

BOARD OF SUPERVISORS
COOKE TOWNSHIP
CUMBERLAND COUNTY, PENNSYLVANIA

COOKE TOWNSHIP FLOOD PLAIN ORDINANCE
ORDINANCE NO. 2009-1

AN ORDINANCE OF THE SUPERVISORS OF COOKE TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA, ADOPTING AND ESTABLISHING REGULATIONS FOR THE ERECTION, RECONSTRUCTION, RESTORATION AND/OR STRUCTURAL ALTERATION OF BUILDINGS WITHIN ANY OFFICIALLY DEFINED FLOOD PLAIN IN COOKE TOWNSHIP.

This Ordinance shall be known as and may be cited as the “Cooke Township Flood Plain Ordinance.”

Section 1: GENERAL PROVISIONS

A. Overview and Summary

1. This Ordinance requires all persons, partnerships, businesses, and corporations to obtain a building permit for any construction or development or substantial improvements to existing structures, and provides for the issuance of such building permits, setting forth certain minimum requirements for new construction and development or substantial improvements to existing structures within any flood plain in Cooke Township as defined by the Federal Emergency Management Agency (hereafter referred to as FEMA) or near watercourses in Cooke Township; and establishing penalties for any person who fails, or refuses to comply with, the requirements of this Ordinance.

2. In summary, this Ordinance applies the minimum requirements established under the National Flood Insurance Program so as to regulate new construction or substantial improvements to existing structures (including seasonal-use “cabins”) within the designated FEMA flood plain as well as in any area within fifty (50) feet landward from the top-of-bank of any watercourse.

B. This Ordinance is enacted in order to:

1. Comply with Federal and Pennsylvania flood plain management requirements, including the requirements of Section 60.3 (b) of the National Flood Insurance Program as well as the requirements of the Pennsylvania Flood Plain Management Act 166 of 1978 and as amended, and regulations adopted by the Pennsylvania Department of Community and Economic Development pursuant to that Act, as amended from time to time by that agency, and any other laws or regulations enacted by Pennsylvania state agencies, and any other regulations of construction within any flood plain as defined by FEMA or within fifty feet (50) feet landward from the top-of-bank of any watercourse;

2. encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;

3. minimize danger to public health and safety by protecting water supply and natural drainage;

4. reduce financial burdens imposed on the Township and its residents by preventing excessive development in areas subject to flooding.

C. Abrogation and Greater Restrictions

1. This Ordinance supersedes any other conflicting provisions which may be in effect in identified flood plain areas or within fifty (50) feet landward from the top-of-bank of any watercourse.

2. All other provisions and requirements of the Cooke Township Subdivision and Building Ordinances as well as the statewide Uniform Construction Code shall apply in addition to this Flood Plain Ordinance. 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.

D. Warning and Disclaimer of Liability

1. 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 by FEMA. Larger floods may occur. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside any identified flood plain areas, or that land uses permitted within such areas will be free from flooding or flood damages.

2. This Ordinance shall not create liability on the part of Cooke 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 2: ADMINISTRATION

A. Building Permits

1. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the FEMA flood plain, or within the area measured fifty (50) feet landward from the top-of-bank of any watercourse in Cooke Township, unless a building permit has been obtained.

2. Prior to the issuance of any building permit, the Uniform Construction Code Official(s) designated by the Township shall review the application for the permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.

B. Changes to Watercourse

1. 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 Cooke Township and until all required permits or approvals have been first obtained from the Pennsylvania Department of Environmental Protection Regional Office.

2. In addition, FEMA and the Pennsylvania Department of Community and Economic Development shall be notified by Cooke Township prior to any alteration or relocation of any watercourse.

C. Application Procedures Specific to Flood Plain Areas or Near Watercourses

1. If any proposed construction or development is located entirely or partially within any identified flood plain area, or within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, applicants for building permits shall provide all the necessary information in sufficient detail and clarity to enable the Uniform Construction Code Official(s) designated by the Township to determine that:

(a) 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;

(b) all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and

(c) adequate drainage is provided so as to reduce exposure to flood hazards.

