

**MONROE TOWNSHIP**

**CUMBERLAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2009- 1

**AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF FLOODPLAIN AREAS IN MONROE TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA; REGULATING USES, ACTIVITIES AND DEVELOPMENT; ESTABLISHING PROHIBITED ACTIVITIES AND DEVELOPMENT; PROVIDING FOR PERMITS, REGULATIONS, FEES AND PENALTIES FOR VIOLATIONS.**

WHEREAS, the Board of Supervisors of Monroe Township deems it to be in the best interests of the health, safety and welfare of the residents of Monroe Township to provide for the establishment of floodplain areas; encourage the utilization 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; reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas of subject flooding; comply with federal and state floodplain management requirements, and, further, to provide for certain regulations pertaining thereto; and

WHEREAS, this Ordinance and the objections leading to its enactments are authorized by "The Second Class Township Code," Act of May 1, 1933, P.L. 103, No. 69, reenacted and amended November 9, 1996, P.L. 350, No. 60 (53 P.S. Section 65101 et seq.); it is therefore enacted and ordained by the Board of Supervisors of Monroe Township, Cumberland County, Pennsylvania, as follows:

**SECTION 1:           SHORT TITLE**

This Ordinance shall be known and may be cited as the "Monroe Township Floodplain Ordinance."

**SECTION 2:           GENERAL PROVISIONS AND PURPOSE**

The purpose of these provisions is to protect environmentally sensitive areas, to prevent the loss of property and life and the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditures of public funds for flood protection and relief, and the impairment of the tax base by:

1. regulating uses, activities and development which, acting alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies;
2. restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding;

3. requiring all those uses, activities and developments that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage;
4. protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

SECTION 3:           DEFINITIONS

The following terms shall be construed in this Ordinance to have the following meanings except in those instances where the context clearly indicates otherwise:

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.

ACT - Pennsylvania Flood Plain Management Act (166) of 1978.

ALTERATIONS - An action involving any of the following:

1. A change in the size of a building, structure, or both;
2. A change in the use of property; and,
3. A rearrangement or relocation of a building, structure, use or any combination therefore, upon a property.

BASE FLOOD - See definition of "ONE HUNDRED YEAR FLOOD."

BASE FLOOD ELEVATION - The projected flood height on the base flood.

BASEMENT – Means any area of the building having its floor below ground level on all sides.

BOARD - Monroe Township Board of Supervisors.

BUILDING - A combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

Detached: A building which has no common wall.

Semi-detached: A building which has only one common wall.

Attached: A building which has more than one common wall.

CAMPGROUND - A lot, tract, or parcel of land upon which two or more campsites are located or established, intended and maintained for occupation by transients in recreational vehicles or tents.

CAMPSITES - A plot of ground within a campground intended for occupation by a recreational vehicle or tent.

CEMETERY - Land used or intended to be used for the burial of the deceased, including columbariums, crematoria, mausoleums, and mortuaries when operated in conjunction with the cemetery and within the boundaries thereof.

CHANNEL - A natural or artificial watercourse with a definite bed and banks which confine and conduct continuously or periodically flowing water.

COMMERCIAL RECREATION FACILITY - An activity operated as a business, open to the public, for the purpose of public recreation or entertainment.

COMPLETELY DRY SPACE - A space which will remain totally dry during flooding, the structure is designed and constructed to prevent the passage of water and water vapor.

DEVELOPMENT - Any manmade change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

DRIVEWAY - An improved cartway designed and constructed to provide vehicular movement between a public road and a tract of land.

DWELLING - Any building or portion thereof designed and used exclusively for residential occupancy, including those listed below, but not including hospitals, hotels, boarding, rooming and lodging houses, institutional houses, tourists courts, and the like, offering overnight accommodations for guests or patients.

