

ARTICLE XIX

NATURAL FEATURES OVERLAY

Section 1901- PURPOSE

The purpose of the Natural Features Overlay District is to ensure the public health, safety and welfare through the protection of slopes, streams, wetlands, and surface waters all of which are considered some of the Township's most important natural resources. The Natural Features Overlay includes the following:

1. Stream Protection Overlay Zoning District;
2. Surface Water Protection Overlay Zoning District; and
3. Wetland Protection Overlay Zoning District.

Section 1902 - CONFLICT

1. In the event that the provisions of this Section and the provisions of other applicable Township ordinance standards are in conflict, the more restrictive provisions shall apply.
2. In the event that two (2) or more natural resource areas identified in this Section overlap, the resource with the most restrictive standard (the least amount of permitted alteration, regrading, clearing, or building) shall apply to the area of overlap.
3. These regulations apply only to lots being subdivided from a parcel, not to the residual lot, unless required by another section of this ordinance or unless the lots being created exceed 50% of the total original parcel acreage at the time of enactment of this ordinance.

Section 1903 -STREAM PROTECTION OVERLAY ZONING DISTRICT

1. PURPOSE

Streams and the natural areas around them are important hydrological and environmental assets. It is the intent of this overlay district to preserve natural and man-made waterways.

2. ESTABLISHMENT OF STREAM PROTECTION OVERLAY BOUNDARIES

The Stream Protection Overlay shall consist of a strip of land on each side of and including a perennial stream. The Stream Protection Overlay boundary shall be based on an investigation of critical environmental features that are related to the waterway. The total extent of the critical areas in or adjacent to the perennial stream shall be considered in determining the boundaries of the Stream Protection Overlay. Where critical areas do not exist, a minimum buffer of at least twenty-five (25) feet

from top of the bank or in the absence of a defined top of bank, from the edge of the ordinary waterline on each side of the waterway shall be established. For purposes of this section the ordinary waterline shall be the point on the bank of a stream or watercourse where the presence and/or action of surface water is so continuous as to leave a distinctive mark by erosion, destruction of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

3. DETERMINING THE CRITICAL AREAS

The total extent of the critical areas adjacent to the perennial stream shall be considered in determining the boundaries of the Stream Protection Overlay. Critical areas include the following:

A. Alluvial Soils

All alluvial soils adjacent to the perennial stream. For the purpose of this section, these areas are considered hydrologically related to the waterway.

B. Wet Soils

Wet soil shall be all areas within 50 feet of a perennial stream, a spring, a seep, or other natural water source. For the purpose of this section, these areas are considered hydrologically related to the waterway or source.

C. Steep Slopes

Where the base of a steep slope is fifty (50) feet or less from the top of the stream bank or in the absence of a defined top of bank, from the edge of the ordinary waterline on each side of the waterway or if the stream or watercourse is in a ravine, the critical area shall extend to the top of the steep slope(s) or ravine plus an additional twenty (20) feet of moderate or lesser slope. (Steep slopes greater than 15% in FC Zoning District and greater than 25% in all other Zoning Districts.)

D. Wooded Areas

Where forested land having a predominance of trees of four-inch caliper or greater exists within fifty (50) feet of the top of the stream bank or in the absence of a defined top of bank, from the edge of the ordinary waterline on each side of the waterway, the Stream Protection Overlay boundary will include those areas.

4. PERMITTED USES

The following shall be permitted uses in the Stream Protection Overlay, provided that they are in compliance with the provisions

of the underlying zoning district and are not prohibited by another ordinance, and provided that they do not require building(s), fill or storage of materials and equipment.