2. Applicants shall file the following minimum information plus any other pertinent information (e.g., any or all of the technical information contained in Sections 4 and 5 below) as may be required by the Uniform Construction Code Official(s) designated by the Township to make the above determination:

(a) a completed Uniform Construction Code Building Permit form.

(b) a plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:

(1) north arrow, scale, and date;

(2) topographic contour lines, if available;

(3) all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;

(4) the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;

(5) the location of all existing streets, drives, and other accessways; and

(6) the location of any existing bodies of water or watercourses, identified flood plain, areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.

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

- (1) the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
- (2) the elevation of the one hundred (100) year flood;
- (3) if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood;
- (4) detailed information concerning any proposed flood proofing measures.
- (5) supplemental information as may be necessary under 34 PA Code, Chapter 401-405 as amended, and Sec.1612.5.1, Section 104.7 and 109.3 of the 2003 IBC and Section R106.1.3 and R104.7 of the 2003 IRC, and as amended.

(d) the following data and documentation:

- (1) a document, certified by a registered professional engineer, which states that the proposed construction or development has been adequately designed to withstand the one hundred (100) year flood elevations, pressures, velocities, impact and uplift forces associated with the one hundred (100) year flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development;
- (2) detailed information needed to determine compliance with Section 5 Subsection F, "Storage," and Section 5 Subsection O, "Development Which May Endanger Human Life," including:
 - i) the amount, location and purpose of any dangerous materials or substances which are intended to be used produced, stored or otherwise maintained on site, and
 - ii) a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 5 Subsection O during a one hundred (100) year flood;
- (3) the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."

(e) where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

D. Changes

1. After the issuance of a building permit by the Uniform Construction Code Official(s) designated by the Township, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Uniform Construction Code Official(s) designated by the Township. Requests for any such change shall be in writing.

2. Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Uniform Construction Code Official(s) designated by the Township to approve such a request.

E. Inspection and Revocation

1. During the construction period, the Uniform Construction Code Official(s) designated by the Township or other authorized official shall inspect the premises to determine that the work is

progressing in compliance with the information provided on the permit application and with all applicable Cooke Township laws and Ordinances. These officials shall make as many inspections during and upon completion of the work as are necessary.

2. In the discharge of his duties, the Uniform Construction Code Official(s) designated by the Township or other authorized official shall have the authority to enter any building, structure, premises or development in the identified flood plain area or within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Ordinance.

3. In the event the Uniform Construction Code Official(s) or other authorized official designated by the Township discovers that the work does not comply with the permit application or any applicable laws and Ordinances, or that there has been a false statement or misrepresentation by any applicant, the Uniform Construction Code Official(s) designated by the Township shall revoke the building permit and report such fact to the Cooke Township Board of Supervisors for whatever action it considers necessary.

4. A record of all such inspections and violations of this Ordinance shall be maintained.

5. The requirements of the 34 PA Code Chapter 401-405 and the IBC (Sections 109.3.3, 1612.5.1, 104.7 and 103.8) and the 2003 IRC (R106.1.3, 109.1.3 and R104.7) or latest revisions thereof pertaining to elevation certificates and record retention shall be considered.

Section 3: IDENTIFICATION OF FLOOD PLAIN AREAS and TOP-OF-BANK

A. The identified flood plain area shall be any areas of Cooke 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) dated March 16, 2009, and the accompanying maps or the most recent revision thereof as issued by FEMA, including any digital data developed as part of the Flood Insurance Study.

B. For the purposes of this Ordinance, the one hundred (100) year flood elevation shall be used as the basis for regulation of flood plain areas. 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 flood plain area which is nearest the construction site in question.

C. In lieu of the above, Cooke 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 the Cooke Township engineer or other official designated by the Supervisors.