1. Single-Family Detached (SED): A freestanding building containing one dwelling unit for one family, and having two(2) side yards, one (1) front yard, and one (1) rear yard; in the case of a corner lot, the building will have two (2) front and (1) side and rear yards. Manufactured houses can be considered single-family detached dwellings if, in addition to the requirements listed for all dwellings, they are permanently affixed to a completely enclosed foundation constructed of currently accepted materials that shall be an entire perimeter wall and extend from below the frost line to the first floor of the building. Such foundation shall be constructed to provide sufficient structural integrity to prevent the building from heaving, shifting, or settling unevenly, due to frost action and anchored sufficiently to prevent floating. Travel trailers, as defined herein, shall not be construed as dwellings. Modular homes can be considered single-family detached dwellings so long as they comply with the general requirements of a dwelling.
2. Duplex (Two-family; single-family semi-detached): A freestanding building containing two dwelling units for two families, arranged in a side-by-side or over-and-under configuration.

3. Multiple Family: A building containing three or more dwelling units, at least one of which must be located above or below the remaining units.
4. Townhouse: A building containing between three and eight dwelling units arranged in a side-by-side configuration with two or more common walls.
5. Manufactured Homes: Defined herein.
6. Quadrplex: One detached building that contains four separate dwelling units, all of which share one or two points of exterior access.

EARTHMOVING ACTIVITY - Any construction or other activity which disturbs the surface of the land including, but not limited to, excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth, excluding the tilling of the soil.

ESSENTIALLY DRY SPACE - A space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.

FENCE - A structure designed as a barrier to restrict the movement of persons, animals, vehicles or any combination thereof.

FILL - Material placed or deposited so as to form an embankment or raise the surface elevation of the land, including but not limited to levees, bulkheads, dikes, jetties, embankments, and causeways.

FLOOD - A temporary inundation of normally dry land areas.

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.

FLOODPROOFING - 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.

FLOODWAY - The designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purpose of this Ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.

FLOOD ELEVATION - The projected heights reached by floods of various magnitudes and frequencies in the floodplain areas.

GENERAL FLOODPLAIN AREA - Shall be that floodplain area for which no detailed flood profiles or elevations have been provided, but includes streams and soils which allow for the rapid accumulation of water.

GOLF COURSE - An outdoor area with a minimum of 2,800 yards of land for playing nine (9) holes of golf.

HAZARDOUS MATERIAL - Substances or materials which, because of their chemical, physical, or biological nature, pose a potential risk to life, health, or property if they are released. A "release" may occur by use, spilling, leaking, emitting toxic vapors, or any other process that enables the material to escape its container, enter the environment, and create a potential hazard. The separate and authoritative definitions are in the U.S. OSHA, U.S. EPA, U.S. NRC, and U.S. DOT regulations. These agencies and their state counterparts provide the authoritative definitions of hazardous wastes, radioactive materials and related definitions.

HAZARDOUS WASTE FACILITY - Any structure, group of structures, aboveground or underground storage tanks, or any other area or buildings used for the purpose of permanently housing or temporarily holding hazardous waste for the storage or treatment for any time span other than the normal transportation time through the Township.

HOSPITAL - An institution, licensed in the Commonwealth of Pennsylvania as a hospital, which renders inpatient and outpatient medical care on a twenty-four (24) hours per day basis; and provides primary health services and medical/surgical care to persons suffering from illness, disease, injury, deformity and other physical or mental conditions. A hospital use can also include attached and detached accessory uses provided that all accessory uses are contained upon the hospital property.

IDENTIFIED FLOODPLAIN AREA - The floodplain area specifically identified in this Ordinance as being inundated by the one hundred (100) year flood.

IMPERVIOUS SURFACE - Any material that covers the land which inhibits the percolation of storm water directly into the soil, including but not limited to, buildings and pavement.

LAND DEVELOPMENT - Any of the following activities: 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 residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure, or b. the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features. Land development also includes a subdivision of land.

LANDOWNER - The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land, shall be deemed to be a landowner for the purpose of this Ordinance.

LOWEST FLOOR – The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design of this Ordinance.

