

Part 5

Environmental Protection Overlay District Regulations

Section 501. Statement of Intent. As established through the goals, objectives and policies of the Amity Township Comprehensive Plan, it is essential to acknowledge environmental protection and open space preservation. It is therefore an objective of this Chapter to incorporate the "Environmental Protection Overlay Concept" to implement this goal.

The Environmental Protection Overlay Districts incorporated under this Part include provisions to supplement and enhance the existing underlying District Regulations for land areas which may encounter certain physical limitations for development. To implement and achieve the goals and objectives established for preserving environmentally sensitive areas, the overlay concept has been divided into the following individual overlay districts:

Floodplain Overlay District
Hydric Soil Overlay District
High Water Table Overlay District
Steep Slope Overlay District
Wetland Overlay District

The Environmental Protection Overlay Districts are an overlay concept which supplements but does not replace the existing underlying Zoning District Regulations. In cases where Environmental Protection Overlay Districts overlap, the more restrictive standards and specifications shall apply. (Ordinance 130, December 9, 1991, Section 501; as amended by Ordinance 192, September 16, 2002, Section 3)

Section 502. Floodplain Overlay District.

(a) The purpose of the Floodplain Overlay District shall be an overlay to the underlying zoning districts as illustrated on the Official Zoning Map of the Township. As such, these provisions regulating floodplain management shall be a supplement to the underlying zoning district provisions.

(b) The purpose of establishing provisions for floodplain management is to promote and protect the general health, welfare and safety of the community, encourage the utilization of appropriate construction practices, minimize potential hazards to public health, and reduce financial burdens imposed on the community and government.

(c) The Amity Township Floodplain Ordinance (see Chapter X of the Township Code of Ordinances) has been adopted by the Board of Supervisors on December 1, 1997. The purpose, intent, application procedures, administrative controls, identification of all floodplain areas, technical provisions, permitted land uses, activities requiring special exceptions, existing or non-conforming provisions, variance procedures, technical definitions and enactment are comprehensively outlined under said Amity Township Floodplain Ordinance (see Chapter X of the Township Code of Ordinances).

(d) For the purposes of this Chapter, all activities within the floodplain shall conform with the provisions and requirements outlined under the Amity Township Floodplain Ordinance (see Chapter X of the Township Code of Ordinances).

(Ordinance 130, December 9, 1991, Section 502; as amended by Ordinance 164, April 26, 1999, Section 6)

Section 503. Hydric Soil Overlay District.

(a) Purpose.

(1) The areas subject to hydric soils within the Township shall be an overlay to the existing underlying district as illustrated on the Official Zoning Map. As such, these provisions regulating hydric soils shall be a supplement to the underlying district provisions. Where conflicts arise between provisions or regulations of this Chapter, the more restrictive provisions shall apply.

(2) The purpose of establishing provisions for areas which may encounter hydric soils is to promote and protect the general health, welfare and safety of the community; secure environmentally sensitive lands; encourage the utilization of appropriate construction practices; and to minimize hazards to public health.

(b) Designation of Hydric Soil Areas.

(1) The U.S. Department of Agriculture in cooperation with the National Technical Committee for Hydric Soils has defined a "hydric soil" as follows:

A hydric soil is a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

(2) The hydric soils which have been identified, described and delineated within the Township by the U.S. Department of Agriculture in conjunction with the Pennsylvania State University and Pennsylvania Department of Agriculture in the Soil Survey of Berks County include, but are not limited to the following:

- Baile Silt (Ba)
- Baile Stony Silt (Bd)
- Bowmansville Silt (Bo)
- Burgin Silt (Bu)
- Croton Silt (CrA)
- Croton Silt (CrB2)

(3) It is the intention of this Chapter, that in cases where the Hydric Soil Overlay District overlaps the Floodplain Overlay District, the policies, restrictions, guidelines and standards of the Floodplain Overlay District (Section 502) shall preside.

(4) Development within areas with hydric soils shall be subject to Section 506 (Wetland Overlay District) of this Chapter.

(c) Uses Permitted by Conditional Use.

(1) Public and private recreation uses, including parks (except amusement parks), playgrounds, picnic grounds, golf courses, driving ranges, archery ranges, target ranges, horse riding trails, hiking trails, camping, boating, fishing and hunting subject to Section 906 of this Chapter and Agricultural (General) subject to Subsection 905(a) of this Chapter. Notwithstanding Subsection 906(c) hereof, recreation uses involving impervious

cover, permanent structures, or regrading are permitted only when there is no practical alternative, as determined by the Board of Supervisors.

