

ORDINANCE NO. 104 OF 1985

Borough of Sugarcreek Venango
County, Pennsylvania

FLOODPLAIN ORDINANCE

SPECIAL PURPOSE ORDINANCE OF SUGARCREEK BOROUGH ADOPTED BY
RESOLUTION OF THE BOROUGH COUNCIL OF SUGARCREEK BOROUGH.

AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES AND
CORPORATIONS TO OBTAIN A BUILDING PERMIT FOR ANY CONSTRUCTION OR
DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF SUCH BUILDING PERMITS;
SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION
AND DEVELOPMENT WITHIN THE AREAS OF SUGARCREEK BOROUGH WHICH
ARE SUBJECT TO FLOODING; AND ESTABLISHING 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 Council of the Borough of Sugarcreek,
Venango County, Pennsylvania (hereinafter for brevity referred to as "Council") and
it is hereby enacted and ordained by the authority of the same as follows:

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ARTICLE I – DEFINITIONS

SECTION 1.00 – 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 1.01 – 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. Base Flood – The highest possible level of flooding which is likely to occur, on the average, once every hundred years – commonly referred to as the 100 year flood.
- C. 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.
- D. Construction – the construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure including the placement of mobile homes.
- E. 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 and the subdivision of land.
- F. FEMA – The Federal Emergency Management Agency, the parent organization of the Federal Insurance Administration (FIA).
- G. Flood – a temporary inundation of normally dry land areas.

- H. 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.
- I. Flood-proofing – means 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.
- J. Floodway – The channel and adjacent overbank areas through which the base flood is discharged. This portion of the floodplain is where the highest flood velocities and greatest flood depths usually occur.
- K. Freedboard – A 1½ foot margin of safety above the 100 year flood elevation.
- L. Minor repair – the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but 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 exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.
- M. Mobile home – means a transportable, single-family dwelling intended for permanent occupancy, office or place of 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 does not include recreational vehicles or travel trailers.

- N. Mobile home park – a parcel of land under single ownership which has been planned and improved for the placement of two or more mobile homes for non-transient use.
- O. 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, 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.
- P. One hundred year flood – a flood that, on average is likely to occur once every one hundred (100) years (i.e., that has one (1) percent chance of occurring each year, although the flood may occur in any year.
- Q. Regulatory flood elevation – the one hundred (100) year flood elevation plus a freeboard safety factor of one and one-half (1½) feet.
- R. Special permit – a special approval which is required for hospitals, nursing homes, jails, and new mobile home parks and substantial improvements to such existing parks, when portion of, a floodplain.
- S. 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.
- T. 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. 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.

- U. Substantial improvements – any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started, or, if the structure has been damaged or is being restored, before the damage occurred.

ARTICLE II – GENERAL PROVISIONS

SECTION 2.00 – Intent

The intent of the 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 2.01 – 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 the Borough of Sugarcreek, Venango County, Pennsylvania, (hereinafter for brevity referred to as “the Borough”), unless a Building Permit has been obtained from the Building Permit Officer.
- B. A Building Permit shall not be required for minor repairs to existing buildings or structures.

SECTION 2.02 – 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 2.03 – 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 2.04 – Warning and Disclaimer of Liability

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory 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 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.

ARTICLE III – ADMINISTRATION

SECTION 3.00 – Building Permits Required

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

SECTION 3.01 – Issuance of Building Permit

- A. The 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.

- B. Prior to the issuance of any Building Permit, the Building Permit Officer

shall review the application for permit to determine if all other necessary government 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 (Act 1937-394, as amended); The U.S. Clean Water Act, Section 404, 33 U.S.C. §1334. 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 contiguous municipalities which, upon the basis of reasonable consideration, 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 Administration 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 3.02 – Application Procedures and Requirements

- A. Application for such a Building Permit shall be made, in writing, to the Building Permit Officer on forms supplied by the Borough.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Building Permits shall provide all necessary information in sufficient detail and clarity to enable the Building Permit Officer to determine that:
 - (a) All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
 - (b) Adequate drainage is provided so as to reduce exposure to flood hazards.