MANUFACTURED HOME- A structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

MANUFACTURED HOME PARK - A parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for non-transient use.

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 removing 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, sanitary sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electrical wiring or mechanical or other work affecting public health or general safety.

NEW CONSTRUCTION – Structures for which the start of construction commenced on or after April 9, 1998, and includes any subsequent improvements thereto.

NURSING, REST OR RETIREMENT HOMES - Facilities designed for the housing, boarding, and dining associated with or without some level of nursing care.

ONE HUNDRED (100) YEAR FLOOD - A flood that, on the average, is likely to occur once every one hundred (100) years (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

ONE HUNDRED (100) YEAR FLOOD BOUNDARY - The outer boundary of the one hundred year flood.

ONE HUNDRED (100) YEAR FLOOD ELEVATION - The water surface elevations of the one hundred (100) year flood.

PA DOT - Pennsylvania Department of Transportation.

PARKS, PUBLIC / NONPROFIT - Those facilities designed and used for recreation purposes by the general public that are (1) owned and operated by a government or government agency/authority, or (2) are operated on a nonprofit basis.

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 is recognized by law as the subject of rights and duties.

PETROLEUM PRODUCT - Oil petroleum of any kind and in any form, including crude oil and derivatives of crude oil.

PUBLIC - Owned, operated, or supported by the Township.

PUBLIC HEARING - A formal meeting held pursuant to the public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action on zoning-related matter.

PUBLIC MEETING - A forum held pursuant to notice under the act of July 3, 1986, (P.L. 388. No. 84), known as the Sunshine Act, and subsequent amendments.

PUBLIC NOTICE - The announcement of actions or activities according to the 2<sup>nd</sup> class Township Code or the Municipalities Planning Code.

RECREATIONAL VEHICLE - A vehicle which is : built on a single chassis; not more than 400 square feet, measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light-duty truck; not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOOD ELEVATION – The one hundred (100) year flood elevation plus a freeboard safety factor of one and one half (1 ½) feet.

REPETITIVE LOSS – Flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

SEASONAL RESIDENCE - A dwelling, cabin, lodge or summer house which is intended for occupancy less than one hundred eighty-two (182) days of the year.

SIGN - A device for visual communication that is used to bring the subject to the attention of the public.

Flat Wall Sign: A sign that is displayed, mounted, or both, upon or generally parallel to the same plane as the face of a wall, such that no portion of the sign extends more than twelve inches (12") from said wall.

Freestanding Sign: A sign erected upon permanently-affixed legs or base.

Outparcel Sign: A sign affixed to a unit of occupancy contained within a planned center.

Permanent Sign: A sign that is expected to be continuously displayed during the presence of a principal land use.

Temporary Sign: A sign that is only permitted for specified periods of time, associated with some temporary event or work, conducted on the site.

Under Canopy Sign: A sign that identifies one (1) leasable unit within a shopping center and is hung from an overhead canopy of the shopping center, or is provided as a wall projecting sign attached to the front wall of the unit where no canopy is provided.

Wall Projecting Sign: A sign that is mounted to a building wall such that its principal display area is not parallel to the building wall. A wall projecting sign can also be attached to a marquee.

SINGLE AND SEPARATE OWNERSHIP - The ownership of a lot by one or more persons, which ownership is separate and distinct from that of any abutting or adjoining lot. Ownership shall be considered separate and distinct where lots have been separately described as such, by metes and bounds, in a recorded deed or conveyance prior to the enactment of this Ordinance, or an amendment thereto, and have continued since that date to be so separately described in all subsequent recorded deeds of conveyance.

SOIL SURVEY - The latest published version of the United States Department of Agriculture's Soil Survey for Cumberland County, Pennsylvania.

SPECIAL PERMIT - A special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.

STORAGE - A function involving the deposition of materials, goods, products, or any combination thereof, for safekeeping.

