

ORDINANCE NUMBER 67

MUDDY CREEK TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA

AN ORDINANCE REQUIRING ASSESSMENT PERMITS PRIOR TO CONSTRUCTING NEW OR ENLARGING EXISTING AGRICULTURAL BUILDINGS, HISTORICAL BUILDINGS, DECKS, RECREATIONAL CABINS, AND UTILITY AND MISCELLANEOUS USE STRUCTURES.

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of Muddy Creek Township, Butler County, Pennsylvania, as follows:

SECTION 1: TITLE.

This ordinance shall be known and may be cited as the “Muddy Creek Township Assessment Permit Ordinance.”

SECTION 2: AUTHORITY.

This ordinance is adopted pursuant to the authority set forth in the Second Class Township Code, 53 P.S. §§ 65101 *et seq.*

SECTION 3: PURPOSE.

The purpose of this ordinance is to ensure that the construction of new buildings and structures and the enlargement of existing buildings and structures not requiring building permits under the Pennsylvania Construction Code Act, 35 P.S. §§ 7210.101 *et seq.*, are properly recorded for tax assessment purposes.

SECTION 4: APPLICABILITY.

This ordinance shall apply to the construction and enlargement of agricultural buildings, historical buildings, decks, recreational cabins, and utility and miscellaneous use structures, as defined herein, within the corporate limits of Muddy Creek Township, Butler County, Pennsylvania.

SECTION 5: DEFINITIONS.

The following words, terms and phrases, when used in this ordinance, shall have the following meanings. Except where the context or the use thereof clearly shall indicates or requires meaning:

Agricultural Building – A structure utilized to store farm implements, hay, feed, grain or other agricultural or horticultural products or to house poultry, livestock or other farm animals, milk house, and structure used to grow mushrooms. The term includes a carriage house owned and used by members of a recognized religious sect for the purpose of housing horses and storing buggies. The term shall not include habitable space or spaces in which agricultural products are processed, treated or packaged and shall not be construed to mean a place of occupancy by the general public.

Building - A structure used or intended for supporting or sheltering any approved use.

Deck – An uncovered deck, accessory to a residential building, where the floor of the deck is no more than 30 inches above grade.

Enlarge – An increase in floor area or height of an existing building or structure.

Habitable Space – Space in a structure for living, sleeping, eating or cooking. Bathroom, toilets, compartments, closets, halls, storage or utility space and similar areas shall not be construed as habitable space.

Historical Building – Buildings and structures, not intended for residential use on a historic site, which are identified and classified by Federal, State or local government authority or the Historical and Museum Commission as an historic building or site.

Recreational Cabin - A structure which is utilized principally for recreational activity and is:

- (1) Not utilized as a domicile or residence for any individual for any time period;
- (2) Not utilized for commercial purposes;
- (3) Not greater than two stories in height, excluding basement;
- (4) Not utilized by the owner or any other person as a place of employment;
- (5) Not a mailing address for bills and correspondence; and
- (6) Not listed as an individual's place of residence on a tax return, driver's license, car registration or voter registration.

Structure – Anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds and other similar items.

Township – Muddy Creek Township, Butler County, Pennsylvania.

Utility and Miscellaneous Use Structure - Buildings or structures of an accessory character and miscellaneous structures not classified by the Building Officials and Code Administrators International, Inc., in any specific use group. The term includes carports, detached private garages, greenhouses, and sheds accessory to a detached one-family dwelling and having a building area less than 1,000 square feet. The term does not include swimming pools or spas.

SECTION 6: PERMITS REQUIRED.

It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken the construction or enlargement of any agricultural building, historical building, recreational cabin, deck, and/or *utility or miscellaneous-use structure that is accessory to a detached single-family dwelling and less than 1,000 square feet* within the Township unless an Assessment Permit has been obtained from the Township.

SECTION 7: APPLICATION PROCEDURE.

