

ORDINANCE NO. 1997 - /

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF MARION TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, ADOPTING THE 1996 (THIRTEENTH) EDITION OF THE BOCA NATIONAL BUILDING CODE; ESTABLISHING MINIMUM REGULATIONS GOVERNING THE DESIGN, CONSTRUCTION, ALTERATION, ENLARGEMENT, REPAIR, DEMOLITION, REMOVAL, CONVERSION, USE, AND MAINTENANCE OF BUILDINGS AND STRUCTURES; PROVIDING FOR ISSUANCE OF PERMITS, COLLECTION OF FEES AND MAKING OF INSPECTIONS; AND PRESCRIBING PENALTIES FOR VIOLATION.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Marion Township, Berks County, Pennsylvania, and it is hereby Enacted and Ordained by the authority of the same as follows:

**Section 1. Adoption of Building Code.** The Board of Supervisors of Marion Township, Berks County, Pennsylvania, hereby adopts, for the purpose of establishing rules and regulations for the construction, alteration, enlargement repair, demolition, removal, conversion, use, maintenance, equipment, fire protection, and safety of buildings and structures, including administration, building permits, and penalties, the building code known as the "BOCA National Building Code, Thirteenth Edition, 1996", as published by the Building Officials and Code Administrators International, Inc., save and except such portions as are hereinafter deleted, modified, or amended, of which three (3) copies have been and are now filed in the office of the Marion Township Secretary, and the same are hereby adopted and incorporated as fully as if set out at length herein. From the date on which this ordinance shall take effect, the provisions hereof shall be controlling in the construction of all buildings and structures, and in all other subjects therein contained, within the corporate limits of the Township of Marion, Berks County, Pennsylvania.

**Section 2. Amendments Made in Building Code.** The building code hereby adopted is amended as follows:

1. Section 101.1, "Title", is amended to read as follows:  
101.1. Title: These regulations shall be known as the Building Code of the Township of Marion, Berks County, Pennsylvania, hereinafter referred to as "this code".
2. Section 104.3, "Organization", is deleted in its entirety.
3. Section 104.4, "Deputy", is amended to read as follows:  
104.4 Deputy: The code official is authorized to seek

assistance from the Marion Township Engineer who shall exercise all the powers of the code official during the period of such request or during the temporary absence or disability of the code official.

4. Section 105.8, "Annual report", is amended to read as follows:

105.8 Annual report: At least annually, the code official shall submit to the Board of Supervisors of Marion Township a written statement of operations in the form and content as shall be prescribed by such Board. The code official shall also provide a monthly report to the Board of Supervisors of Marion Township.

5. Section 105.9, "Erosion Control Notification", is added as follows:

105.9 Erosion Control Notification: The code official shall notify the Pennsylvania Department of Environmental Protection (PennDEP) and the Berks County Conservation District or its designee upon receipt of an application for a Building Permit involving an earthmoving activity which affects five acres or more of land.

The code official shall not issue a Building Permit to those engaged in earthmoving activities requiring a PennDEP Permit until PennDEP has issued such Permit.

6. Section 105.10, "Flood Hazard Area Requirements", is added as follows:

105.10 Flood Hazard Area Requirements: The code official shall not issue permits for the erection or alteration of buildings and structures located or to be located within areas of the Township regulated under the National Flood Insurance Program Regulations unless or until all of the requirements of all Ordinances of Marion Township relating to the criteria and requirements of the National Flood Insurance Program Regulations are met.

7. 105.11, "Permits for Demolition or Construction Involving Excavation" is added as follows:

105.11 Permits for Demolition or Construction Involving Excavation: The code official shall not issue permits for demolition or construction involving excavation unless the drawings show the approximate locations and types of all underground utilities and/or lines and the names and

addresses of the users as required by Act 187 of the General Assembly, 1996.

8. 105.12, "Permits for Stream Enclosure", is added as follows:

105.12 Permits for Stream Enclosure: The code official shall not issue a permit which involves construction of a stream enclosure unless and until the Pennsylvania Department of Environmental Protection has approved such enclosure, when PennDEP has jurisdiction under the Rules and Regulations of the Department.

9. Section 107.1, "Permit application", is amended to read as follows:

107.1 Permit application: An application shall be submitted to the code official for the following activities, and these activities shall not commence without a permit being issued in accordance with Section 108.0.