D. The identified flood plain area may be revised or modified by the Cooke 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

FEMA. It is the responsibility of the applicant to obtain any information required by FEMA and submit it to FEMA for such approval.

E. Should a dispute arise concerning any identified flood plain boundary, or distance from the top-of-bank of any watercourse, an initial determination shall be made by the Cooke Township Planning Commission and any party aggrieved by this decision may appeal to the Cooke Township Board of Supervisors. The burden of proof shall be on the appellant.

Section 4: GENERAL TECHNICAL REQUIREMENTS

A. In the identified flood plain area, or within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, the development and/or use of any land shall be permitted provided that the development and/or use complies with the restrictions and requirements of this and all other applicable codes and Ordinances in force in Cooke Township including regulations promulgated by the Pennsylvania Department of Conservation and Natural Resources Bureau of Forestry and Bureau of State Parks.

B. Within any floodway area, no new construction or development shall be permitted that would cause any increase in the one hundred (100) year flood elevation.

C. No new construction or substantial improvements to existing structures 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.

D. A copy of all plans and applications for any proposed new construction or substantial improvements to existing structures in any identified floodplain area, or within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, to be considered for approval may be submitted by the Uniform Construction Code Official(s) designated by the Township to any other appropriate agencies or individuals (e.g. Planning Commission, Township Engineer, etc.) for review and comment.

E. Residential Structures

1. Within any identified flood plain area, any new construction or substantial improvement of a residential structure shall have the lowest floor (including basement) elevated up to, or above the Regulatory Flood Elevation.

2. Any new construction or substantial improvement of a residential structure outside a designated flood plain area but within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, shall have the lowest floor (including basement) designed and constructed so that the space enclosed by such structure shall remain either completely or essentially dry during any flood to the height of the lowest floor.

3. The design and construction standards and specifications contained in the 2003 IBC (Sec. 1612.4, 1603.1.6 and 3403.1) and in the 2003 IRC (Sec. R323.1.4, R323.2.1, and R323.2.2) and ASCE 24 (Sec. 2.4 and 2.5, Chap. 5) and 34 PA Code (Chapters 401-405 as amended), and as amended, shall be utilized.

F. Non-Residential Structures

1. Within any identified flood plain area, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the Regulatory 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 height. This does not apply to small accessory structures used solely for parking or storage as defined in Subsection I below, and does not supersede any requirements under Section 5 Subsection O “Development Which May Endanger Human Life.”

2. Any new construction or substantial improvement of a non-residential structure outside a designated flood plain area but within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, shall have the lowest floor (including basement) designed and constructed so that the space enclosed by such structure shall remain either completely or essentially dry during any flood up to that height. This does not apply to small accessory structures used solely for parking or storage as defined in Subsection I below, and does not supersede any requirements under Section 5 Subsection O “Development Which May Endanger Human Life.”

G. Flood proofing to be completely or essentially dry as discussed in this section shall be in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard.

1. All plans and specifications for such flood proofing shall be accompanied by a statement certified by a registered professional engineer which states that the proposed design and methods of construction are in conformance with the above referenced standards. The design and construction standards and specifications contained in the IBC (Sec. 1603.1.2, 1603.1.6, 1605.2.2, 1606.5, 1612.5.1 and 3403.1. and ASCE 24 (Sec. 2.4 Chap. 7) and 34 PA Code (Chapters 401-405 as amended), and as amended, shall also be utilized.

2. Fully enclosed space below the lowest floor (including basement) is prohibited.

3. Partially enclosed space below the lowest floor (including basement) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "partially enclosed space," also includes crawl spaces.

(a) Designs for meeting this requirement must either be certified by a registered professional engineer, or meet or exceed the following minimum criteria:

- (1)** a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space;
- (2)** the bottom of all openings shall be no higher than one (1) foot above grade;
- (3)** openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

H. Consideration may be given to the requirements of 34 PA Code (Chapters 401-405 as amended) and the 2003 IRC (Secs.R323.2.2 and R323.1.4) and the 2003 IBC (Secs. 1612.4, 1612.5, 1202.3.2 and 1203.3.3, and as amended.

