

# *article XIV*

## *Natural Resource Protection Standards*

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### *SECTION 1400 PURPOSE*

The purpose of this Article is to promote the public health, safety, and welfare by minimizing adverse environmental impacts. This Article is intended to meet the following objectives:

- A. Evaluate the potential environmental impacts on valuable natural resources and protect these resources through the implementation and enforcement of natural resource protection standards.
- B. Identify and conserve environmentally sensitive lands including floodplains, steep slopes, woodlands, lakes, ponds, watercourses, and wetlands.
- C. Minimize disturbance of steep slope areas to limit soil erosion, protect natural vegetative cover, prevent siltation of streams and the degradation of water quality, and to prevent damage to property.

### *SECTION 1401 NATURAL RESOURCE PROTECTION STANDARDS*

All uses and activities established after the effective date of this Ordinance shall comply with the following standards. Site alterations, regrading, filling, or clearing of any natural resources prior to the submission of applications for building permits or the submission of plans for subdivision or land development shall be a violation of this Ordinance. In the event that two or more resources overlap, the resource with the most restrictive standard [the least amount of alteration, regrading, clearing, or building] shall apply to the area of overlap.

#### **A. Floodplain**

Areas identified as being within the Flood Hazard District of the one-hundred year recurrence interval flood shall not be altered, regraded, filled, or built upon except in conformance with Article XI, Flood Hazard District, regulations of this Ordinance. In addition, the following standards shall apply to the floodway and flood fringe areas as defined in Section 1102 of this Ordinance:

- 1. Floodway - Such areas shall not be altered, regraded, filled, or built upon except in conformance with Section 1104, Floodway Use Regulations, of this Ordinance.
- 2. Flood Fringe - No more than fifty (50) percent of such areas shall be altered, regraded, filled, or built upon. All activities within the Flood Fringe area shall be in conformance with Section 1105, Flood Fringe Use Regulations, of this Ordinance.

**B. Steep Slopes**

In areas of steep slopes, the following standards shall apply:

1. 15% to 25% slope - No more than thirty (30) percent of such areas shall be altered, regraded, cleared, or built upon.
2. 25% slope or steeper - No more than fifteen (15) percent of such areas shall be altered, regraded, cleared, or built upon.
3. Areas of steep slope that are less than two-thousand five-hundred (2,500) square feet shall be exempted from these standards.
4. Any disturbance of land shall be in compliance with the erosion and sedimentation control standards of the Subdivision and Land Development Ordinance.
5. Each building or structure shall be constructed in such a manner as to provide the least alteration necessary of the existing grade and natural soil condition.
6. Finished slopes of all permitted cut and fill shall not exceed thirty-three (33) percent unless the applicant can demonstrate the method by which steeper slopes can be stabilized and maintained adequately.

**C. Woodlands**

The following standards shall apply to woodlands.

1. Woodlands in Environmentally Sensitive Areas.

No more than twenty (20) percent of woodlands which overlap other environmentally sensitive areas shall be altered, regraded, cleared, or built upon. Environmentally sensitive areas include, but are not limited to, floodplains, floodplain soils, steep slopes, wetlands, wetland margins, and lake or pond shorelines.

2. Other Woodlands.

No more than fifty (50) percent of woodlands which do not overlap other environmentally sensitive areas (as defined in C.1 above) shall be altered, regraded, cleared, or built upon.

**D. Tree Protection Zone**

Such areas shall not be altered, regraded, compacted, or built upon, nor used for storage or parking of vehicles. The tree protection standards of the Subdivision and Land Development Ordinance shall be complied with.

**E. Watercourses**

Such areas shall not be altered, regraded, filled, piped, diverted, or built upon except where design approval is obtained from the Borough and, if required, the Pennsylvania Department of Environmental Resources.

**F. Wetlands**

Such areas shall not be altered, regraded, filled, piped, diverted, or built upon except where state and federal permits have been obtained.

**1. Delineation**

- a. Wetlands boundaries shall be delineated through an on-site assessment which shall be conducted by a professional soil scientist or others of demonstrated qualifications. Such a person shall certify that the methods used correctly reflect currently accepted technical concepts, including the presence of wetlands vegetation, hydric soils, and/or hydrologic indicators. A study shall be submitted with sufficient detail to allow a thorough review by the Borough. The study shall be approved by Borough Council on the recommendation of the municipal engineer.
- b. In the event that a wetlands delineation validated by the U.S. Army Corps of Engineers is shown to vary from the wetlands boundary derived from Section 1401.F.1.a. above, the Corps delineation shall govern.