(d) Boundary Disputes and Appeals Procedures.

(1) Should a dispute arise concerning the boundaries of those areas subject to hydric soil overlay controls, an initial determination of the boundaries shall be made by the Zoning Officer and/or the Township Engineer utilizing the criteria listed under Subsection 503(b) (Designation of Hydric Soil Areas) of this Chapter.

(2) Any person aggrieved by this decision may appeal to the Zoning Hearing Board as specified in this Chapter.

(3) The burden of proof shall be on the person appealing the decision of the Zoning Officer and/or the Township Engineer.

(4) If it is determined by the Zoning Hearing Board that the resources which have established the Hydric Soil Overlay District are inaccurate regarding the land in question, and that the area should not be subject to the hydric soil controls established under this Section, the Zoning Officer and/or the Township Engineer shall be notified in writing that the hydric soil controls will not apply to the land in question.

(5) All boundary changes which are approved shall be made on the map of the areas subject to hydric soil controls which is prepared by the Board of Supervisors.

(Ordinance 130, December 9, 1991, Section 503; as amended by Ordinance 192, September 16, 2002, Sections 4 & 5)

Section 504. High Water Table Overlay District.

(a) Purpose.

(1) The High Water Table District shall be an overlay to the existing underlying zoning district as illustrated on the Official Zoning Map. As such, these provisions regulating high water table management shall be a supplement to the underlying district provisions. Where conflicts arise between provisions or regulations of this Chapter, the more restrictive provisions shall apply.

(2) The purpose of establishing provisions for areas which may encounter a high water table is to promote and protect the general health, welfare and safety of the community; secure environmentally sensitive lands; encourage the utilization of appropriate construction practices; and to minimize hazards to public health.

(b) Designation of High Water Table Areas.

(1) The High Water Table Overlay District shall include all areas subject to inundation of soils which are characteristic and categorized as being alluvial and/or as high water table soils by the Soil Survey of Berks County, Pennsylvania prepared by the United States Department of Agriculture (Soil Conservation Service) in cooperation with the Pennsylvania State University and Pennsylvania Department of Agriculture.

(2) Alluvial soils are defined as soils which have been formed in alluvium and deposited in the past by stream or flooding conditions. The presence of these soils is a reliable indication that heavy runoff conditions will probably create flooding in the future.

(3) High water table soils are defined as surface soils which are within three feet (3') of the seasonable high water table as described and identified by the United States Department of Agriculture in the Soil Survey of Berks County.

(4) The alluvial and high water table soils which have been identified, described and delineated within the Township by the U.S. Department of Agriculture in conjunction with the Pennsylvania State University and Pennsylvania Department of Agriculture in the Soil Survey of Berks County include, but not limited to the following:

| | |
|----------------|-----------------|
| Atkins | Au |
| Baile * | Ba, Bd |
| Bowmansville * | Bo |
| Burgin * | Bu |
| Croton * | CrA, CrB2 |
| Glenville | GlA, GlB2 |
| Lehigh | LhA, LhB2, LhC3 |
| Lindside | Lt |
| Melvin | Ml |
| Philo | Ph, Pl |
| Raritan | RaB |
| Readington | ReA, ReB2 |
| Reaville | RlA2, RlB2 |
| Rowland | Ro |
| Wiltshire | WsA, WsB2 |

* Denotes that the soils group is considered a hydric soil and is subject to the provisions identified under Sections 503 and 942.

(5) It is the intention of this Chapter, that in cases where the High Water Table Overlay District overlaps the Floodplain Overlay District (Section 502) and/or the Hydric Soil Overlay District (Section 503), the policies, guidelines and standards of the more restrictive District shall preside.

(c) Uses Permitted by Right. The following uses and activities are permitted by right in the High Water Table Overlay District provided they are in compliance with the provisions of the underlying district and are not prohibited by any other Township Ordinance:

(1) General agriculture uses, subject to Subsection 905(a) of this Chapter.

(2) Municipal use.