I. Accessory structures

Structures accessory to a principal building need not be elevated or flood proofed to remain dry, but shall comply, at a minimum, with the following requirements:

1. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
2. floor area shall not exceed 600 square feet.
3. the structure will have a low damage potential.
4. the structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.
5. power lines, wiring, and outlets will be at least one and one-half (1½) feet above the 100 year flood elevation.
6. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
7. sanitary facilities are prohibited in accessory structures.
8. the structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer, or meet or exceed the following minimum criteria:
 - (a) a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space;
 - (b) the bottom of all openings shall be no higher than one (1) foot above grade;
 - (c) openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Section 5: Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed within any identified flood plain area or within the area measured fifty (50) feet landward from the top-of-bank of any watercourse:

A. Fill

1. If fill is used, it shall:
 - (a) extend laterally at least fifteen (15) feet beyond the building line from all points;
 - (b) consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
 - (c) be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
 - (d) be no steeper than one (1) vertical to two (2) horizontal, feet unless substantiated data, justifying steeper slopes are submitted to, and approved by the Uniform Construction Code

Official(s) designated by the Township; and

(e) be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities

1. 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.

2. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. Water and Sanitary Sewer Facilities and Systems

1. All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration 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 flood plain area nor within fifty (50) feet landward from the top-of-bank of any watercourse, except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

4. The design and construction provisions of the UCC and 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Appendix G. Secs. 401.3 and 401.4), the 2003 IRC (Sec. 323.1.6), the ASCE 24-98 (Sec. 8.3), FEMA #348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code (Chapter 3), and as amended, shall be utilized.

D. Other Utilities

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

E. Streets

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

F. Storage

1. All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed below under Section 5 Subsection O "Development Which May Endanger Human Life," shall be stored at or above the Regulatory Flood Elevation and/or flood proofed to the maximum extent possible.

G. Placement of Buildings and Structures

1. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.
3. The design and construction requirements of the UCC pertaining to this subsection as referred to in 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Secs. 1605.2.2, 1605.3.1.2, 1612.4 and Appendix G501.3), the IRC (Secs. R301.1 & R323.1.1) and ASCE 24-98 (Sec. 5.6), and as amended, shall be utilized.

I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
2. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
3. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
4. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other "water-resistant" material.
5. The provisions of the UCC pertaining to this subsection and referenced in the 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Secs. 801.1.3, 1403.2, 1403.4, 1403.6 and 1404.2), the 2003 IRC (Secs. R323.1.7 & R501.3) and ASCE 24-98 (Chapter 6), and as amended.

J. Paints and Adhesives

1. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.
2. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
3. All wooden components (doors, trim, cabinets, etc.) shall be finished with a "marine" or "water-resistant" paint or other finishing material.
4. The standards and specifications contained in 34 PA Code (Chapters 401-405, as amended) the 2003 IBC (Secs. 801.1.3, 1403.7 and Appendix G) and the 2003 IRC (Secs. R323.1.7), and as amended.

K. Electrical Components

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

3. The provisions pertaining to the above provisions and referenced in the UCC and 34 PA Code (Chapters 401-405) as amended and contained in the 2003 IBC (Sec. 1612.4), the IRC (Sec. R323.1.5), the 2000 IFGC (Secs. R301.5 and R1601.3.8) and ASCE 24 (Chapter 8), and as amended, shall be utilized.

L. Equipment

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

2. The provisions pertaining to the above provision and referenced in the UCC and 34 PA Code (Chapters 401-405), as amended and contained in the 2003 IBC (Sec. 1612.4), the 2003 IRC (Secs. R323.1.5) the 2000 IFGC (Secs. R301.5 and R1601.3.8) and ASCE 24 (Chapter 8), and as amended, shall be utilized.