**2. Federal and State Regulations**

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 Resources (Bureau of Dams and Waterway Safety and Bureau of Water Quality Management) and the U.S. Army Corps of Engineers have been contacted to determine the applicability of state and federal wetland regulations.

**G. Wetlands Margin**

No more than twenty (20) percent of such areas shall be altered, regraded, filled, or built upon. In addition, any Department of Environmental Resources' regulations under Chapter 105 concerning activities in wetlands margins shall be met.

**H. Lakes and Ponds**

Such areas shall not be altered, regraded, filled, piped, diverted, or built upon.

**I. Lake and Pond Shorelines**

No more than twenty (20) percent of such areas shall be altered, regraded, filled, or built upon.

***SECTION 1402 APPLICATION OF NATURAL RESOURCE PROTECTION STANDARDS***

**A. Plan Information**

**1. Applicability.**

In order to meet the natural resource protection standards of Section 1401 of this Ordinance, the following information shall be submitted by the applicant. Where a subdivision or land development review is required, such information shall be included on the Site Analysis Plan as required in the Subdivision and Land Development Plan.

- a. A site plan which illustrates all natural resources on the site and the proposed use on the site;
- b. All encroachments and disturbances necessary to establish the proposed use on the site;
- c. Calculations indicating the area of the site with natural resources and the area of natural resources that would be disturbed or encroached upon. The calculation shall be shown on the plan as indicated in the table below.

**2. Exceptions to Plan Information Requirements**

The plan information requirements of this Section shall not be required in the following cases:

- a. The total area of the proposed site is less than twenty thousand (20,000) square feet, unless the site is located fully or partially within the one hundred (100) year floodplain; or
- b. None of the resources protected in this Section are located on the site.

| Resource  | A.<br>Disturbance Allowance Ratio | B.<br>Acres of Land in Resources | Acres of Protected Resource Land<br>B-(A X B) | Proposed Disturbance of Protected Resources <sup>1</sup><br>(Acres) |
|---|-----------------------------------|----------------------------------|---|---|
| Floodplain:<br>• Floodway<br>• Flood Fringe                         | 0%<br>50%                         |                                  |   |   |
| Steep Slopes:<br>• 15-25%<br>• 25% or more                          | 30%<br>15%                        |                                  |   |   |
| Woodlands:<br>• Woodlands<br>• with Environmentally Sensitive Areas | 50%<br>20%                        |                                  |   |   |
| Lakes or Ponds  | 0%                                |                                  |   |   |
| Watercourses or Streams   | 0%                                |                                  |   |   |
| Wetlands  | 0%                                |                                  |   |   |
| Lake or Pond Shorelines   | 20%                               |                                  |   |   |
| Wetlands Margin   | 20%                               |                                  |   |   |
| <b>TOTAL</b>  |                                   |                                  |   |   |

**B. Minimum Buildable Area**

The purpose of the identification of the minimum buildable area is to ensure sufficient area is provided for the general location of the building, driveway, patio, other improvements and site alterations while meeting the natural resource protection standards and minimum setback requirements of this Ordinance. The applicant shall delineate on the plan a buildable area sufficient

<sup>1</sup>As depicted on plan in accordance with Section 1402.A.2.

in size to accommodate site improvements and which complies with the maximum disturbance requirements of this Article and any other applicable ordinances and codes.

**C. On-Lot Sewage Systems**

For uses with individual on-lot sewage systems, an area in addition to the minimum buildable area specified in Section 1402.A, Plan Information, shall be identified for the location of the sewage system. Where applicable, a reserve or replacement area shall also be identified. Such area(s) shall not include natural features with a one-hundred (100) percent protection standard and the portion of those natural features that may not be developed or intruded upon as specified in Section 1402.A, above. The applicant shall provide sufficient documentation to ensure that the land area set aside is adequate to accommodate the required on-lot sewage system and is consistent with the requirements of the Chester County Health Department, the Pennsylvania Department of Environmental Resources, and the Borough of Spring City.