- A. Tree farming, truck gardening, horticulture, aviaries, apiaries and similar enterprises, no-till farming, wild crop farming excluding other General and Specialized farms including Intensive Animal Operations;
- B. Nurseries, excluding greenhouses;
- C. Conservation areas for the conservation of open space, water, soil and wildlife resources;
- D. Required and common open space;
- E. Educational or scientific use;
- F. Fishing, swimming, boating and hunting;
- G. Trail access to the stream or drainageway and trails in linear parks;
- H. Parks and passive recreational areas;
- I. Accessory residential and/or commercial uses such as gardens, play areas, picnic areas or fences;
- J. Essential Services provided they are installed underground;
- K. Easements for drainage, access, sewer or water lines, or other public purposes;
- L. Underground utility rights-of-way;
- M. Nature Preserve and Wildlife Sanctuary;
- N. Private accesses and stream crossings; and
- O. Reforestation, restoration and bank stabilization.

5. STANDARDS

- A. This buffer shall contain no more than fifteen (15) percent of a pervious or impervious structural area.
- B. The buffer area along at least eighty (80) percent of the stream length shall remain in its natural state as open space.
- C. The Stream Protection Overlay shall be established at the time of the application for subdivision or land development or the application for a zoning permit if there is no subdivision or land development proposed.

D In all subdivision and land development applications, the Stream Protection Overlay shall be described by metes and bounds. A conservation easement covering the Stream Protection Overlay shall be provided in accordance with the Penn Township Subdivision and Land Development Ordinance.

E. In all zoning permit applications, the Stream Protection Overlay shall be shown on a drawing indicating the location and measurements of the overlay district in accordance with the this section.

Section 1904 - SURFACE WATER PROTECTION OVERLAY ZONING DISTRICT

1. PURPOSE

Lakes and ponds and the natural areas around them are important hydrological and environmental assets. It is the intent of this Overlay District to preserve these natural and man-made assets. By protecting these assets, the Township intends to:

- A. Protect wildlife.
- B. Preserve existing vegetation along lakes or ponds.
- C. Minimize the negative effects on lakes or ponds from agriculture and development related erosion.
- D. Minimize scenic degradation.
- E. Protect the integrity of ponds and lakes as functioning wetland areas.

2. ESTABLISHMENT OF SURFACE WATER PROTECTION OVERLAY BOUNDARIES

The Surface Water Protection Overlay Zoning District shall be established as the area in or within twenty-five (25) feet of a lake or pond.

3. PERMITTED USES

The following shall be permitted uses in the Surface Water Protection Overlay, provided that they are in compliance with the provisions of the underlying zoning district and are not prohibited by another ordinance, and provided that they do not require building(s), fill or storage of materials and equipment.

- A. Common or required open space;
- B. Educational or scientific use not involving buildings or structures;
- C. Fishing, swimming, boating and hunting;

- D. Trail access to adjacent open space;
- E. Nature Preserve and Wildlife Sanctuary:
- F. Tree farming, truck gardening, horticulture, aviaries, apiaries and similar enterprises, no till farming, wild crop farming excluding other General and Specialized farms including Intensive Animal Operations;
- G. Nurseries, excluding greenhouses;
- H Conservation areas for the conservation of open space, water, soil and wildlife resources, excluding structures;
- I. Trail access to streams or trails in linear parks;
- J. Parks and passive recreational areas not involving structures; and
- K. Reforestation, restoration, and bank stabilization.

4. STANDARDS

- A. This buffer shall contain no more than fifteen (15) percent of pervious or impervious structural areas.
- B. The buffer area along at least eighty (80) percent of the affected surface water edge shall remain in its natural state as open space.
- C. The Surface Water Protection Overlay shall be established at the time of the application for subdivision or land development or the application for a zoning permit if there is no subdivision or land development proposed.
- D. In all subdivision and land development applications, the Surface Water Protection Overlay shall be described by metes and bounds. A conservation easement covering the Surface Water Protection Overlay shall be provided in accordance with the Penn Township Subdivision and Land Development Ordinance.
- E. In all zoning permit applications, the Surface Water Protection Overlay shall be shown on a drawing indicating the location and measurements of the overlay district in accordance with this section.