STRUCTURE - Anything constructed or erected on the ground, or attached to the ground, including, but not limited to buildings, sheds, manufactured homes other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land.

Structure Accessory: A structure associated with an accessory use, (e.g., swimming pools, patios, antennas, tennis courts, garages, utility shed, gas and liquid storage tanks, etc.).

Structure, Principal: A structure associated with a primary use.

Structures shall not include such things as temporary fences, sandboxes, decorative fountains, swing sets, doghouses, birdhouses, bird feeders, mailboxes, and any other similar improvements without a floor.

SUBDIVISION - The division or re-division 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, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural



purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

SUBSTANTIAL ADDITIONS TO MANUFACTURED HOME PARKS – Any repair, reconstruction, or improvement of an existing manufactured home park or manufactured home subdivision, where such repair, reconstruction, or improvement of the streets, utilities, and pads will equal or exceed fifty (50) percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement started.

SUBSTANTIAL DAMAGE – Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage or repetitive loss” regardless of the actual repair work performed. The term does not however include either: Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or; Any alteration of an “historic structure”, provided that the alteration will not preclude the structure’s continued designation as an “historic structure”.

UNIFORM CONSTRUCTION CODE (UCC) – The statewide building code adopted by the Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the Commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

USE - The specific purpose for which land or a structure is designed, arranged, intended, occupied or maintained.

Use, Accessory: A use customarily incidental and subordinate to the principal use or building and located on the same lot with the principal use or building.

Use, Principal: The main or primary use of property or structures.

WASTE - Garbage, refuse and other discarded materials including, but not limited to, solid, semi-solid, contained gaseous and liquid materials resulting from municipal, industrial, institutional, commercial, agricultural, residential, and other activities. Such wastes shall also include biological excrement and hazardous waste materials, as defined in the Code of Federal Regulations, Title 40, Chapter 1, Part 261, dated July 1, 1984, or as amended. Waste shall expressly include those materials defined, at any given time, as “waste” by the Pennsylvania Department of Environmental Protection and the United States Environmental Protection Agency. For the purposes of this Ordinance, the difference between “waste” and “junk” or “recyclables” is that waste shall include

materials that have entered a reasonably continuous process by which their ultimate disposal is imminent; whereas, junk includes materials that may be stored for longer periods of time awaiting potential reuse or ultimate disposal; and whereas, recyclables include materials that have entered a reasonably continuous process whereby their reuse is imminent.

WATERCOURSE - A permanent or intermittent stream, river, brook, run, creek, channel, swale, pond, lake or other body of surface water carrying or holding surface water, whether natural or artificial.

WATERCOURSE 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, (1) 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 (2) which is placed where the flow of the water might carry the same downstream to the damage of life and property.

WATERSHED - All the land from which water drains into a particular watercourse.

WETLAND - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

ZONING - The designation of specified districts within the Township, reserving them for certain uses together with limitations on lot size, heights of structures and other stipulated requirements.

#### SECTION 4: APPLICABILITY

It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within Monroe Township unless a Building Permit has been obtained from the Township.

A Building Permit shall not be required for minor repairs to existing buildings or structures.

#### SECTION 5: 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. If there is any conflict between any of the provisions of this Ordinance, the more restrictive shall apply.

#### SECTION 6: COMPLIANCE

No structure or land shall hereafter be used, and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the

terms and provisions of this section, and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this Ordinance.

SECTION 7: WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes, and is based on acceptable engineering methods of study. Larger floods may occur, and 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 areas, or that land uses permitted within such areas, will be free from flooding or flood damages.

The Ordinance shall not create liability on the part of Monroe Township, or any officer or employee thereof, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

SECTION 8: ESTABLISHMENT AND DESCRIPTION OF FLOODPLAIN

1. The identified floodplain area shall be any areas of Monroe Township subject to the one hundred (100) year flood, which is identified as Zone A (Area of Special Flood Hazard) in the Flood Insurance Study (FIS) and the accompanying maps of the most recent revision thereof as issued by the Federal Emergency Management Agency (FEMA), including all digital data developed as part of the Flood Insurance Study.