1. Construct or alter a structure.
2. Construct an addition.
3. Demolish or move a structure.
4. Make a change of occupancy.
5. Install or alter any equipment which is regulated by this code.
6. In all area within the 100-year flood boundary, as may be shown on Federal Emergency Management Agency Flood Boundary and Floodway Maps for the Township, a permit shall be required for any and all manmade changes to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of mobile homes, mining, dredging, filling, grading, paving, excavation, and drilling, and for repairs, reconstruction, or improvements of a structure the cost of which equals or exceeds 50% 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.

10. Section 107.5, "Construction documents", is amended to read as follows:

107.5 Construction documents: The application for permit shall be accompanied by not less than two sets of construction documents. The code official is permitted to waive the requirements for filing construction documents when the scope of the work is of a minor nature. When the

quality of the material is essential for conformity to this code, specific information shall be given to establish such quality, and this code shall not be cited, or the term "legal" or its equivalent used as a substitute for specific information.

For all land within the 100-year flood boundary as may be shown on Federal Emergency Management Agency Flood Boundary and Floodway Maps for the Township, the application shall include a description of the construction practices and methods and materials and utility equipment which will be used during the course of proposed construction, repair, and/or other physical improvements, elevations for the 100-year flood, the elevation in relation to mean sea level of the lowest floor (including basement) of the structures, a statement of whether or not the structure will contain a basement and, if the structure will be floodproofed, the elevation in relation to mean sea level to which the structure will be floodproofed. If after completion of construction the elevation of the lowest floor or the elevation to which the structure was floodproofed differs from the elevation shown on the Building Permit Application, revised elevations shall be provided by the holder of the Building Permit to the code official of the Township upon completion of construction, and prior to the issuance of a Certificate of Use and Occupancy when such certificate is required. All such records as to elevation of the lowest floors, the presence of a basement, and the elevation of floodproofing shall be maintained by the code official of the Township and shall be available for public inspection.

11. 108.1, "Action on Application", is amended to read as follows:

108.1 Action on Application: The code official shall examine or cause to be examined all applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of all pertinent laws, the code official shall reject such application in writing, stating the reasons therefor. If the code official is satisfied that the proposed work conforms to the requirements of this code and all laws and ordinances applicable thereto, the code official shall issue a permit therefor as soon as practicable.

For areas within the 100-year flood boundary as may be shown on Federal Emergency Management Agency Flood Boundary and Floodway Maps for the Township, the code official shall

review all permit application to assure that:

- a. All necessary permits have been received from those governmental agencies from which approval is required by applicable Federal or State Law.
- b. Proposed building sites will be reasonably safe from flooding.
- c. All new construction, the placement of prefabricated buildings and mobile homes, and substantial improvements as defined in the National Flood Insurance Program Regulations (1) are designed (or modified) and adequately anchored to prevent flotation, of the building or structure, (2) are constructed with materials and utility equipment resistant to flood damage, and (3) are constructed by methods and practices that minimize flood damage.

12. Section 112.3.1, "Fee Schedule", is amended to read as follows:

112.3.1 Fee Schedule: A fee for each plan examination, building permit and inspection shall be paid in accordance with the schedule of fees as established, from time to time, by resolution of the Marion Township Board of Supervisors.

13. Section 112.4, "Accounting", is deleted in its entirety.

14. Section 112.5, "Refunds", is deleted in its entirety.

15. Section 113.2.2, "Plant inspection", is deleted in its entirety.

16. Section 114.0, "Professional Architectural and Engineering Services", is deleted in its entirety.

17. Section 116.4, "Violation Penalties", is amended to read as follows:

116.4 Violation penalties: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be liable to a fine and penalty not exceeding \$1,000.00 per violation which may be collected by suit or summary proceeding brought in the name of Marion Township

before a District Justice. Upon judgment against any person by summary conviction, or by proceedings by summons on default of the payment of the fine or penalty imposed and the costs, the defendant may be sentenced to imprisonment for a period not exceeding thirty days or as otherwise allowed by law for the punishment of summary offenses. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this ordinance which is found to have been violated.

18. Section 117.2, "Unlawful Continuance", is amended to read as follows:

117.2 Unlawful continuance: Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine and penalty not exceeding \$1,000.00 per violation which may be collected by suit or summary proceeding brought in the name of Marion Township before a District Justice. Upon judgment against any person by summary conviction, or by proceedings by summons on default of the payment of the fine or penalty imposed and the costs, the defendant may be sentenced to imprisonment for a period not to exceed thirty days or as otherwise allowed by law for the punishment of summary offenses. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this ordinance which is found to have been violated.