M. Fuel Supply Systems

1. 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.

N. Uniform Construction Code Coordination

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

(a) International Building Code (IBC) 2003 or the latest edition thereof: Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

(b) International Residential Building Code (IRC) 2003 or the latest edition thereof (Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J).

O. Development Which May Endanger Human Life

1. In accordance with the Pennsylvania Flood Plain Management Act, and the 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 following dangerous materials or substances; or

(b) will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or

(c) will involve the production, storage, or use of any amount of radioactive substances

shall be subject to the provisions of this section, in addition to all other applicable provisions.

2. The following list of materials and substances are considered dangerous to human life:

(a) Acetone

(b) Ammonia

(c) Benzene

- (d) Calcium carbide
- (e) Carbon disulfide
- (f) Celluloid
- (g) Chlorine
- (h) Hydrochloric acid
- (i) Hydrocyanic acid
- (j) Magnesium
- (k) Nitric acid and oxides of nitrogen
- (l) Petroleum products (gasoline, fuel oil, etc.)
- (m) Phosphorus
- (n) Potassium
- (o) Sodium
- (p) Sulphur and sulphur products
- (q) Pesticides (including insecticides, fungicides, and rodenticides)
- (r) Radioactive substances, insofar as such substances are not otherwise regulated.

3. Any new or substantially improved structure of the kind described in this Subsection shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

4. Where permitted within any identified flood plain area, any new or substantially improved structure of the kind described in this Subsection shall be:

- (a) elevated or designed and constructed to remain completely dry up to at least one and one half (1½) 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.

5. 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.

P. Special Requirements for Manufactured Homes

1. All manufactured homes and any additions thereto shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

2. Where otherwise permitted within any identified flood plain area, all manufactured homes, and any improvements thereto, shall be:

- (a) placed on a permanent foundation;
- (b) elevated so that the lowest floor of the manufactured home is one and one half (1½) feet or more above the elevation of the one hundred (100) year flood;
- (c) anchored to resist flotation, collapse, or lateral movement.

3. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2003 International Residential Building Code or the U.S. Department of Housing and Urban Development's Permanent

Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 PA Code Chapter 401-405 and as amended.

4. Consideration shall be given to the installation requirements of the 2003 IBC (Appendix G, Sec. 501.1-3) and the 2003 IRC (Sec. R323.2, R323.3, R102.7.1, and Appendix AE101, 604 and 605) or the most recent revisions thereto and 34 PA Code Chapter 401-405, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the units(s) proposed installation.

Section 6: EXISTING STRUCTURES

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

B. Improvements

1. The following provisions shall apply whenever any improvement is made to any existing structure located within any identified flood plain area or within the area measured fifty (50) feet landward from the top-of-bank of any watercourse:

(a) 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.

(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.

2. The above activity shall also address the requirements of the Uniform Construction Code, and PA Act 132 the "Home Improvement Consumer Protection Act" of 2009.

Section 7: VARIANCES

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

B. Variance Procedures and Conditions

1. Requests for variances shall be considered by Cooke Township in accordance with Section 3 Subsection E, Section 9 Subsection D, and the following.

2. Except for a possible modification of the one and one half (1½) foot freeboard requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to Section 5, Subsection O, "Development Which May Endanger Human Life."

3. 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.

4. If granted, a variance shall involve only the least modification necessary to provide relief.

5. In granting any variance, Cooke Township shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.

6. Whenever a variance is granted, Cooke Township shall notify the applicant in writing that:

(a) The granting of the variance may result in increased premium rates for flood insurance.

(b) Such variances may increase the risks to life and property.

7. In reviewing any request for a variance, Cooke Township shall consider, at a minimum, 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 will:

(1) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense; nor

(2) create nuisances, cause fraud on, or victimize the public; nor

(3) create conflict with any other applicable State or local Ordinances and regulations.

8. A complete record of all variance requests and related actions shall be maintained by Cooke Township and this information will be supplied to FEMA or other agencies as required.