Applicants shall file the following minimum information plus any other pertinent information; e.g., any or all of the technical information contained on the forms supplied by the Borough, as may be required by the Building Permit 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 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 for all proposed buildings, structures and other improvements, drawn at suitable scales showing the following:
 - a. the proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929;

- 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 flood-proofing measures which have been incorporated into the design of the structure and/or the development.

- b. detailed information needed to determine compliance with Section 5.01 F., Storage, and Section 5.02, Development Which May Endanger Human Life, including:
 - i) the amount, location and purpose of any materials or substances referred to in Sections 5.01 F. and 5.02, 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 5.02 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.
- C. 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 National Geodetic Vertical Datum of 1929, 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 floodplain 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 plans, 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 flood-proofing measures;
 - e. cross-section drawings for all proposed streets, drives, other accessways

and parking areas, showing all right-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 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. 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 source of a one 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 effects the proposed development will have on one hundred (100) year flood elevations and flows;
- e. a statement, certified by a registered professional engineer, architect or landscape architect, which 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;

- f. the appropriate component of the Department of Environmental Resources' "Planning Module for Land Development";
- g. 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;
- h. any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Resources under Section 302 of the Act 1978-166; and
- i. 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 3.03 – 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 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.

SECTION 3.04 – Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Building Permit Officer to any other appropriate agencies and/or individuals (e.g., Planning Commission, Municipal Engineer, etc.) for

review and comment.

SECTION 3.05 – Changes

After the issuance of a Building Permit by the Building Permit Officer, 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 Building Permit Officer. Requests for any such change shall be in writing and shall be submitted by the applicant to the Building Permit Officer for consideration.

SECTION 3.06 – 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. The placard shall show the number of the Building Permit, the date of its issuance and be signed by the Building Permit Officer.

SECTION 3.07 – Start of Construction

All permits issued pursuant to this Ordinance shall be valid for a period of twelve (12) months from the date of issuance. In those instances in which it is estimated by the owner and/or the owners authorized representative that the contemplated work to be covered by a permit cannot be completed within said twelve (12) months, a permit may be issued at the discretion of the Building Permit Officer, for a period of time in which the owner and/or owner's authorized representative estimates the work can be completed. In addition, a permit may be extended, once, for an additional twelve (12) months, provided the scope of the work is not changed in any manner and the Building Permit Officer is so requested, in writing, to extend the permit. Said written extension request shall be submitted by the owner and/or the owner's representative and shall set forth sufficient and reasonable cause for the Building Permit Officer to

approve such a request.

Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Building Permit Officer to approve such a request.

SECTION 3.08 – Inspection and Revocation

- A. During the construction period, the Building Permit Officer 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 Borough 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 Building Permit Officer 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 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 or misrepresentation by any applicant, the Building Permit Officer shall revoke the Building Permit and report such fact to Council and the Zoning Hearing Board for whatever action it considers necessary.
- D. A record of all such inspections and violations of this Ordinance shall be maintained by the Building Permit Officer.

SECTION 3.09 – Fees

Applications for a Building Permit in a floodplain area shall be accompanied by a fee, payable to Sugarcreek Borough as set forth in Section VII of the

building permit application.

SECTION 3.10 – Enforcement

A. Notices:

Whenever the Building Permit Officer 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 Building Permit Officer shall give notice of such alleged violation as hereinafter provided. Such notice shall:

- (1) be in writing;
- (2) include a statement of the reasons for its issuance;
- (3) allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
- (4) 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;
- (5) 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 Building Permit Officer or any other authorized

employee of the municipality shall be guilty of an offense and, upon conviction, shall pay a fine not exceeding three hundred (\$300.00) dollars, together with the costs of prosecution, or imprisonment for a term not to exceed thirty (30) 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 as determined by the Building Permit Officer.

Any development initiated or any structure or building constructed, reconstructed, enlarged, altered or relocated in non-compliance with this Ordinance may be declared by Council to be a public nuisance and abatable as such.

SECTION 3.11 – Appeals

- A. Any person aggrieved by an action or decision of the Building Permit Officer concerning the administration of the provisions of this Ordinance may appeal to the Zoning Hearing Board. Such appeal must be filed in writing, within (30) days after the decision or action of the Building Permit Officer.

