

COUNCIL OF THE BOROUGH OF YORK

INTRODUCED BY:

Barry Hayes

ORDINANCE NO. 82 004

DATE: December 7, 1982

ORDINANCE

AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN BUILDING PERMIT FOR CONSTRUCTION OR DEVELOPMENT, PROVIDING FOR THE ISSUANCE OF BUILDING PERMITS SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE 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 Borough Council of York Borough, York County Pennsylvania, and It is hereby enacted and ordained by the authority of the same as follows:

ARTICLE X **GENERAL** PROVISIONS

Section | Intent

The intent of the Ordinance is to

A. Promote the general health, welfare, and safety of the community.

B. Encourage the adoption of appropriate construction practices in order to prevent or minimize flood damage in the future.

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 101 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 in the Borough unless a building permit has been obtained from the Building Permit Officer.

B. The provisions of this ordinance shall not be applicable to repairs or improvement-e to existing buildingg or structures 80 long as those repairs and improvement' do not increase the size OE the structure measured in . square feet at ground level ana do not enhance the market value of the property by 50 percent.



C. Enforcement and penalty provisiong of Section 2.03 . (B) shall be applicable in all inatancee where e building permit is required whether required under thig ordinance or any other sting or later enacted ordinance.

Seetien i .02 Abrogation and Greater Restrictions

Thi 3 Ordinance guperaedeg any other conflicting provieions which may be in effect in identified floodplain areas. However, any other ordinance provisions ghain remain in full force and effect to the extent that those provisions are more restrictive.

Section i .03 Severability

If any section, subsection, paragraph, sentence, ciauce, or phrase oi this Ordinance shall be declared invalid for any reason whatsoever, such decieion ghali not affect the remaining portions of this Ordinance, which ghain remain in full force and effect, and for thig purpose the provisione of this Ordinance are hereby declared to be severable.

Section 1.04 Warning and Disciain" of Liability

The degree of flood protection sought by the provisions of this Ordinance considered reasonable for regulatory purposee and i' based on acceptable engineering methof study. Larger floode may occur. ? icod height' may be Increaeed by man-made or natural caoges, such as ice jams and bridge opening restricted by debris. Thig ordinance does not imply that areas outside any identified floodplain area, or that land uses permitted vithin such areas 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 Ordinance or any administrative decision lawfully made thereunder.

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ARTICLE 11 ADMINISTRATION

Section 11.00 Issuance of Building Permit

- A. The Building Permit Officer shall issue a Building Permit only after it has been determined that the proposed to be undertaken 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 applicant must furnish the permit Officer with a certification that all State and Federal Permits required for the project have been obtained, including but not limited to those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended), the Dam Safety and Encroachment Act (Act 1978-325, as amended), the U.S. Clean Water Act, Section 404, 33, U.S.C. § 330 and the Pennsylvania Clean Streams Act (Act 1931-394, as amended).
- C. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality and until all required permits or approvals have been first obtained from the Department of Environmental Resources, Bureau of Dam and Waterway Management.

In addition, the Federal Insurance Administrator and Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified by the municipality prior to any alteration or relocation of any watercourse.

Section 2.01 Application Procedures and Requirements

A. In addition to all other Local requirements all applications for building permits shall contain or be accompanied by

(a) A listing of other Federal and State permits required for the project.

(b) All necessary information in sufficient detail and clarity to enable the Building Permit Officer to determine

All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances'

2. All utilities and facilities, such as sewer, gas, electrical and water systems, to be located and constructed to minimize or eliminate flood damage; and

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

(c) Plans of all proposed buildings and structures and other improvements, drawn at suitable scale showing the following:

1. 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.

2. The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929'

3. The elevation of the one-hundred (100) year flood'

4. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one-hundred (100) year flood ' and

5. Detailed Information concerning any proposed floodproofing measure.

- d) A certification by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the one-hundred year flood elevations, pressures, velocities, impact and uplift forces associated with the one-hundred year

Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure or the development.