A. The Floodway Area (FW)– the areas identified as “Floodway” in the AE Zone in the Flood Insurance Study prepared by FEMA. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study.

B. The Flood-Fringe Area (FF) the remaining portions of the 100-year floodplain in those areas identified as an AE Zone in the Flood Insurance Study, where a floodway has been delineated.

The basis for the outermost boundary of this area shall be the 100-year flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

C. The Special Floodplain Area (FE) the areas identified as Zone AE in the Flood Insurance Study, where one hundred (100) year flood elevations have been provided, but no floodway has been delineated.

~~E.~~ D. The General Floodplain Area (GFA FA ) The areas identified as Zone A in the FIS for which no one hundred (100) year flood elevations have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the one hundred (100) year elevation, as well as a floodway area, if possible. When no other information is available, the one hundred (100) year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.

In lieu of the above, Monroe Township may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses 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, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough review by Monroe Township.

Streams shown on the USGS map (Mechanicsburg Quadrangle) are repeated on the Floodplain Ordinance Overlay and the corresponding floodplain limits are determined by soils types. Surveyed cross sections and other topographic data may be used to refine the limits of flooding by the applicant.

Soils - Development will be prohibited on soils with the characteristic of allowing for the rapid accumulation of water or with a history of periodic flooding as determined by the Soil Survey of Cumberland and Perry Counties, Pennsylvania and are shown on the Floodplain Ordinance Overlay. A detailed soils evaluation by a qualified soil scientist may be used by the applicant to refine the soil limits and boundaries.

2. Overlay Concept - The floodplain areas referred to herein shall be an overlay to the existing underlying zones, as shown on the Official Monroe Township Zoning Map and as such, the provisions of the floodplain ordinance shall serve as a supplement to the underlying zone provisions.
  - A. In the event of any conflict between the provisions or requirements of the floodplain ordinance and those of any underlying zone area, the more restrictive provisions shall apply.
  - B. In the event any provision concerning a floodplain area is declared inapplicable or illegal as a result of any legislative or administrative actions or judicial decision, the regulations of the underlying zone shall remain applicable.

#### SECTION 9: FLOODPLAIN MAP

The boundaries of the general floodplain area are established as shown on the overlay to the Official Zoning Map which is declared to be a part of this Ordinance and which shall be kept on file at the Monroe Township Municipal Office for public inspection.

Reference is also made to the maps or the most recent revision thereof as issued by the Federal Emergency Management Agency (FEMA), including all digital data developed as part of the Flood Insurance Study.

#### SECTION 10: BOUNDARY DISPUTES

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Monroe Township Planning Commission and any party aggrieved by this decision or determination may appeal to the Monroe Township Board of Supervisors. The burden of proof shall be on the appellant.

SECTION 11: BOUNDARY CHANGES

The identified floodplain area may be revised or modified by the Monroe Township Board of Supervisors 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 Emergency Management Agency (FEMA).

SECTION 12: OTHER PROVISIONS

All uses, activities and development occurring within any floodplain area shall be undertaken only in strict compliance with the provisions of this Ordinance, and with all other applicable codes and ordinances, such as the Monroe Township Zoning Ordinance and the Monroe Township Subdivision and Land Development Ordinance. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch or any other drainage facility or system.

1. Uniform Construction Code Coordination

The Standards and Specifications contained in 34 PA Code (Chapters 401-405), as amended, and not limited to the following provisions shall apply to other sections and sub-sections of this ordinance, to the extent that they are more restrictive and / or supplement the requirements of this ordinance.

International Building Code (IBC) 2006 or the latest edition thereof:  
Sections 801, 1202, 1403, 1603, 1605, 1612, 3402 and Appendix G.

International Residential Building Code (IRC) 2006 or the latest edition thereof:  
Sections R104, R105, R109, R324, Appendix AE101, Appendix E and Appendix J.