- B. Upon receipt of such appeal, the Zoning Hearing Board shall set a time and place, within not less than ten (10) not more than sixty (60) days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties. The Zoning Hearing Board shall render a decision within sixty (60) days of the date of the completion of the hearing.

Any person aggrieved by any decision of the Zoning Hearing Board may seek

relief therefrom by appeal to Court, as provided by the laws of this Commonwealth, including The Pennsylvania Flood Plain Management Act, in addition to Ordinance No. 22 of 1969 as amended.

ARTICLE IV – IDENTIFICATION OF FLOODPLAIN AREA

SECTION 4.00 – Identification

The identified floodplain area shall be any area of the Borough, subject to the one hundred (100) year flood, which is identified as a Special Flood Hazard (Zone A) on the Flood Hazard Boundary Map (FHBM) as issued by the Federal Insurance Administration dated May 5, 1978, or such revised map issued by the Federal Insurance Administration.

SECTION 4.01 – Determination of the One Hundred (100) Year Flood Elevation

For the purpose of this Ordinance, the one hundred (100) year flood elevation shall be used as the basis for regulation. To determine the one hundred (100) year flood elevation, the elevation at a given point on the boundary of the identified floodplain area 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:

- A. Corps of Engineers – Flood Plain Information Reports
- B. U.S. Geological Survey – Flood Prone Quadrangles
- C. U.S.D.A., Soil Conservation Service – County Soil Surveys (Alluvial Soils) or P.L. 566 Flood Information
- D. Pennsylvania Department of Environmental Resources – Flood Control Investigations

E. Known Highwater Marks from Past Floods

F. 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 analysis 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, analysis, computations, etc., shall be submitted in sufficient detail to allow a technical review by Council.

SECTION 4.02 – Changes in Identification of Area

The identified floodplain area may be revised or modified by Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

SECTION 4.03 – Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, such dispute shall be resolved by the Hearing Board. Any party aggrieved by such decision can seek relief therefrom by appeal to Court, as provided by the laws of this Commonwealth, including the Pennsylvania Flood Plain Management Act.

ARTICLE V – GENERAL TECHNICAL REQUIREMENTS

SECTION 5.00 – General

A. In the identified floodplain area, the development and use of any land shall be

permitted provided that the development and/or use complies with the restrictions requirements of this and all other applicable codes and ordinances in force in the municipality.

- B. Within any identified floodplain area, no new construction or development shall be located within the area measuring fifty (50) feet landward from the top-of-bank of any watercourse.
- C. Within any identified floodplain area, the elevation of lower floor (including basement) of any new or substructure improved residential structure shall be one and one-half (1½) feet or more above the one hundred (100) year flood elevation.
- D. Within any identified floodplain area, the elevation on the lowest floor (including basement) of any new or substantially improved non-residential structure shall be one half one and one-half (1½) feet or more above the one hundred year flood elevation or be flood-proofed up to that height.

Any structure, or part thereof, which will not be com 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, 1972).

SECTION 5.01 – Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

A. Fill

If fill is used, it shall:

1. Extend laterally at least fifteen (15) feet beyond the building line from

all points;

2. Consist of soil or small rock materials only – sanitary landfills shall not be permitted;
3. Be compacted to provide the necessary permeability and resistance to erosion, scouring or settling;
4. Be no steeper than one (1) vertical to two (2) horizontal, unless substantiated data, justifying steeper slopes are submitted to, and approved by the Building Permit Officer; and
5. Be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. Water and Sanitary Sewer Facilities and Systems

1. All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration or flood waters.
2. Sanitary sewer facilities and systems shall be designed to prevent the discharge or untreated sewage into flood waters.
3. No part of any on-site sewage system shall be located within any

identified floodplain area except in strict compliance with all state and local requirements for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, contamination from it, during a flood.

D. Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

E. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

F. Storage

All materials that are buoyant, flammable, explosive or times of flooding could be injurious to human, animal or plant life, and not listed in Section 5.02, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or floodproofed to the maximum extent possible.