- (e) Where any excavation and/or grading is proposed, a plan to implement and maintain erosion and sedimentation control, which the owner certifies to meet



requirements of the Department of

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Environmental Resources.

- (f) Where applicable the applicant shall furnish all information necessary to determine his compliance with Section 4.04, Development Which May Endanger Human Life. including

1. The amount, location and purpose of any material or substances referred to in Section 4.04 which is intended to be used, produced, stored or otherwise maintained on site.
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 Section 4.04 during a one-hundred (100) year flood.

A. Notices

Whenever the Building Permit Officer or other **rized** 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 (a) be in writing; (b) include a statement of the reasons for its issuance; (c) allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires; (d) be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such notice by any other method authorized or required by the law of this State;

B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or Ordinance 75-003 as amended, 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, pay a fine to the Borough of not less than One-hundred Dollars



(100.00) or more than Three Hundred Dollars (300.00) plus costs or prosecution. In default of such payment, such person shall be imprisoned in county prison for a term 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 in 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 violation and non-compliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in non-compliance with this Ordinance may be declared by the Council to be a public nuisance and abatable as such.

ARTICLE Ili IDENTIFICATION or PLOODPLAIB ARRAS

Section 3.00 Designation or ?iooapiain 4reas

For the purposes of thia Ordinance, the areas considered be floodplain within the Borough ghail be those areaa Identified as being aubject to the one-hundred (IOC) year flood in the Flood Insurance Study prepared for the Borough by the Federal Insurance Adniniztration dated

June 1982

A map shoving ail areas considered to be subject to the one-hundred (100) year nood avai labie for inspection at the Borough offices. For the purposes of this Ordinance, the following nomenclature usea in referring to the various kinas of Eifloodplain areas t

PW (Floodvay Area) - the areas identified as •Floodvay • in the Flood Insurance Study prepared by the PIA.

PP (Flood-Pringe Area) - the areag identified ae "Floodvay Fringe" in the Flood Insurance Study prepared by the PIA.

A. The PW (Fiooavay Area) iB delineated for purposes ot thie Ordinance using the criteria that a certain area within the floodplain must be capable of carrying the waters of the one-hundred (100) year fiood thout increasing the water surface elevation of that tiood more than one (1) foot at any point. The areas included in thie area are specifically defined in the Floodvay Data Table contained in the above-referenced Incurance study and shown on the accompanying Flood Boundary and Floodvay Map.

B.The FP (Flood-Fringe Area) shall be that area of the 100 year floodplain not included in the Ploodvay. Ibe basis for the outermost boundary oc this District shall be the one-hundred (100) year flood elevations contained in the flood profiles Of the above referenced Flood insurance Study and ag shown on the accompanying Flood Boundary and Floodvay Map.

Section 3. | Changes in PloodDiain Area Delineations

The areas considered to be floodplain may be revised or modified by the Council where studies or information provided by a qualified agency or person document a need or possibility for such revision. No modification or revision of any floodplain area identified in the P 1000 Insurance Study prepared by the Federal Insurance Administration shall be made without prior notice to the Federal Insurance Administration.

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Disputes

Should a dispute arise concerning the identification of any floodplain area, an initial determination shall be made by the Planning Commission and any party aggrieved by such decision may appeal to the Council. The burden of proof shall be on the appellant.



ARTICLE IV **TECHNICAL** PROVISIONS

Section 4 00 General

- A. No encroachment, alteration, or improvement of any kina shall be made to any watercourse until ail adjacent municipalities which may be affected by such action have been notified by the municipality, an until all required pernite or approvals have been first obtained from the Department of Environmental Resources, Bureau of Dams and Watervmy Management.

In addition, the Federal Inguranee Administrator ana Pennsylvania Department of Comunity Affairs, Bureau of Community Planning, shall be notified prior to any alteration or relocation of any watercourse.

- B. Any new construction, development, uses or activities allowed within any identified tioodplain area, shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.

