

ARTICLE 1500. Natural Resources Protection Overlay District

§ 212-1501. Purpose

The standards of this overlay district have been established to protect the public health, safety, and welfare by minimizing adverse environmental impacts. These standards are intended to meet the following purposes:

- A. Define and delineate selected natural resources within the Borough and establish resource protection standards to mitigate potential public hazards associated with land use activity.
- B. Protect and conserve the natural resources, landscapes, and habitats that are an integral component of the Borough 's character in accordance with the following specific objectives of the 2006 Comprehensive Plan, as amended:
 - (1) Preserve, protect, manage, and enhance woodlands, wetlands, floodplains, steep slopes, stream corridors, and other sensitive environmental features.
 - (2) Address flooding and stormwater issues throughout the Borough.
 - (3) Encourage greenway development to serve environmental and recreational functions.

§ 212-1502. General Provisions

- A. The provisions of this Article shall overlay and supplement the provisions of the underlying zoning district. In the event that the provisions of the underlying zoning district and the provisions of this Article are in conflict, the more restrictive provisions shall apply.
- B. In the event that two (2) or more natural resource areas identified in this Article overlap, the resource with the most restrictive standard (the least amount of alteration, regrading, clearing, or building) shall apply to the area of overlap.
- C. Submission, review, and approval of the following permits and applications shall be contingent upon consistency with the requirements of this Article:
 - (1) Applications for zoning or building permits;
 - (2) Submission of plans for subdivision or land development;
 - (3) Applications for uses by conditional use;
 - (4) Requests for zoning changes;
 - (5) Applications for any State or Federal permit that requires a certification of consistency with Borough ordinances and planning requirements; or
 - (6) Any applications or approvals that may be required by other ordinances or regulations of the Borough that may be deemed applicable.
- D. Where disturbance of a natural resource is permitted, it shall not take place until it has been determined that such disturbance is consistent with the provisions of this Article and other applicable ordinance provisions.
- E. Areas subject to the requirements of this Article are shown on the Franklin Park Borough Natural Resource Protection Overlay Map. If the Zoning/Code Officer determines that any portion of the area to be disturbed intersects with the Natural Resources Protection Overlay as shown said Map, the applicant shall comply with the provisions of this Article for those areas being disturbed and shall delineate resources as provided herein.

§ 212-1503. Flood Plain Protection.

- A. Resource Protection Standards. Areas identified as being within the boundaries of the one-hundred (100) year floodplain shall not be regraded, filled, built upon, or otherwise altered or disturbed except in conformance with Chapter 95, Flood Damage Prevention, of the Code of the Borough.

- B. Delineation. The applicant shall delineate FLOODPLAINS which are present on the site on any land development plan submitted under the Subdivision and Land Development Ordinance.
- C. Boundary Disputes. Boundary disputes shall be governed by § _____ of Chapter 95, Flood Damage Protection of the Code of the Borough.

§ 212-1504. Protection of Steep Slopes

- A. Applicants for subdivisions or land developments shall conform to the Steep Slope requirements of § 184-910(B) of the Franklin Park Subdivision and Land Development Ordinance.

§ 212-1505. Riparian Buffers.

- A. Authority. This subsection is established in accordance with the Pennsylvania Constitution, Art. I, Sec. 27 (the "Environmental Rights Amendment"), and Sections 301(b), 603(b)(5), 603(d), 604(1) and 605(2)(ii & vii) of the Municipalities Planning Code, 53 P.C. § 10101 et seq.
- B. Scope. The Riparian Buffer Overlay standards apply to all WATERCOURSES as herein defined and the land adjacent thereto.
- C. Establishment of Buffer
 - (1) The RIPARIAN BUFFER shall extend a minimum of fifty (50) feet on either side of the WATERCOURSE measured from the center line of the WATERCOURSE.
 - (2) Where STEEP SLOPES are located within twenty-five (25) feet of a WATERCOURSE, the RIPARIAN BUFFER shall extend the entire distance of this sloped area or seventy-five (75) feet, whichever is less.
- D. Uses Permitted in the Riparian Buffer Overlay
 - (1) The following uses are permitted by right in the RIPARIAN BUFFER Overlay in compliance with the requirements of this Article:
 - a. Open space uses that are primarily passive in character, including wildlife sanctuaries, nature preserves, forest preserves, fishing areas, passive areas of public and private parklands, recreational trails, and reforestation.
 - b. Natural stream bank stabilization
 - c. Customary agricultural practices when permitted by the underlying zoning for the property, in accordance with a soil conservation plan approved by the Allegheny County Conservation District.
 - d. Forestry operations conducted in accordance with the Borough Timber Harvesting and Logging provisions of this Chapter.
 - e. Activities regulated by the Commonwealth of Pennsylvania (such as permitted stream or wetland crossings or other encroachments).
 - f. Front, side, and/or rear yards on private lots, provided that all yard areas within the RIPARIAN BUFFER shall comply with the use and other restrictions, herein.
 - (2) The following uses are permitted by right within the Riparian Buffer Overlay, but shall not be located within fifteen (15) feet of the edge of any watercourse, wetland, or pond:
 - a. Passive recreation areas such as camps, camping facilities, and picnic areas.
 - b. Active recreation areas such as ballfields, playgrounds, courts, and golf courses provided that stormwater runoff is managed in a manner acceptable to the Borough Engineer.
 - c. Residential accessory structures having a gross floor area no larger than one hundred forty-four (144) square feet.
 - (3) Uses Specifically Prohibited in the Riparian Buffer Overlay. All uses not permitted shall be prohibited. In addition, the following activities and facilities are expressly prohibited in the Riparian Buffer Overlay:

- a. Clearing of existing vegetation, except where such clearing is necessary to prepare land for a use permitted under subsections D 1 and 2, above. Efforts shall be made to minimize the extent of such clearing and to mitigate the loss of vegetation elsewhere in the RIPARIAN BUFFER.
 - b. Storage of any hazardous or noxious materials.
 - c. Use of fertilizers, pesticides, herbicides, and/or other chemicals in excess of prescribed industry standards or the recommendations of the Allegheny County Conservation District.
 - d. Parking lots.
 - e. Subsurface sewage disposal areas.
 - f. Residential accessory structures larger than one hundred forty-four (144) square feet.
- E. Nonconforming Uses and Structures
- (1) Pre-existing structures and uses of land within the Riparian Buffer Overlay that do not comply with the use restrictions shall be regulated under the provisions of Article 2400, Nonconforming Uses and Structures. The following additional regulations also shall apply:
 - a. Existing nonconforming structures or uses that are not permitted under subsection D, above, may be continued but shall not have the existing building footprint or uses expanded or enlarged for any reason.
 - b. Discontinued nonconforming uses may be resumed any time within one (1) year from such discontinuance but not thereafter when showing clear indications of abandonment. No change or resumption of use shall be permitted that is more detrimental to the RIPARIAN BUFFER Overlay than the existing or former nonconforming use. Such determination shall be made by referring to the purposes of this Article and the objectives of the Comprehensive Plan.
- F. Boundary Interpretation and Appeals Procedure
- (1) When an applicant disputes the boundaries of the RIPARIAN BUFFER or the defined edge of a WATERCOURSE, the applicant shall submit evidence to the Borough that shows the applicant's proposed boundary, and provides justification for the proposed boundary change.
 - (2) The Borough Engineer, and/or other advisors selected by the Borough Council shall evaluate all material submitted and provide a written determination within thirty (30) days to the Borough Council, Borough Planning Commission, and landowner or applicant.
 - (3) Any party aggrieved by any such determination or other decision or determination under this section may appeal to the Zoning Hearing Board under the provisions of Article 2700, Zoning Hearing Board, of this Chapter. The party contesting the location of the district boundary shall have the burden of proof in case of any such appeal.

§ 212-1506. Wetlands.

- A. Resource Protection Standards
- (1) Any applicant proposing a use, activity, or improvement which would entail the regrading or placement of fill in WETLANDS shall provide the Borough with proof that the Pennsylvania Department of Environmental Protection and the U.S. Army Corps of Engineers have been contacted to determine the applicability of state and federal wetland regulations.
 - (2) WETLANDS shall not be regraded, filled, piped, diverted, built upon, or otherwise altered or disturbed except where state and federal permits have been obtained.

(3) For the purposes of this Chapter, wetland protection standards shall apply to lakes and ponds.

B. Delineation

(1) The applicant who proposes to disturb more than five thousand (5,000) contiguous square feet of any site shall provide sufficient information to determine whether WETLANDS, LAKES and PONDS are present on the site or within one hundred (100) feet of the site. In addition, the Borough, at its discretion, may require that the following information be provided:

- a. A full WETLAND report conducted by a qualified WETLAND biologist, or other professional of demonstrated qualifications, shall be submitted to the Borough.
- b. Such a professional shall certify that the methods used correctly reflect currently accepted technical concepts, including identification and analysis of WETLAND vegetation, hydric soils, and/or hydrologic indicators.
- c. The WETLAND report shall include a determination of whether WETLANDS are present on site and a full delineation, area measurement (in square feet), and description of any WETLANDS determined to be present. The study shall be approved by the Borough Council on the recommendation of the Borough Engineer.
- d. Where applicable, evidence that the contacts required by subsection B(1) above have been made.
- e. If no WETLANDS are found on the site, or within one hundred (100) feet of the site, a note shall be added to the preliminary and final plans stating that “This site has been examined by (name and address with a statement of submitted qualifications), and no WETLANDS as defined by the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands, January 9, 1989*, were found to exist.”