(3) Public and private recreation uses not involving impervious cover, permanent structures, or regrading, including parks (except amusement parks), playgrounds, picnic grounds, golf courses, driving ranges, archery ranges, target ranges, horse riding trails, hiking trails, camping, boating, fishing and hunting subject to Section 906 of this Chapter.

(4) Woodland or game preserve, wildlife sanctuary or similar conservation use.

(5) Accessory uses to the above permitted uses when on the same lot as the permitted use.

(d) Uses Permitted by Conditional Use. Public or private recreation involving permanent structures, impervious cover, or regrading are permitted only when there is no practical alternative, as determined by the Board of Supervisors and notwithstanding Subsection 906(c) hereof.

(e) Uses Permitted by Special Exception. Notwithstanding Subsection 906(c) hereof, the following uses are permitted in the High Water Table Overlay District when a special exception is granted by the Zoning Hearing board subject to and in accordance with Part 11 of this Chapter:

(1) Church or similar place of worship, provided an on-lot sewage disposal system is not located on soils that are considered hydric, alluvial or having a high water table. The proposed lot shall comply with the area, yard and height regulations of the underlying zoning district.

(2) Commercial and industrial uses, such as but not limited to yard areas, pervious parking and loading areas, pervious airport landing strip provided that such yards are not for on-lot sewage disposal.

(3) Public utility uses, subject to Section 929 of this Chapter.

(4) Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.

(f) Boundary Disputes and Appeals Procedures.

(1) Should a dispute arise concerning the boundaries of those areas subject to high water table overlay controls, an initial determination of the boundaries shall be made by the Zoning Officer and/or the Township Engineer utilizing the criteria listed under Subsection 504(b) (Designation of High Water Table Areas) of this Chapter.

(2) Any person aggrieved by this decision may appeal to the Zoning Hearing Board as specified in this Chapter.

(3) The burden of proof shall be on the person appealing the decision of the Zoning Officer and/or the Township Engineer.

(4) If it is determined by the Zoning Hearing Board that the resources which have established the High Water Table Overlay District are inaccurate regarding the land in question, and that the area should not be subject to the high water table controls established under this Section, the Zoning Officer and/or the Township Engineer shall be notified in writing that high water table controls will not apply to the land in question and instructed to issue a permit to the applicant.

(5) All boundary changes which are approved shall be made on the map of the areas subject to high water table controls which is prepared by the Board of Supervisors.

(Ordinance 130, December 9, 1991, Section 504; as amended by Ordinance 192, September 16, 2002, Section 6)

Section 505. Steep Slope Overlay District.

(a) Purpose.

(1) The steep slope area shall be an overlay to the existing underlying district as illustrated on the Official Zoning Map. As such, these provisions regulating steep slope management shall be a supplement to the underlying district provisions. Where conflicts arise between provisions or regulations of this Chapter, the more restrictive provisions shall apply.

(2) The purpose of establishing provisions for areas which may encounter steep slopes is to protect and prevent areas from increased erosion and runoff; secure environmentally sensitive lands; encourage the utilization of appropriate construction practices; and to minimize hazards to public health.

(b) Designation of Steep Slope Areas.

(1) The Steep Slope Overlay District shall include all areas where the topography exceeds twenty-five percent (25%) in slope in pre-development conditions. The Township, through the collaboration, implementation and adoption of the Township Comprehensive Plan has conducted a Topographical Analysis of the Township. As part of this Topographical Analysis, a Slope Map was incorporated to illustrate and highlight relative areas with slopes less than fifteen percent (15%); between fifteen percent (15%) and twenty-five percent (25%); and greater than twenty-five percent (25%).

(2) It is the intention of this Chapter that in cases where the Steep Slope Overlay District overlaps the Floodplain Overlay District (Section 502), the Hydric Soil Overlay District (Section 503), and/or the High Water Table Overlay District, the policies, guidelines and standards of the more restrictive district shall preside.

(c) Uses Permitted by Right. The following uses and activities are permitted by right in the Steep Slope Overlay District provided they are in compliance with the provisions of the underlying district and are not prohibited by any other Township ordinance:

(1) General agricultural uses, subject to Section 905(a) of this Chapter.

(2) Municipal use.

(3) Woodland or hunting preserve, wildlife sanctuary, or other similar use when the uses are conducted in conformance with conservation practices that ensure adequate protection against soil erosion.