SECTION 13: FLOODWAY AREA (FW)

Within any Floodway Area (FW) the following provisions apply: Any new construction, development, use, activity, or encroachment that would cause any increase in flood heights shall be prohibited. No new construction or development shall be allowed, unless a permit is obtained from the Pennsylvania Department of Environmental Protection Regional Office. Manufactured homes shall be prohibited.

In the Floodway Area (FW), no development shall be permitted except as shown below:

1. Permitted Uses - The following uses and activities are permitted, provided that they are in compliance with the provisions of the underlying zone and are not prohibited by any other ordinance, and provided that they do not require structures, fill or storage of materials and equipment:
  - A. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
  - B. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming

areas, hiking and horseback riding trails, wildlife and nature preserves, fish hatcheries, and hunting and fishing areas.

C. Accessory residential uses, uses, such as yard areas, gardens, play areas, and porous paving areas.

D. Accessory industrial and commercial uses, such as yard areas, porous paving and loading areas but not including the structure.

2. Uses Permitted by Waiver - The following uses and activities may be permitted by waiver, as allowed by the Board of Supervisors, provided that they are in compliance with the provisions of the underlying zone and are not prohibited by any other provision of the Monroe Township Zoning Ordinance:

A. Utilities, except communications towers, and public facilities and improvements, such as railroads, streets, bridges, transmission lines, pipelines, and other similar or related uses.

B. Water-related uses and activities, such as marinas, docks, wharves, piers, etc.

C. Temporary uses, such as circuses, carnivals and similar activities.

D. Storage of farm materials and equipment provided that they are not buoyant, flammable or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, or can be readily removed from the area within the time available after flood warning.

SECTION 14: FLOOD-FRINGE AREA (FF)

In the Flood-Fringe Area (FF), the development and use of land shall be permitted in accordance with the regulations of the underlying zone, provided that all such uses, activities or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained in all other applicable codes and ordinances.

SECTION 15: SPECIAL FLOODPLAIN AREA (FE)

Within any Special Floodplain Area (FE), no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one (1) foot at any point.

No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.

SECTION 16: GENERAL FLOODPLAIN AREA (FA)

No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.

In the General Floodplain Area (FA), no development or use of land shall be permitted except as noted below.

1. Permitted Uses - The following uses and activities are permitted, provided that they are in compliance with the provisions of the underlying zone and are not prohibited by any other ordinance, and provided that they do not require structures, fill or storage of materials and equipment.
  - A. Agriculture uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
  - B. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, fish hatcheries, and hunting and fishing areas.
  - C. Accessory residential uses, such as yard areas, gardens, play areas, and porous paving areas.
  - D. Accessory industrial and commercial uses, such as yard areas, porous paving and loading areas but not including the structure.
2. Uses Permitted by Appeal - The following uses and activities may be permitted by appeal, as allowed by the Board of Supervisors, provided that they are in compliance with the provisions of the underlying zone and are not prohibited by any other provision of the Monroe Township Zoning Ordinance:
  - A. Utilities, except communications towers, and public facilities and improvements, such as railroads, streets, bridges, transmission lines, pipelines, and other similar or related uses.
  - B. Water-related uses and activities, such as marinas, docks, wharves, piers, etc.
  - C. Temporary uses, such as circuses, carnivals and similar activities.
  - D. Storage of farm materials and equipment provided that they are not buoyant, flammable or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, or can be readily removed from the area within the time available after flood warning.

SECTION 17: APPEALS

Any person aggrieved by any action or decision of the Building Permit Officer concerning the administration of the provisions of this Ordinance, may appeal to the Monroe

Township Board of Supervisors. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Building Permit Officer.

Upon receipt of such appeal the Board of Supervisors shall set a time and place, within not less than ten (10) days nor more than thirty (30) 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.

Any person aggrieved by any decision of the Board of Supervisors may seek relief therefrom by appeal to court, as provided by the laws of this Commonwealth including the Pennsylvania Flood Plain Management Act.

