

ORDINANCE NO. 07-01
FLOODPLAIN

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 WINFIELD TOWNSHIP PROVIDING FOR THE ISSUANCE OF SUCH BUILDING PERMITS; 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 THE TOWNSHIP OF WINFIELD, BUTLER COUNTY, PA, 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. 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 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 Winfield Township unless an approved building permit has been obtained.

Section 1.02 Abrogation and Greater Restrictions

This Ordinance supersedes any other conflicting provisions in effect in identified floodplain areas. However, any underlying ordinance shall remain on full force and effect to the extent that those provisions are more restrictive.

Section 1.03 Severability

If any sections, subsection, paragraph, sentence, clause or phrase of this Ordinance should be declared invalid for any reason whatsoever ever, 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 sought by the provisions of this Ordinance is considered reasonable for the 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 Floodplain Area Provisions

- A. No construction or development shall take place within any identified floodplain area of the Township.
- B. 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 Hazard Boundary Map for Winfield Township, Butler County, PA, prepared by the Federal Insurance Administration and dated August 27, 1976, or as amended.
- C. The identified floodplain area may be revised or modified by the Winfield 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 Insurance Administration
- D. Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Township Planning Commission and any party aggrieved by such determination may appeal to Township Supervisors. The burden of proof shall be on the appellant.

Section 2.01 Issuance of Building Permit

- A. The building permit shall be issued 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 Zoning Officer 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 Pennsylvania Clean Streams Act (1937—394, as amended); the U.S. Clean Water Act, §404, 33, U.S.C. 944. 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 Township and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Bureau of Dams and Waterway Management.
- D. In addition, the Federal Insurance Administrator and Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified by the Township prior to any permit issued for alteration or relocation of any watercourse.

Section 2.02 Application Procedures

- A. Application for such a building permit shall be made, in writing, to the Building Permit Officer on forms supplied by the Township. Such application shall contain at least the following:
 - 1. Name and address of applicant.
 - 2. Name and address or 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. The plan should be accompanied by construction documents, grading plans, fill plans, and other pertinent information deemed appropriate by the Planning Commission, Township, and Building Code Enforcement Officer.
 - 7. Listing of other permits required.

- 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 Building Permit Officer to determine that:
1. All such proposals are consistent with the need to minimize flood damage and conform with 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 Zoning Officer 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.
 - (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 other 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.
 - (f) The location of any existing bodies of water or water courses, 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, landfills, dumps, mines, and other improvements, drawn at suitable scale showing the following:
 - (a) The proposed lowest floor elevation of any proposed building based upon The North American Vertical Datum of 1988 (NADV 88);
 - (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) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within a floodplain area, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one (1') foot at any point.

(b) A document, certified by a registered engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the 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 the flood proofing measures which have been incorporated into the design of the structure and/or development.

(c) Detailed information needed to determine compliance with the following:

(1) The amount, location and purpose of any dangerous materials or substances which are intended to be used, produced, stored or otherwise maintained on site, and

(2) 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 §4.01 during a one hundred (100) year flood.

(d) The appropriate component of the Department of Environmental Protection' "Planning Module for Land Development."

(e) 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.

Section 2.03 Other Permit Issuance Requirements

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 Protection, Bureau of Waterway 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.

- B. Prior to the issuance of any building permit, the Zoning Officer 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 the Pennsylvania Sewage Facilities Act (Act 1966 – 537, as amended), the Pennsylvania Dam Safety and Encroachment Act (Act 1978 – 325, as amended), the Pennsylvania Clean Streams Act (Act 1937 – 394, as amended), and the U.S. Clean Water Act, §404, 33, U.S.C. 944. No permit shall be issued until this determination has been made.

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 applicant to the Butler 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 Zoning Officer 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 an identified floodplain area to be considered for approval may be submitted by the Zoning Officer to any other appropriate agencies and/or individuals (e.g. Planning Commission, Township Engineer, etc.) for review and comment.

Section 2.06 Changes

After the issuance of a building permit 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 Zoning Officer. Requests for any change shall be in writing and shall be submitted by the applicant to the Zoning Officer for consideration.

Section 2.07 Placards

In addition to the building permit, the Zoning 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 issuing office.

Section 2.08 Start of Construction

Work on the proposed construction 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 Zoning 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 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 manufactured 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 2.09 Inspection and Revocation

During the construction period, the Zoning Officer 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 Zoning Officer shall revoke the building permit and report such fact to the Township Supervisors for whatever action it considers necessary. The Zoning Officer shall make as many inspections during and on completion of the work as necessary.

In the discharge of his duties, the Zoning Officer shall have the authority to enter any building, structure, premises or development on the identified flood-prone area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Chapter.

A record of all such inspections and violations of this Chapter shall be maintained by the Building Permit Officer.

Section 2.10 Fees

Applications for a building permit shall be accompanied by a fee, payable to the Township, based upon the fee schedule set by the Board of Supervisors, and updated time to time.

Section 2.11 Enforcement

A. Notices

Whenever the Zoning Officer or other authorized municipal 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 not to exceed thirty (30) days for the performance of any act it requires provided however, that nothing in this section shall require notice of the expiration of any permit issued under the provisions of this ordinance; (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 provision 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 Secretary, 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 act 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, the 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 Township 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 provided by this Section.