G. 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.

H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with

accepted engineering practices to prevent flotation, collapse or lateral movement.

2. All air ducts, large pipes, storage tanks and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
2. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
3. 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.
4. Windows, doors and other components at or below the Regulatory Flood Elevation shall be made of metal or other water-resistant material.

J. Paints and Adhesives

1. Paints or other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or water-resistant quality.
2. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or water-resistant variety.
3. All components (doors, trim, cabinets, etc.) shall be finished with a "marine" or water-resistant paint or other finishing material.

K. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the one hundred (100) year flood elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment

Water heaters, furnaces, air conditioning and ventilating units, and other mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

M. Fuel Supply Systems

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.

SECTION 5.02 – Development Which May Endanger Human Life

- A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community Affairs as required by the Act, any new construction or substantial improvement of any structure located within a floodplain area, which be be used for the production or storage of any material or substance listed in subsection B of this section, or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume) of any such materials or substances on the premises, or which will involve the production, storage or use of any amount of radioactive substances, shall require at a minimum the follow:

1. That within any floodplain area, such construction or substantial improvement shall be prohibited unless it is elevated, or flood-proofed to remain dry, up to at least 1½ feet above the one hundred (100) year flood elevation.
 2. That within any delineated floodway area, such construction or substantial improvement shall be prohibited.
- B. The following list of materials and substances shall be considered dangerous to human life, and shall include, but not be limited to:
1. Acetone.
 2. Ammonia.
 3. Benzene.
 4. Calcium carbide.
 5. Carbon disulfide.
 6. Celluloid.
 7. Chlorine.
 8. Hydrochloric acid.
 9. Hydrocyanic acid.
 10. Magnesium.
 11. Nitric acid and oxides of nitrogen.
 12. Petroleum products – gasoline, fuel oil, crude 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 subject to regulation.
- C. Oil and gas exploration and/or production is expressly prohibited within an identified floodway.

- D. The Zoning Hearing Board may, upon request from an applicant consider the possibility of modifying the freeboard requirement for the kind of development regulated by this section, provided that the applicant can demonstrate, and the Zoning Hearing Board can determine:
1. That there are unique physical circumstances, including such things as exceptional topographical, or other existing natural or man-made conditions peculiar to the property.
 2. That because of such physical circumstances and conditions, the proposed development cannot be reasonably designed and constructed in compliance with the applicable requirements, and that a modification is therefore necessary.
 3. That failure to grant the requested modification will result in exceptional hardship to the applicant.
 4. That approval of the request will not result in any increased flood heights within any designated floodway.
 5. That approval of the request will not result in any additional threat to public health and safety, or result in any extraordinary public expense, or create any nuisance.
 6. That approval of the request will not result in any conflict with any other applicable laws or regulations.
- E. In approving a request for a reduction in the required free-board, the Zoning Hearing Board shall:
1. Authorize the least reduction necessary to provide relief.

2. Notify the applicant in writing that approval of the request will, (i) result in increased premium rates for flood insurance; and (ii) increase risk to the structure, its contents or occupants. Such notification shall be included with Council records, and the Zoning Hearing Board, as required below.
 3. Maintain a complete record of all requests which have been approved, authorizing reductions in freeboard.
 4. Report all such requests which have been approved in its annual report to the Department.
 5. That approval of the request will not result in any additional threat to public health and safety, or result in any extraordinary public expenses, create any nuisance.
- F. Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in subsection A above shall be designed to prevent pollution from the structure or activity during the course of a one hundred (100) year flood.

Any new 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 5.03 – Special Requirements for Mobile Homes

- A. Where permitted within any identified floodplain area, all mobile homes and additions thereto shall be:

1. Anchored as per "Anchoring Mobile Homes in Flood Prone Areas", Bulletin No. 2, prepared by the Federal Emergency Management Agency, April 1983, and subsequent amendments thereto.
 2. Elevated in accordance with the following requirements:
 - a. the stands or lots shall be elevated on compacted fill, or on pilings so that the lowest floor of the mobile home will be one and one-half (1½) feet or more above the elevation of the one hundred (100) year flood.
 - b. adequate surface drainage is provided.
 - c. adequate access for a hauler is provided.
 - d. where pilings are used for elevation, the lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than ten (10) feet apart; reinforcement shall be provided for pilings that will extend for six (6) feet or more above the ground level.
- B. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with Council, the Zoning Hearing Board and the Federal Emergency Management Agency.