**D. Deed Restrictions**

To ensure the continued protection of identified natural resources, the following requirements shall apply:

1. For subdivision and land development plans, restrictions meeting Borough specifications shall be placed in the deed for each site or lot that has natural resource protection areas within its boundaries. The restrictions shall provide for the continuance of the resource protection areas in accordance with the provisions of this Ordinance.
2. Natural resource protection areas may be held in common open space in accordance with the requirements of Section 1403, below, of this Ordinance or in the ownership of individual property owners. For this latter form of ownership, it shall be clearly stated in the individual deeds that the maintenance responsibility lies with the individual property owner.
3. For nonresidential uses, areas of natural resource features may be held with the ownership of the entire parcel provided the natural features are deed restricted to ensure their protection and continuance.

***SECTION 1403 OWNERSHIP OF COMMON OPEN SPACE***

The following methods may be used either individually or in combination to preserve, own, and maintain open space and protected natural resources:

**A. Condominium**

The open space may be controlled through the use of condominium agreements. Such agreements shall be in conformance with the Uniform Condominium Act of 1980, as amended. All open space land shall be held as "common element."

**B. Fee Simple Dedication**

The Borough may, but shall not be required to, accept any portion or portions of the open space provided:

1. Such land is accessible to residents of the Borough;
2. There is no cost of acquisition, other than costs incidental to the transfer of ownership such as title insurance; and
3. The Borough has access to and agrees to maintain such lands.

**C. Dedication of Easements**

The Borough may, but shall not be required to, accept easements for public use of any portion or portions of open space land, title of which is to remain in ownership by condominium or homeowners association, provided:

1. Such land is accessible to the residents of the Borough;
2. There is no cost of acquisition, other than costs incidental to the transfer of ownership such as title insurance; and
3. A satisfactory maintenance agreement is reached between the developer and the Borough.

**D. Transfer of Easements to a Private Conservation Organization**

With the permission of the Borough, an owner may transfer easements to a private non-profit organization, among whose purpose it is to conserve open space land and natural resources, provided that:

1. The organization is acceptable to the Borough and is a bona fide conservation organization with perpetual existence;
2. The conveyance contains appropriate provision for proper reverter or re-transfer in the event that the organization becomes unwilling or unable to continue to carry out its functions; and

3. A maintenance agreement acceptable to the Borough is entered into by the developer and the organization.

**E. Homeowners Association**

The open space may be held in common ownership by a homeowners association. This method shall be subject to all of the provisions for homeowners association set forth below and in Article VII of the Municipalities Planning Code (Act 247).

1. The developer shall provide a description of the association including its by-laws and methods for maintaining the open space.
2. The association is organized by the developer and operating with financial subsidization by the developer, if necessary, before the sale of any lots within the development.
3. Membership in the association is mandatory for all purchasers of homes therein and their successors.
4. The association shall be responsible for maintenance of insurance and taxes on common open space, enforceable by liens placed by the Borough.
5. The members of the association shall share equitably the costs of maintaining and developing such common open space, in accordance with the procedures established herein.
6. In the event of the proposed transfer, within the methods here permitted, of common open space land by the homeowners association, or the assumption of maintenance of common open space land by the Borough as hereinafter provided, notice of such action shall be given to all property owners within the planned residential development.
7. The association shall have or hire adequate staff to administer common facilities and maintain the common open space.
8. The homeowners association may lease back open space lands to the developer, his heirs, or assigns, or to any other qualified person, or corporation, for operation and maintenance of open space lands, but such a leased agreement shall provide:
  - a. That the residents of the development where the open space is located shall at all times have access to such open space lands.
  - b. That the common open space to be leased shall be maintained for the purposes set forth in this ordinance.



- c. That the operation of open space facilities may be for the benefit of the residents only, or may be open to the residents of the Borough at the election of the developer and/or property owners association, as the case may be.
  
- d. In addition, the lease shall be subject to the approval of the Borough Council and any transfer or assignment of the lease shall be further subject to the approval of Borough Council. Lease agreements so entered upon shall be recorded with the Recorder of Deeds of Chester County within thirty (30) days of their execution and a copy of the lease shall be filed with the Secretary of the Borough.