SecUon 4.01 *peciali Floodny Requirement'

Within and PW (Floodvay Area), the fox loving provisions apply:

- A. Any new construction, development, use, activity, or encroachment that would cause any increase in flood heightß shall be prohibited.
- B. Bo new construction or development shall be allowed, unless a permit is obtained from the Department of Environzental Resources, Bureau of Dams and Waterway Management.

gection 4.02 Elevation ana Pioodproofinq Require-ento

A Residential Structure

Within any PW, or PF, the lowest floor (including basement) of any new or substantially improved residential structure shall be at least

elevated to the one-hundred (100) year flood level.

B. Non-residential Structures

1. In any FK, or FP, the lowest floor (including basement) of any new or substantially improved nonresidential structure shall be at least elevated to the

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level of the one-hundred (100) year flood elevation, or be designed and constructed so that the space enclosed by such structure shall remain either completely or essentially dry during any flood up to that

2. Any structure, or part thereof, which will not be completely or adequately elevated, shall be designed and constructed to be completely or essentially dry in accordance with the standards contained in the publication entitled "Flood-Proofing Regulations" (O.S. Army Corps of Engineers, June 1972), or some other equivalent standard, for that type construction.

Section 4.03 Design and Construction Standards

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

A. Drainage

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.

B. 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 damage and the infiltration of flood waters.

2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of 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 regulations for such systems. If any such system permitted, it shall be located so as to avoid impairment to it, or contamination thereof, during a flood.

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C. 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.

D. 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 large objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

E. Equipment

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

F. 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 4.04 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 or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume or any amount of radioactive substance) on the premises, shall be subject to the provisions of this section, in addition to all other applicable provisions:

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, 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 regulated.

B. Within any PF (Floodway Area), any structure of the kind described in Subsection A., above, shall be prohibited.

C. Where permitted within any PF (Floodway Area), any structure of the kind described in Subsection A., above, shall be

1 elevated or designed and constructed to remain completely dry up to at least one and one-half (1 1/2) feet above the one-hundred (100) year flood and

2. designed to prevent pollution from the structure or activity during the course of a one-hundred (100) year flood.

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standard for completely dry flood-proofing contained in the publication 'Flood-Proofing Regulations' as amended, (U.S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

Section 4.05

Requirements for

MOBILE HOMES

A. Within any PW (Floodway Area), mobile homes shall be prohibited except those that replace mobile homes located in the Floodway Area prior to the enactment of the present Ordinance.

B. Where permitted with any FF (Flood-Fringe Area) or PW (Floodway Area) all mobile homes and any

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In addition thereto shall be:

1. anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the American National Standards as specified in the Standard for the Installation of Mobile Homes Including Mobile Home Park Requirements (NPPA No. 501A-1974 A19.3i 975) as amended for Mobile Homes in Hurricane Zones or other appropriate standards such as the following:

a. over-the-top tie shall be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations for units fifty (50) feet or more in length, and one (1) additional tie per side for units less than fifty (50) feet in length.

b. frame ties shall be provided at each corner of the mobile home, with five (5) additional ties

per side at intermediate locations for unit' fifty (50) feet or more in length, and four (4) additional ties per side for units less than fifty (50) feet in length.

2. elevated in accordance with the following requirements if it does not replace a mobile home located on the same site prior to this enactment
 - a. the stands or lots shall be elevated on compacted fill, or on pilings so that the lowest floor of the mobile home be at or above the elevation of the one-hundred (100) year flood.
 - b. adequate surface drainage is provided.
 - c. adequate access for a hauler provided.
 - d. where piers are used for elevation, the piers 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 extend for six (6) feet or more above the ground level.

Section 4 06 Prohibition of Certain Uses or Occupancy

In a Floodplain Area

The following structures and activities are prohibited if located entirely or partially within any identified floodplain area:

- a. hospital (public or private).
- b. Nursing home (public or private).
- c. Jail or prisons.
- d. New mobile home parks and mobile home subdivisions, and substantial improvements to existing mobile home parks.