A. To apply for an Assessment Permit, the applicant shall submit a complete Assessment Permit Application package to the Township, on forms provided by the Township. All applications shall be accompanied by a diagram showing the site boundary lines, size and location of all buildings already existing on the site, if any; and the location and dimensions of the proposed buildings or structures. The Township may require the applicant to provide additional or supplemental information to assure that the proposed building or structure will comply with the provisions of this ordinance.

B. Applicants are required to submit a completed Butler County Building Permit Application form with the application package.

C. The applicant shall fully pay all applicable fees, as set by the Board of Supervisors by resolution and as amended from time to time, to the Township at the time the application is submitted to the Township.

D. If the Township determines that the application is incomplete or that additional or supplemental information is required, it shall communicate the nature of the deficiency or request the information from the applicant, in writing, within seven (7) business days of receipt of the application. The applicant may agree, in writing, to an extension of the allotted time.

E. The Township shall issue or deny a permit within seven (7) business days after receiving a complete application package or within seven (7) business days of receipt of all required supplemental information. Failure of the Township to finally act on an application within seven (7) business days shall result in the application being deemed denied. The applicant may agree, in writing, to an extension of the allotted time. The Township shall provide written notice of denial to the applicant. The notice shall include the reasons for denial and provide notice of the applicant's right to request an appeal hearing before the Board of Supervisors

F. Assessment Permits shall only be issued following a determination by the Township that the applicant has fully complied with the provisions of this ordinance.

G. Assessment Permits issued on the basis of applications and plans approved by the Township authorize only the construction or enlargement set forth in such approved applications and plans. All work shall be performed or installed in accordance with the approved documents. 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 prior written consent or approval of the Township

H. Any construction or enlargement at variance with that authorized in the Assessment Permit shall be deemed a violation of this ordinance.

SECTION 8: CERTIFICATE OF COMPLETION.

A. The permit holder shall notify the Township when the approved work is completed.

B. Prior to issuing a certificate of completion, the Township shall verify that the construction complies with the Assessment Permit.

C. The Township shall notify the permit holder if the construction fails to comply with the permit.

D. The Township shall issue a certificate of completion within five (5) business days after verification that the construction complies with the permit.

SECTION 9: STOP WORK ORDER.

A. The Township may issue a Stop Work Order where the permit holder/landowner has failed or refuses to comply with the provisions of this ordinance.

B. The notice shall: (1) be in writing; (2) be served upon the permit holder/landowner, provided, however, that such notice shall be deemed to have been properly served in accordance with this subsection by either mailing the notice by regular mail, postage prepaid, to the permit holder/landowner or posting of the notice on the premises; (3) include a statement of the alleged

violation(s); (4) allow a reasonable time, not to exceed a period of thirty (30) calendar days, for the performance of any act it requires; (5) contain an outline of remedial action which, if taken, will effect compliance with the provisions of this ordinance; (6) provide notice of the permit holder/landowner's right to request a formal appeal hearing before the Board of Supervisors; and 7) prohibit any further construction activity until a permit is issued, required remedial action is completed or the Stop Work Order is finally reversed on appeal.

SECTION 10: ADMINISTRATION.

A. The Township shall employ qualified individuals to carry out the provisions of this ordinance. Such employees may include, without limitation, secretaries, administrators, engineers, solicitors, sewage enforcement officers, code enforcement officers, building code officials, flood plain administrators and/or other persons as required. The Township may also contract with other private, qualified persons or firms, as necessary, to carry out the provisions of this ordinance.

B. The Township shall maintain copies of all Assessment Permits, and all applications, records, reports, files, and other written material relating to buildings or structures constructed or enlarged under an Assessment Permit. The Township's records shall be available for public inspection, upon request, during normal business hours at the Township office.

C. The Township may establish additional administrative procedures necessary to properly carry out the provisions of this ordinance.

SECTION 11: FEES.