E. Penalties

Any person who fails to comply with any or all of the requirement or provisions of this Ordinance or who fails or refuses to comply with any notice, order, or direction of the Zoning Officer or any other authorized employee of the Township shall be

guilty of an offense and, upon conviction, shall pay a fine to Winfield Township of not less than Twenty-five Dollars (\$25.00) nor more than Three Hundred Dollars (\$300.00) plus cost 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 noncompliance 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 noncompliances within a reasonable time. Any structure or building construction, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Township Supervisors to be a public nuisance and abatable as such.

Section 2.12 Appeals

- A. Any person aggrieved by an action or decision of the Zoning Officer, 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 Zoning Officer. Upon receipt of such appeal, the Township 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 in writing 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 there from in any court of competent Jurisdiction, as provided by the laws of this Commonwealth, including the Pennsylvania Flood Plain Management Act.

ARTICLE III Existing Structures in Identified Flood-Prone Areas

Structures existing in any identified flood-prone areas prior to the enactment of this Ordinance, but which are not in compliance with these provisions, may continue to remain subject to the following:

1. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the one hundred (100) year flood.
2. No expansion or enlargement of an existing structure shall be allowed within any area that would, together with all other existing and anticipated development, increase the one hundred (100) year flood elevation more than one (1') foot at any point.
3. 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 existing

market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Chapter.

4. Any modification, alteration, reconstruction or improvement of any kind to an existing structure, to an extent or amount of less than fifty (50%) percent of its market value, shall be 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 building developer or landowner, the Board of Supervisors may, upon request, grant relief; from the strict application or the requirements.

Section 4.01 Variance Procedures and Conditions

Requests for variances shall be considered by the Board of Supervisors in accordance with the procedures contained in Section 2.12 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 manufactured home parks and manufactured home subdivisions, and substantial improvements to existing manufactured 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 165 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. Sulfur and sulfur products
 - q. Pesticides (including insecticides, fungicides, and rodenticides)
 - r. Radioactive substances, insofar as such substances are not otherwise regulated.
 - s. any other material or substance which have been demonstrated to be dangerous to human life
- B. If granted, a variance shall involve only the least modification necessary to provide relief.
- C. In granting any variance, the Board of Supervisors 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 Board of Supervisors 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.
 - 3. construction shall comply with the Uniform Construction Code
- E. In reviewing any request for a variance, the Board of 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

Winfield Township Supervisors. 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 and in compliance with the Uniform Construction Code.

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. Accessory use or structure - a use or structure on the same lot with, and of a nature 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 manufactured homes and trailers to be used for human habitation.
- C. Construction - the construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of manufactured homes.
- D. 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 manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.
- E. Flood - a temporary inundation of normally dry land areas.
- F. 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 repaid accumulation of surface waters from any source.
- G. Floodproofing - any combination of structural and nonstructural 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.
- H. Floodway - the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Chapter, the floodway

shall be capable of accommodating a flood of the one hundred (100) year magnitude.

- I. Manufactured home - means a semi-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 includes park trailers, travel trailers, recreational trailers, and other similar vehicles which are placed on site for more than 180 consecutive days.
- J. Manufactured home park - a parcel of land under single ownership which has been planned and improved for the placement of two (2) or more manufactured homes for non-transient use.
- K. Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support or the removal or change of any required means of egress or rearrangement of parts of a structure affecting the exit way requirements; nor shall minor repairs include addition to, alterations of, replacement or relocation of any standpipe, water supply, sewer drainage, drain leader, gas, soil, waste, vent or similar piping, electrical wiring or mechanical or other work affecting public health or general safety.
- L. 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).
- M. Person - any person, persons, partnership, business, or corporation.
- N. Regulatory flood elevation - the one hundred (100) year flood elevation plus a freeboard safety factor of eighteen (18") inches.
- O. Special permit - a special approval which is required for hospitals, nursing homes, jails and new manufactured home parks and substantial improvements to existing parks, when such development is located in all, or a designated portion of a floodplain.
- P. Structure - anything constructed or erected on the ground or attached to the ground including, but not limited to building, sheds, manufactured homes, and other similar items.
- Q. Subdivision - the division or redivision of a lot, tract or parcel of land by any means in two (2) 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 subdivision by lease of land for agricultural purposes into parcels more than ten (10) acres, not involving any new Street or easement of access or residential dwellings shall be exempted.

- R. Substantial improvement - any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds the fifty (50%) percent of the market value of the structure either (a) before the improvement or repair is started or (b) if the structure has been damaged and is being restored, before the damage occurred.
- S. Winfield Township Supervisors - governing body of Winfield Township.
- T. Township – Winfield Township located in Butler County, PA.
- U. Zoning Officer - A person retained by the Township Board of Supervisors or his duly appointed representative, i.e. third party inspection agency. Duties include enforcing the regulations of this Ordinance and to interpret the meaning of the various sections of this Ordinance subject to appeal before the Zoning Hearing Board.

ARTICLE VI Enactment

This Ordinance shall become effective five (5) days after adoption, and shall remain in force until modified, amended, or rescinded by the Township.

ORDAINED AND ENACTED by the Supervisors of Winfield Township, Butler County, Pennsylvania, this 27th day of September, 2007.

ATTEST AND SEAL:

WINFIELD TOWNSHIP
BOARD OF SUPERVISORS

Township Secretary

Chairman

Supervisor

Supervisor