred (100) years (i.e. that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

J. 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.

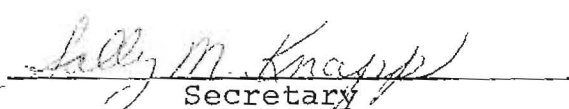
K. Subdivision - the division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership, or building, or lot development;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

ENACTED AND ORDAINED into an ordinance of the Borough of Milesburg this ^{17th} day of February, 1977.

BOROUGH OF MILESBURG

By 
President of Council

ATTEST:


Secretary