ARTICLE VI – ACTIVITIES REQUIRING SPECIAL PERMITS

SECTION 6.00 – General

In accordance with the administrative regulations promulgated by the Department of Community Affairs to implement the Pennsylvania Flood Plain Management

Act, (Act 1978-66), the following obstructions and activities are prohibited if located entirely or partially within an identified floodplain area unless a Special Permit is issued:

- A. Hospitals (public or private).
- B. Nursing homes (public or private).
- C. Jails or prisons.
- D. New mobile home parks and mobile home subdivisions, and substantial improvements to existing mobile home parks.

SECTION 6.01 – Application Review Procedures

Upon receipt of an application for a Special Permit by the Zoning Hearing Board, the following procedures shall apply in addition to those of Article III:

- A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Borough Planning Commission and the Borough Engineer for review and comment.
- B. If an application is received that is incomplete, the Borough shall notify the applicant in writing, stating in what respects the application is deficient.
- C. If the Zoning Hearing Board decides to disapprove an application, it shall

notify the applicant, in writing, of the reasons for the disapproval.

- D. If the Zoning Hearing Board approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community Affairs, by registered or certified mail, within five (5) working days after the date of approval.
- E. Before issuing the Special Permit, the Zoning Hearing Board shall allow the Department of Community Affairs thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the Zoning Hearing Board.
- F. If the Zoning Hearing Board does not receive any communication from the Department of Community Affairs during the thirty (30) day review period, it may issue a Special Permit to the applicant.
- G. If the Department of Community Affairs should decide to disapprove an application, it shall notify Council and the applicant, in writing, of the reasons for disapproval, and the Zoning Hearing Board shall not issue the Special Permit.

SECTION 6.02 – Special Technical Requirements

- A. In addition to the requirements of Article V of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit if there is any conflict between any of the following requirements and those in Article V of this Ordinance or in any other code, ordinance or regulation, the more restrictive provisions shall apply.
- B. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner in which will:
 - 1. Fully protect the health and safety of the general public and any

occupants or the structure. At a minimum, all new structures shall be designed, located and constructed so that:

- a. the structure will survive inundation by water of the one hundred (100) year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the one hundred (100) year flood elevation.
- b. the lowest floor elevation will be at least one and one-half (1½) feet above the one hundred (100) year flood elevation.
- c. the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the one hundred (100) year flood.

2. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

ARTICLE VII – EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

SECTION 7.00 – General

Structures existing in any identified floodplain area prior to the enactment of this Ordinance may continue to remain provided that:

- A. Any modification, alteration, reconstruction or improvement or any kind to an existing structure, to an extent or amount of fifty (50%) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
- B. 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 floodproofed to the greatest extent possible.

ARTICLE VIII – VARIANCES

SECTION 8.00 – Variance Procedures and Conditions

Requests for variances shall be considered by the Zoning Hearing Board in accordance with the procedures contained in Section 3.11 and the following:

- A. Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit (Art. VI) or to Development Which May Endanger Human Life (Sec 5.02)
- B. If granted, a variance shall involve only the least modification necessary to provide relief.
- C. In granting any variance, the Zoning Board Board shall attach whatever reasonable conditions and safe guards 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 Zoning Hearing Board 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.
- E. In reviewing any request for variance, the Zoning Hearing Board 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 variances requests and related actions shall be maintained by Council. 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 capabilities of resisting the one hundred (100) year flood.

ARTICLE IX – REPEALER

SECTION 9.00

Ordinance No. 22 of Sugarcreek Borough adopted by Resolution of the Borough Council, said Ordinance No. 22 of 1969 as amended dealing with the subject matter covered herein, is hereby repealed.

Adopted this 16th day of January, 1985.

Signed: Sugarcreek Borough Council President

Attest: Sugarcreek Borough Council Secretary