In reviewing applications for appeals, the Board of Supervisors shall consider all relevant factors and procedures specified in this section of the Zoning Ordinance and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments. No waivers or variances shall be granted in any floodway for any proposed use, development or activity that will cause any increase in flood levels during the 100-year flood.
2. The danger that materials may be swept onto other lands or downstream to the injury of others.
3. The water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and floodplain management for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocities, duration, rate of rise and sediment transport of flood waters expected at the site.
12. The effect upon the Township Flood Insurance Program.
13. Such other factors which are relevant to the purposes of this Ordinance.



The Board of Supervisors may refer any application and accompanying documentation pertaining to any request for an appeal to the township engineer.

Appeals shall only be issued after the Board of Supervisors has determined that the granting of such will not result in:

- A. unacceptable or prohibited increased flood heights;
- B. additional threats to public safety;
- C. any public expense;
- D. nuisances;
- E. fraud or victimization of the public;
- F. jeopardy to the Township Flood Insurance Program; and,
- G. conflict with local laws or ordinances.

#### SECTION 18: EXISTING STRUCTURES IN THE FLOODPLAIN ZONE

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of this section apply.

1. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the one hundred (100) year flood.
2. Any modification, alteration, reconstruction or improvement of any kind to an existing structure, to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or flood-proofed to the greatest extent possible.
3. Any modification, alteration, reconstruction or improvement of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
4. No expansion or enlargement of an existing structure shall be allowed within any FE area that would, together with all other existing and anticipated development, increase the one hundred (100) year flood elevation more than one (1) foot at any point.
5. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of "repetitive loss" shall be undertaken only in full compliance with the provisions of this Ordinance.
6. The requirements of 34 PA Code Chapter 401-405, as amended and the 2006 IRC (Sections R102.7.1, R105.3.1 and Appendices E and J) or the latest revision thereof and the 2006 IBC (Sections 101.3, 3403.1 and Appendix G) or the latest revision thereof shall also be utilized in conjunction with the provisions of this Section.

#### SECTION 19: PROHIBITED ACTIVITIES AND DEVELOPMENT

1. In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain

Management Act, the following activities shall be prohibited within any identified floodplain area unless a Special Permit has been issued by Monroe Township:

A. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:

1. Hospitals - public or private
2. Nursing Homes - public or private - Rest or Retirement
3. Jails or Prisons - public or private

B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

C. Freestanding Signs

SECTION 20: PROHIBITION OF DEVELOPMENT WHICH MAY ENDANGER HUMAN LIFE

1. The provisions of this section shall be applicable, in addition to any other applicable provision of this Ordinance, or any other ordinance, code or regulation.
2. In accordance with the Pennsylvania Flood Plain Management Act (166) of 1978 and regulations adopted by the Department of Community and Economic Development as required by the Act. Any new or substantially improved structure which:
  - A. will be used for the production or storage of any of the dangerous materials or substances listed or,
  - B. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, or of any of the following dangerous materials or substances or the premises; or,
  - C. will involve the production, storage, or use of any amount of radioactive substances; are hereby prohibited if located partially or entirely within any floodplain area.

Subject to the provisions of this section, in addition to other applicable provisions, the following list of materials and substances are considered dangerous to human life and hereby prohibited partially or entirely within any floodplain area:

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. Sulfur and sulfur products
17. Pesticides (including insecticides, fungicides and rodenticides)
18. Radioactive substances, insofar as such substances are not otherwise regulated.