C. 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.

Section 8: DEFINITIONS

A. Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its most reasonable application.

B. Specific Definitions

1. **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.

2. **Basement** - any area of the building having its floor below ground level on all sides.

3. **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.

4. **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.

5. **Development** - any man-made 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.

6. **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.

7. **Flood** - a temporary inundation of normally dry land areas.

8. **Flood plain 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.

9. **Flood proofing** - means any combination of structural and nonstructural 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.

10. **Floodway** - the designated area of a flood plain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude. In an area where no FEMA maps nor studies have defined the boundary of the floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to 50 feet landward from the top-of-bank of the stream.

11. **Historic structure** - any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

(c) Individually listed on a State inventory of historic places; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved state program as determined by the Secretary of the Interior or
- (2) Directly by the Secretary of the Interior in states without approved programs.

12. Identified flood plain area - the flood plain area specifically identified in this Ordinance as being inundated by the one hundred (100) year flood.

13. Land development - Any of the following activities:

(a) The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:

(1) 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

(2) 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.

(b) a subdivision of land.

14. 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 requirements of this Ordinance.

15. 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.

16. 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.

17. Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

18. New construction - structures for which the start of construction commenced on or after December 10, 1981, and includes any subsequent improvements thereto.

19. 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).

20. 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.

21. Regulatory flood elevation - the one hundred (100) year flood elevation plus a freeboard safety factor of one and one-half (1½) feet.

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

23. 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, 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.

24. 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" regardless of the actual repair work performed. The term does not, however include either:

(a) 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

(b) any alteration of a "historic structure." provided that the alteration will not preclude the structure's continued designation as a "historic structure."

25. Top-of-bank - A stream channel boundary where a majority of normal discharges and channel forming activities takes place. The top-of-bank boundary contains the active stream channel and the associated banks. Beyond the top-of-bank boundary, a rising water level just begins to flow out of the stream channel and into a floodplain.

26. Uniform Construction Code – 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 & Industry. Applicable to Residential and Commercial buildings, the Code adopted the International Residential Code (IRC) and International Building Code (IBC) of 2003 by reference as the construction standard applicable with the Commonwealth flood plain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

27. Watercourse - A channel or conveyance of surface water having defined beds and banks, whether natural or artificial, with perennial or intermittent flow.

Section 9: VIOLATIONS AND PENALTIES

A. Violation of any provision or requirement of this Ordinance or violation of any statement, plan, application, permit, or certificate approved under the provisions of this Ordinance shall be considered an offense punishable by a fine of not more than five hundred dollars (\$500), or imprisonment for not more than sixty days, for each offense. Each day that a violation is continued shall constitute a separate offense.

B. The owner, general agent or contractor of a building, premises, or part thereof where such a violation has been committed or does exist shall be guilty of such an offense.

C. Any agent, contractor, architect, builder, corporation or other person who commits, takes part or assists in such violation shall also be guilty of such an offense.

D. Any person aggrieved by any decision of the Cooke Township 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.

Section 10: ENFORCEMENT

The Cooke Township Supervisors, code enforcement officer, or other designated official shall be responsible for enforcing the provisions of this Ordinance.

Section 11: LIABILITY

Cooke Township, its agents, officials, and representatives, shall not, under any circumstances, be liable or responsible for damages caused to any person or property by reason of the provisions of this Ordinance.

Section 12: SEVERABILITY

The provisions of this Ordinance are severable, and if any provision of this Ordinance or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of this Ordinance.

Section 13: INCONSISTENT ORDINANCES REPEALED

All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

DULY ENACTED AND ORDAINED by the Board of Supervisors of Cooke Township,
Cumberland County, Pennsylvania, this 12th day of March, 2009.

TOWNSHIP OF COOKE
CUMBERLAND COUNTY, PENNSYLVANIA

ATTEST:

CHAIRMAN

SECRETARY

VICE CHAIRMAN

SUPERVISOR