ORDINANCE NO. 2002-5

AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A BUILDING PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF SUCH BUILDING PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE TOWNSHIP WHICH ARE SUBJECT TO FLOODING; AND ESTABLISHING PENALTIES FOR ANY PERSONS WHO FAIL, OR REFUSE TO COMPLY WITH, THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

BE IT ENACTED and ORDAINED by the Board of Supervisors of Franklin Township, Carbon County, Pennsylvania ("Board"), and it is hereby enacted and ordained by the authority of the same as follows:

ARTICLE I GENERAL PROVISIONS

Section 1.00 Intent

The intent of this Ordinance is to:

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

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

C. Minimize danger to public health by protecting water supply and natural drainage.

D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

E. Comply with federal and state floodplain management requirements.

Section 1.01 Applicability

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

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

Section 1.02 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 1.03 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

Section 1.04 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, 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.

This Ordinance shall not create liability on the part of the 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.

ARTICLE II ADMINISTRATION

Section 2.00 Building Permits Required

Building Permits shall be required before any construction or development is undertaken within any area of the Township.

Section 2.01 Issuance of Building Permit

A. The Building Permit Officer shall issue a Building Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

B. Prior to the issuance of any building permit, the Building Permit Officer 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.

C. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Township and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Bureau of Dams, Waterways and Wetlands.

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

Section 2.02 Application Procedures and Requirements

A. Application for such a building permit shall be made, in writing, to the Building Permit Officer on forms supplied by the Township. Such application shall contain the following:

1. Name and address of applicant.
2. Name and address of owner of land on which proposed construction is to occur.
3. Name and address of contractor.
4. Site location.
5. Listing of other permits required.

6. Brief description of proposed work and estimated cost.

7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Building Permits shall provide all the necessary information in sufficient detail and clarity to enable the Building Permit Officer 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.

Applicants shall file the following minimum information plus any other pertinent information (e.g., any or all of the technical information contained in Section 5.01) as may be required by the Building Permit Officer to make the above determination:

1. A completed Building Permit Application Form.

2. 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:

a. north arrow, scale, and date;

b. topographic contour lines, if available;

c. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;

d. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;

e. the location of all existing streets, drives, and other access ways; and

f. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.

3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:

   a. the proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929;

   b. the elevation of the one hundred (100) year flood;

   c. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood; and

   d. detailed information concerning any proposed floodproofing measures.

4. The following data and documentation:

   a. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an FE (Special Floodplain Area), 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.

   b. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the 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 flood proofing measures which have been incorporated into the design of the structure and/or the development.

   c. detailed information needed to determine compliance with Section 4.03 F., Storage, and Section 4.04, Development Which May Endanger Human Life, including:

      i) the amount, location and purpose of any materials or substances referred to in Sections 4.03 F. and 4.04 which are intended to be used, produced, stored or otherwise maintained on site.

      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 4.04 during a one hundred (100) year flood.

   d. 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.

Section 2.03 Review by County Conservation District

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Building Permit Officer to the County Conservation District for review and comment prior to the issuance of a building permit. The recommendations of the Conservation District shall be considered by the Building Permit officer for possible incorporation into the proposed plan.

Section 2.04 Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Building Permit Officer to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

Section 2.05 Changes

After the issuance of a building permit by the Building Permit Officer, 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 Building Permit Officer. Requests for any such change shall be in writing, and shall be submitted by the applicant to Building Permit Officer for consideration.

Section 2.06 Placards

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 be signed by the Building Permit Officer.

Section 2.07 Start of Construction

Work on the proposed construction and/or development shall begin within six (6) months and shall be completed within twelve (12) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Building Permit Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Building Permit Officer to approve such a request.

Section 2.08 Inspection and Revocation

A. During the construction period, the Building Permit Officer 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 municipal laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.

B. In the discharge of his duties, the Building Permit Officer shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.

C. In the event the Building Permit Officer 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 Building Permit Officer shall revoke the building permit and report such fact to the Board for whatever action it considers necessary.