A. The Board of Supervisors, by properly enacted resolution, may set a schedule of fees, and collect such fees, to cover the costs to the Township of administering and enforcing this ordinance. The fee schedule may establish different charges for various activities consistent with the administrative and personnel costs necessary to support the permit application review, enforcement and appeal programs. The schedule of fees shall be available for public inspection at the Township office.

B. No permit shall be issued unless or until such costs, charges, fees or expenses for the permit have been paid in full by the applicant; nor shall any action be taken on appeal proceedings before the Board of Supervisors unless or until all charges and fees related to the appeal have been paid in full by the applicant.

SECTION 12: APPEALS AND HEARINGS.

A. Any person aggrieved by any decision, determination or action of the Township concerning the administration of the provisions of this ordinance may appeal to the Board of Supervisors. Appeals must be filed, in writing, on forms provided by the Township, within thirty (30) calendar days after the decision, determination or action of the Township.

B. The applicant shall fully pay the hearing application fee, set by the Board of Supervisors by resolution and as amended from time to time, to the Township at the time the written request for a hearing is submitted to the Township.

C. Hearing requests shall state concisely all reasons for the appeal.

D. The Board of Supervisors shall hold a public hearing within thirty (30) calendar days after receipt of a timely and complete written request for a hearing. Notice of the time and place at which the appeal will be considered shall be given to all parties.

E. Hearings under this section shall be conducted pursuant to the Local Agency Law, 2 Pa.C.S. §§ 551 *et seq.*

F. At the hearing, the applicant and the Township shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

G. Any party aggrieved by any decision of the Board of Supervisors may appeal to the Court of Common Pleas of Butler County, as provided by the law.

H. The Board of Supervisors may defend its actions during the course of subsequent appeals.

SECTION 13: ENFORCEMENT PROCEDURES AND PENALTIES.

A. Enforcement as a Summary Offense. This ordinance governs and regulates building activity and is enforced pursuant to 53 P.S. § 66601 (c.1) (2). As such, enforcement of this ordinance shall be by action brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

B. The Township solicitor may assume charge of the prosecution without the consent of the District Attorney as permitted under the Pennsylvania Rules of Criminal Procedure No. 83(c) (relating to trial in summary cases).

C. Any person who shall violate any provision of this ordinance shall be guilty of a summary offense. Upon conviction, such person shall be sentenced to pay a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000), per violation. 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.

D. In addition to or in lieu of summary charges, the Township, through its solicitor, may institute injunctive, mandamus, or other appropriate action or proceeding at law or in equity for enforcement of this ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

E. Nothing contained in this Section shall be construed or interpreted to grant any person or entity other than the Township the right to commence an action for enforcement pursuant to this ordinance.

SECTION 14: MUNICIPAL LIABILITY.

This ordinance shall not create liability on the part of the Township or any officer or employee thereof for any damages, that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION 15: SEVERABILITY.

The provisions of this ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional, illegal or otherwise invalid, that decision shall not affect the validity of any of the remaining provisions of this ordinance. It is declared to be the legislative intention that this ordinance would have been enacted had the unconstitutional, illegal or otherwise invalid provisions not been included in this ordinance.

SECTION 16: REPEALER.

Ordinance No. 18, Ordinance No. 22 and Ordinance No. 48 and all other ordinances, or parts of such ordinances, in conflict with this ordinance or inconsistent with its provisions are hereby repealed to the extent necessary to give this ordinance full force and effect.

SECTION 17: EFFECTIVE DATE.

This ordinance shall take effect and be in force five (5) days after adoption.

ENACTED AND ORDAINED into law this 17th day of July 2013, by the Board of Supervisors of Muddy Creek Township, Butler County, Pennsylvania, in public session duly assembled.

ATTEST:

MUDDY CREEK TOWNSHIP
BOARD OF SUPERVISORS

Kelly Livermore,
Township Secretary
(SEAL)

By: _____
Dale R. Kerr, Chair

By: _____
Eric Saunders, Supervisor

By: _____
Robert J. Jesteadt, Supervisor