3. Within any Floodway Area (FW), any structure of the kind described in subsection 2 above, shall be prohibited.

4. Within any Special Floodplain Area (FE) or General Floodplain Area (FA), any new or substantially improved structure of the kind described in subsection 2 above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

5. Where permitted within any floodplain area, any new or substantially improved structure of the kind described in subsection 2 above, shall be:

- a. Elevated or designed and constructed to remain completely dry up to at least one and one half (1 ½) feet above the one hundred (100) year flood and,
- b. 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 standards for completely dry flood-proofing contained in the publication "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

SECTION 21:            REQUIRED NOTATIONS TO BE PLACED

The purpose of this specific provision is to alert all potential users or purchasers of property within the floodplain area as to certain matters deemed necessary to prevent the loss of property and life, the creation of health and safety hazards and the disruption of commerce and governmental services. When and as deemed appropriate by Monroe Township, a notation is to be placed on all subdivision plans, land development plans, building permits, zoning permits and, where applicable, deeds, clearly identifying restrictions as to property use as set forth herein relative to any area delineated in the floodplain area. Any and all restrictions so noted must be approved by Monroe Township.

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. This placard shall show

the number of the building permit, the date of its issuance and is to be signed by the Building Permit Officer.

SECTION 22: ADMINISTRATION AND ENFORCEMENT

The provisions of the Ordinance shall be administered and enforced by any agent duly appointed by the Monroe Township Board of Supervisors.

SECTION 23: PERMITS AND FEES

A permit shall be required prior to the commencement of any development as provided for in this ordinance. The permit shall be on a form or forms authorized by the Board of Supervisors by ordinance or resolution.

The fee for issuance of the permit shall be Fifty Dollars (\$50.00), which fee can, by ordinance or resolution, be changed from time to time by the Board of Supervisors.

In addition, charges for review of permits, plans, and other data by the Township Engineer and Solicitor will be paid by the applicant at rates established annually by the Board of Supervisors.

SECTION 24: ENFORCEMENT REMEDIES

Any person, association, partnership, firm or corporation who or which has violated or permitted the violation of the provisions of this ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by Monroe Township, pay a judgment of not more than Five Hundred Dollars (\$500.00) plus all court costs, including reasonable attorney fees incurred by Monroe Township as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, Monroe Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, association, partnership, firm or corporations violation the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of the Ordinance shall be paid over to Monroe Township.

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, repaired, converted, maintained, or used in violation of this Ordinance, Monroe Township, by and through its duly designated agent, in addition to all other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

SECTION 25: CONTINUATION

The provisions of this Ordinance, so far as they are the same as those of Ordinances in force immediately prior to the enactment of this Ordinance, are intended as a continuation of

such Ordinances and not as new enactments. 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 of any Ordinance repealed by this Ordinance.

SECTION 26: EFFECTIVE DATE

This Ordinance shall become effective in accordance with law.

SECTION 27: SEVERABILITY

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid, such a decision shall not affect or impair the remaining portions of this Ordinance or other Ordinances affected by this Ordinance, it being the intent of Monroe Township that such remainder shall be and shall remain in full force and effect.

SECTION 28: RELATIONSHIP TO OTHER ORDINANCES

All other Ordinances, parts of Ordinances or parts of Resolutions inconsistent herewith shall be and the same expressly are repealed.

ENACTED AND ORDAINED this 26 day of February, 2009.

ATTEST:

Marijane E. Metzger  
Secretary

MONROE TOWNSHIP  
BOARD OF SUPERVISORS

A.W. Castle, III  
A.W. Castle, III, Chairman

Samuel M. Simmons, III  
Samuel M. Simmons, III, Vice-Chairman

John B. Dwyer, Sr.  
John B. Dwyer, Sr., Member

CERTIFICATE

I, the undersigned, Secretary of the Township of Monroe, Cumberland County, Pennsylvania (the "Township"), certify that: the foregoing is a true and correct copy of an Ordinance of the Board of Supervisors of the Township (the "Board"), which duly was enacted by affirmative vote of a majority of the members of the Board at a meeting held on Feb. 26, 2009; said Ordinance duly has been recorded in the Ordinance Book of the Township; said Ordinance duly has been published as required by law; and said Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township, this 26 day of February, 2009.

Marjorie E. Metzger  
Secretary

(SEAL)