D. A record of all such inspections and violations of this ordinance shall be maintained.

Section 2.09 Fees

Applications for a building permit shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Building Permit Officer at the following rates:

Estimated Cost	Fee
$ 0.00 to $1,000.00	$100.00
Each additional $1,000.00 or part thereof beyond the first $1,000.00	$5.00

Section 2.10 Enforcement

A. Notices

Whenever the Building Permit Officer or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulations adopted pursuant thereto, the Building Permit Officer shall give notice of such alleged violation as hereinafter provided. Such notice shall (a) be in writing; (b) include a statement of the reasons for its issuance; (c) allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires; (d) be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State; (e) contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Ordinance.

B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order of direction of the Building Permit Officer or any other authorized employee of the municipality shall be guilty of an offense and, upon conviction, shall pay a fine to Township of not less than Twenty-five Dollars ($25.00) nor more than Six Hundred Dollars ($600.00) plus costs of prosecution. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed ten (10) days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliances within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Board to be a public nuisance and abatable as such.

Section 2.11 Appeals

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

B. Upon receipt of such appeal the Board shall set a time and place, within not less than ten (10) 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.

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

ARTICLE III IDENTIFICATION OF FLOODPLAIN AREAS

Section 3.00 Identification

The identified floodplain area shall be those areas of Franklin Township which are subject to the one hundred (100) year flood, as identified in the Flood Insurance Study (FIS) dated June 3, 2002 and the accompanying maps prepared for the Township by the Federal Emergency Management Agency (FEMA), or the most recent revision thereof.

Section 3.01 Description of Floodplain Areas

The identified floodplain area shall consist of the following specific areas:

A. FW (Floodway Area) - the areas identified as "Floodway" in the AE Zone in the Flood Insurance Study prepared by the 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. FF (Flood-Fringe Area) - the remaining portions of the one hundred (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 one hundred (100) year flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

C. FE (Special Floodplain Area) - 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.

D. FA (General Floodplain Area) - 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, the municipality 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 technical review by the Township.

Section 3.02 Changes in Identification of Area

The identified floodplain area may be revised or modified by the Board 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 Insurance Administration (FIA).

Section 3.03 Boundary Disputes

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

ARTICLE IV TECHNICAL PROVISIONS

Section 4.00 General

A. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Bureau of Dams, Waterways and Wetlands.

In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

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

Section 4.01 Special Requirements for FW, FE, and FA Areas

A. With any FW (Floodway Area), the following provisions apply:

1. Any new construction, development, use, activity, or encroachment that would cause any increase in flood heights shall be prohibited.

2. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection, Bureau of Dams, Waterways and Wetlands.

B. Within any FE (Special Floodplain Area), 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.

C. Within any FE (Special Floodplain Area) or FA (General Floodplain Area), the following provisions apply:

1. 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, Bureau of Dams, Waterways and Wetlands.

2. Any new construction or development, which would cause any increase in flood heights shall be prohibited within any floodway area.

Section 4.02 Elevation and Floodproofing Requirements

A. Residential Structures

Within any identified floodplain 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.

B. Non-residential Structures

1. Within any identified floodplain 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.

2. Any non-residential structure, or part thereof, having a lowest floor which is not elevated to at least one and one half (1 ½) feet above the one hundred (100) year flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the WI 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. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.

C. Space below the lowest floor.

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

2. 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 flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "partially enclosed space" also includes crawl spaces.

Designs for meeting this requirement must either be certified by a registered professional engineer or architect, 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.

D. Accessory structures

Structures accessory to a principal building need not be elevated or floodproofed 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 flood waters.

5. power lines, wiring, and outlets will be at least one and one-half (1 ½) 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.

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 floodwater 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 architect, 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 flood waters.

Section 4.03 Design and Construction Standards

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

A. Fill

If fill is used, it shall:

1. extend laterally at least fifteen (15) feet beyond the building line from all points;

2. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;

3. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;

4. 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 Building Permit Officer; and,

5. be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

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 floodplain area 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.