19. Section 121.2, "Membership of board", is amended to read as follows:

121.2 Membership of board: The board of appeals shall consist of the Marion Township Board of Supervisors.

20. Section 121.2.1, "Qualifications", is deleted in its entirety.
21. Section 121.2.2, "Alternate members", is deleted in its entirety.
22. Section 121.2.3, "Chairman", is deleted in its entirety.
23. Section 121.2.5, "Secretary", is deleted in its entirety.
24. Section 121.2.6, "Compensation of members", is deleted in its entirety.

25. Section 121.3, "Notice of meeting", is deleted in its entirety.
26. Section 121.5, "Postponed hearing", is deleted in its entirety.
27. Section 121.6, "Board decision", is deleted in its entirety.
28. Section 420.2, "Construction" is amended to read as follows:  
  
420.2 Construction: The construction of residential mobile units shall conform to the standards established by the United States Department of Housing and Urban Development and every mobile unit required to meet those standards shall bear the seal of the Department of Housing and Urban Development.
29. Section 3102.4.3.1, "Wall signs" is amended to read as follows:  
  
3102.4.3.1 Wall signs: A permit shall not be required for a sign painted on the surface of a fence or approved building wall, or any nonilluminated wall sign on a building or structure which is not more than 4 square feet (0.37m) in area.
30. Section 3102.4.3.2, "Sale or rent" is amended to read as follows:  
  
A permit shall not be required for ground signs erected to announce the sale or rent of property, provided that such signs are not more than 12 square feet (1.12m) in area and are not illuminated.
31. Section 3102.4.3.5, "Projecting signs" is amended to read as follows:  
  
3102.4.3.5 Projecting signs: A permit shall not be required for a projecting sign not exceeding 2 1/2 square feet (0.23m) of display surface if it is not illuminated.
32. Section 3102.6.5, "Animated devices", is deleted in its entirety.
33. Section 3102.7, "Ground signs", is deleted in its entirety.

34. Section 3102.8.3, "Closed signs", is deleted in its entirety.
35. Section 3102.8.4, "Open signs", is deleted in its entirety.
36. Chapter 32, "Construction in the Public Right-of-Way", is deleted in its entirety.
37. Section 3408.2, "Applicability", is amended to read as follows:

3408.2 Applicability: Structures existing prior to August 30, 1994 in which there is work involving additions, alterations, or changes of occupancy, shall be made to conform to the requirements of this section or the provisions of Sections 3403.0 through 3407.0.

The provisions in sections 3408.2.1 through 3408.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Use Groups A, B, E, F, M, R and S. These provisions shall not apply to buildings with occupancies in Use Group H or I.

**Section 3. State Law and Regulations.** In all matters that are regulated by the law of the Commonwealth of Pennsylvania or by regulations of departments or agencies of the Commonwealth promulgated by authority of law, such laws or regulations, or other ordinances of the Township of Marion, as the case may be, shall control where the requirements thereof are the same as or in excess of the provisions of this ordinance. The code shall control in all cases where the State requirements, or the requirements of other ordinances of this Township, are not as strict as those contained in this ordinance.

**Section 4. Provisions to be Continuation of Existing Regulations.** The provisions of this ordinance so far as they are the same as those of ordinances and/or codes in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and codes and not as new enactments. The provisions of this ordinance shall not affect any act done or liability incurred, nor shall they affect any suit or prosecution pending or to be instituted to enforce any right, penalty or liability or to punish an offense under the authority of any of the repealed ordinances; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**Section 5. Severability.** If any sentence, clause, section, or



part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Board of Supervisors of Marion Township that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

**Section 6. Repealer.** Ordinance No. 1994-2 of Marion Township, Berks County, Pennsylvania which adopted by reference the "BOCA National Building Code, Twelfth Edition 1993" and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 7. Effective Date.** This ordinance shall become effective five days after the date of its enactment.

Enacted: *MAY 29*, 1997

BOARD OF SUPERVISORS OF  
THE TOWNSHIP OF MARION, BERKS  
COUNTY, PENNSYLVANIA

*Charles M. Eckman Jr.*  
Chairman

*Tommy de Balle*  
Supervisor

*Harold E. Zechman*  
Supervisor

Attest:

*Doris E. Yaberger*  
Secretary