ARTICLE V EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

Section S 00 General

Structures existing in any identified floodplain area prior to the enactment of this Ordinance may continue subject to the following provisions:

- A. No expansion or enlargement of an existing structure shall be allowed within any identified floodway that ~~would~~ cause any increase in flood heights.
- b. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.

ARTICLE VI VARIANCES

Sect*oq 6.00 generu

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

Section 6.01 Variance Procedures and Requirements

Requests for variances shall be considered by the Borough in accordance with the following:

- A. No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the one-hundred (100) year flood elevation.
- B. No variance shall be granted for any other requirements pertaining to the development which may endanger human life (Section 4.04).
- C. If granted, a variance shall involve only the least modification necessary to provide relief.
- D. In granting any variance, the borough shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objective of this Ordinance.
- E. In reviewing any request for a variance, the Borough shall consider, but not be limited to the following:
 - a. that there is good and sufficient cause.
 - b. that failure to grant the variance would result in exceptional hardship to the applicant.
 - c. that the granting of the variance (i) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense; nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable

State statute or regulation, or local ordinance
or regulation.

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

Borough. In addition, a report of all variances
granted during the year shall be included in the
annual report to the Federal Insurance
Administration.

Notwithstanding any of the above, however, all structures shall
be designed and constructed so as to have the capability of resisting
the one-hundred (100) year flood.

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 7.01 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. Completely dry space - a space which remains totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.
- D. Construction - the construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of mobile homes, but excluding repairs or improvements which do not enlarge the structure measured in square feet at ground level or constitute an enhancement of 50 percent or more to the fair market value of the structure.
- 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. Essentially dry space - a space which remains dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.
- G. Flood - a temporary inundation of normally dry land areas.
- H. Floodplain - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or

. vat.ercourae' and/or any area subject to the unusual and rapid accumulation of surface water [redacted] Erem •oy source.■

I. Floodproofing – means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate the risk of damage to real estate or improved real property, water and ganit•zy Caeliitia, astructures, and their contents.

J. Identified floodplain area – floodplain area specifically identified in the ordinance being inundated by the one-hundred (IOC) year of 1004. ■Included be areas Identified Floodway) ■and Flood-Fringe .

K. 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, (2) (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, alleys, condominium, building groups or other features; C (i) a subdivision of land.

L. Mobile home – means a 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 does not include recreational vehicles or travel trailers.

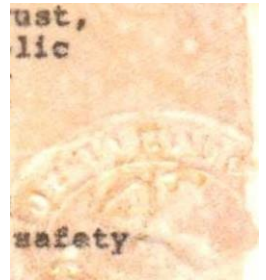
X. Mobile home park – a parcel of land under single ownership which has been planned and improved for the placement of two or more mobile homes for non-transient use.

N. Obstruction – any wall, dam, wharf, bankment, 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, (i) 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 (j) which is placed where the flow of the water might

carry the same downstream to the damage of life and property.

O. One-hundred year flood a flood that, on the 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).

P. Person - An individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever which recognized by law as the subject of rights and duties.



Q. Regulatory flood elevation - the one-hundred (100) year flood elevation plus a freeboard safety factor of one and one-half (1 1/2) feet.

R. Structure - anything constructed or erected on or attached to the ground including, but not limited to buildings, sheds, mobile homes, and other similar items.

S. 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.

ASQED | LLY: BY THE FOLLOWING VOTE Approved this day , 1982.
PI | YEAS t

NAYS:

ATTESTt

YOE BOROUGH COUNCIL

Secretary

President

Approved this _____ day of _____, 1982.


Mayor

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"I hereby certify that the foregoing ordinance was advertised in the York Dispatch on November 5, 1982 a newspaper of general circulation in the municipality and was duly enacted and approved as set forth at a meeting of the

December 7, 1982 ."



Yoe Borough Council held on

December

Secretary

Seal