D. Other Utilities

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

E. Streets

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

F. Storage

All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 4.04, 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

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.

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.

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.

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.

L. Equipment

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

M. Fuel Supply Systems

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

Section 4.04 Development Which May Endanger Human Life

A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:

- will be used for the production or storage of any of the following dangerous materials or substances; or,

- 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,

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

1. Acetone
2. Ammonia
3. Benzene
4. Calcium carbide
5. Carbon disulfide
6. Celluloid
7. Chlorine
8. Hydrochloric acid
9. Hydrocyanic acid
10. Magnesium
11. Nitric acid and oxides of nitrogen
12. Petroleum products (gasoline, fuel oil, etc.)
13. Phosphorus
14. Potassium
15. Sodium
16. Sulphur and sulphur products
17. Pesticides (including insecticides, fungicides, and rodenticides)
18. Radioactive substances, insofar as such substances are not otherwise regulated.

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

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

D. Where permitted within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be:

1. elevated or designed and constructed to remain completely dry up to at least one and one half (1 ½) feet above the one hundred (100) year flood and,

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

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for

completely dry floodproofing 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 4.05 Special Requirements for Manufactured Homes

A. Within any FW (Floodway Area), manufactured homes shall be prohibited.

B. Within any FA (General Floodplain Area) or FE (Special Floodplain Area), manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

C. Where permitted within any floodplain area, all manufactured homes, and any improvements thereto, shall be:

1. placed on a permanent foundation.

2. elevated so that the lowest floor of the manufactured home is one and one half (1 ½) feet or more above the elevation of the one hundred (100) year flood.

3. anchored to resist flotation, collapse, or lateral movement.

ARTICLE V PROHIBITED ACTIVITIES

Section 5.00 General

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.

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
2. nursing homes
3. jails or prisons

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.

ARTICLE VI EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

Section 6.00 Existing Structures

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 Section 6.01 shall apply.

Section 6.01 Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

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. 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.

C. 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.

D. 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 floodproofed to the greatest extent possible.

ARTICLE VII VARIANCES

Section 7.00 General

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

Section 7.01 Variance Procedures and Conditions

Requests for variances shall be considered by the Township in accordance with the procedures contained in Section 2.11 and the following:

A. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the one hundred (100) year flood elevation.

B. No variance shall be granted for any construction, development, use, or activity 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.

C. Except for a possible modification of the one and one half (1 ½) foot freeboard requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit (Article V) or to Development Which May Endanger Human Life (Section 4.04).

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

E. In granting any variance, the 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.

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

1. The granting of the variance may result in increased premium rates for flood insurance.

2. Such variances may increase the risks to life and property.

G. In reviewing any request for a variance, the Township shall consider, at a minimum, the following:

1. That there is good and sufficient cause.

2. That failure to grant the variance would result in exceptional hardship to the applicant.

3. That the granting of the variance will (i) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense, (ii) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

H. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.

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

ARTICLE VIII DEFINITIONS

Section 8.00 General

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

Section 8.01 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 - means 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. 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.

9. Floodproofing - 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 floodplain 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.

11. Historic structure - any structure that is:

i) 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;

(ii) 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;

(iii) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

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

13. Land development - Any of the following activities:

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

(i) 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

(ii) 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.

(2) 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, oil, 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 August 28, 1977, 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. Recreational vehicle - a vehicle which is (i) built on a single chassis; (ii) not more than 400 square feet, measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light-duty truck; (iv) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

22. Regulatory flood elevation - the one hundred (100) year flood elevation plus a freeboard safety factor of one and one-half (1 ½) feet.

23. 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.

24. 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. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land.

25. 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.

26. 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.

27. 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:

(1) 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;

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

Duly enacted and ordained this 25th day of June 2002 by the Board of Supervisors of Franklin Township.

FRANKLIN TOWNSHIP

ATTEST:

Secretary