Section 1905 - WETLAND PROTECTION OVERLAY ZONING DISTRICT

1. PURPOSE

- A. Wetland areas are indispensable and fragile hydrological natural resources that provide:

- (1) Habitat for fish, wildlife and vegetation;
- (2) Water-quality maintenance and pollution control and ground water recharge;
- (3) Flood control;
- (4) Erosion control;
- (5) Open space;
- (6) Scientific study opportunities; and
- (7) Recreational opportunities.

B. Damaging or destroying wetlands threatens public safety and the general welfare. Because of their importance, wetlands are to be protected from negative impacts of development and other activities. It is the intent of this Overlay District to:

- (1) Require planning to avoid and minimize damage of wetlands whenever prudent or feasible;
- (2) Require that activities not dependent upon wetlands to be located to upland sites; and
- (3) Allow wetland losses only where all practical or legal measures have been applied to reduce these losses that are unavoidable.

2. ESTABLISHMENT OF WETLAND PROTECTION OVERLAY BOUNDARIES

The Wetland Protection Overlay shall apply to all lands in or within twenty-five (25) feet of a non-tidal wetland located within Penn Township. The Wetland Protection Overlay shall be based on a wetland investigation by the applicant's qualified professional. The Natural Features Map of the Penn Township Comprehensive Plan may be used as a guide for determining the general location of wetlands. Wetland delineations shall be performed in accordance with the procedures of the PA DEP as specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands and any subsequent amendments thereto. Wetland mitigation shall be approved by the PA DEP and the Army Corps of Engineers. Wetlands approved to be mitigated shall not be considered part of the Wetland Protection Overlay. Wetland construction that is part of the mitigation plan shall be subject to the provisions of this section.

3. REVIEW OF WETLAND DELINEATION

Where the applicant has provided a determination of the Wetland Protection Overlay, the Township Engineer or a person qualified by the Army Corps of Engineers shall review, and may render

adjustments to, the boundary delineation. In the event that the adjusted boundary delineation is contested, the applicant may appeal to the Zoning Hearing Board for a variance.

4. PERMITTED USES

The following uses shall be allowed within the Wetland Protection Overlay to the extent that they are in compliance with the provisions of the underlying zoning district and are not prohibited by any other ordinance, provided that they do not require structures, fill or storage of materials and equipment, and provided that a permit is obtained from the PA DEP and the Army Corps of Engineers, if applicable:

- A. Tree farming, truck gardening, horticulture, aviaries, apiaries and similar enterprises, no-till farming, wild crop farming excluding other General and Specialized farms including Intensive Animal Operations;
- B. Nurseries, excluding greenhouses;
- C. Conservation areas for the conservation of open space, water, soil and wildlife resources;
- D. Required and common open space;
- E. Educational or scientific use;
- F. Fishing, swimming, boating and hunting;
- G. Trail access to the stream or drainage way and trails in linear parks;
- H. Parks and passive recreational areas not involving structures;
- I. Accessory residential and/or commercial uses such as gardens, play areas, picnic areas or fences;
- J. Essential Services provided they are installed underground;
- K. Easements for drainage, access, sewer or water lines, or other public purposes; and
- L. Underground utility rights-of-way.

5. STANDARDS

- A. The Wetland Protection Overlay District shall be established at the time of the application for subdivision or land development or the application for a zoning permit if there is no subdivision or land development proposed. The wetland delineations shall be performed in accordance with the procedures specified

in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands and any subsequent amendments thereto.

- B. In all subdivision and land development applications, a wetland investigation shall be required in accordance with the Penn Township Subdivision and Land Development Ordinance. A conservation easement covering the Wetland Protection Overlay District shall be provided in accordance with the Penn Township Subdivision and Land Development Ordinance. The Wetland Protection Overlay District and conservation easement shall be described by metes and bounds, indicating the location and measurements of the overlay district.

- C. In all zoning permit applications, the Wetland Protection Overlay District shall be shown on a drawing indicating the location and measurements of the overlay district.