(4) Accessory uses to the above permitted uses when on the same lot as the permitted use provided that the accessory use is not constructed on slopes exceeding twenty-five percent (25%) in grade.

(d) Uses Permitted by Conditional Use.

(1) Private and public recreation uses including horse riding trails, hiking trails, boating, fishing, camping, hunting subject to Section 906 of this Chapter. Notwithstanding Section 906(c) hereof, recreation uses involving permanent structures, impervious cover, or regrading are permitted only when there is no practical alternative, as determined by the Board of Supervisors.

(e) Uses Permitted by Special Exception. The following uses are permitted in the Steep Slope Overlay District when a special exception is granted by the Zoning Hearing Board subject to and in accordance with Part 11 of this Chapter:

(1) Public utility uses, subject to Section 929 of this Chapter.

(2) Accessory uses to the above permitted uses when on the same lot as the permitted use.

(f) Development Procedures.

(1) The Zoning Officer will advise the applicant when his property or parcel lies within such a slope designation. The Zoning Officer will not issue a building permit until a plan is submitted indicating, to the satisfaction of the Township Engineer, that all potential problems of steep slopes have been resolved.

(2) Plans shall show existing topography, proposed structure and building locations, streets and driveways location and grade, site drainage, sanitary facilities, grading plan, and re-vegetation or planting plan prepared by a registered architect, engineer, surveyor or landscape architect. Plans shall demonstrate how the construction methods to be utilized will overcome problems associated with stormwater management, erosion and sediment control, wastewater treatment and disposal, water supply, accessibility and structural stability.

(3) Should the area designated as steep slopes be found to be inaccurate, based on a topographical survey prepared by a licensed surveyor or engineer, showing two feet (2') contour intervals, then the zoning requirements for such property shall be deemed to be the regulations of the underlying zoning district in which the property is located.

(4) The Zoning Officer should maintain a map or overlay including areas of steep slopes.

(g) Boundary Disputes and Appeals Procedures.

(1) Should a dispute arise concerning the boundaries of those areas subject to slope controls, an initial determination of the boundaries shall be made by the Zoning Officer and/or the Township Engineer utilizing the criteria listed under Subsection 505(b) (Designation of Steep Slope Areas) of this Chapter.

(2) Any person aggrieved by this decision may appeal to the Zoning Hearing Board as specified in this Chapter.

(3) The burden of proof shall be on the person appealing the decision of the Zoning Officer and/or the Township Engineer.

(4) If it is determined by the Zoning Hearing Board that the resources which have established the Steep Slope Overlay District are inaccurate regarding the land in question, and that the area should not be subject to the slope controls established under this Section, the Zoning Officer and/or the Township Engineer shall be notified in writing that the slope controls will not apply to the land in question and instructed to issue a permit to the applicant.

(5) All boundary changes which are approved shall be made on the map of the areas subject to slope controls which is prepared by the Board of Supervisors.

(Ordinance 130, December 9, 1991, Section 505; as amended by Ordinance 164, April 26, 1999, Section 7; as further amended by Ordinance 192, September 16, 2002, Section 7)

Section 506. Wetlands Overlay District.

(a) Purpose.

(1) The areas subject to wetlands within the Township shall be an overlay to the existing underlying district. As such, these provisions regulating wetlands shall be a supplement to the underlying district provisions. Where conflicts arise between provisions or regulations of this Chapter, the more restrictive provisions shall apply.

(2) The purpose of establishing provisions for areas which may encounter wetlands is to promote and protect the general health, welfare and safety of the community; secure environmentally sensitive lands; encourage the utilization of appropriate construction practices; and to minimize hazards to public health.

(b) Designation of Wetland Areas.

(1) The U.S. Army Corps of Engineers in conjunction with the United States Environmental Protection Agency have defined the term "wetlands" as follows:

"Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas."

The three (3) major characteristics of wetlands include vegetation, soil and hydrology.

(2) All land designated as "wetlands" within the Township are subject to restrictions and/or permits by the Pennsylvania Department of Environmental Protection and the United States Army Corps of Engineers.

(3) For all subdivision and land development applications, the Township Engineer shall determine whether a wetlands delineation will be required by a qualified professional. Any subdivision or land development on a property with surface water and/or hydric soils shall require a wetlands delineation. Delineated wetlands shall be accompanied by a technical report and data forms.

(4) For all zoning districts, a ten feet (10') buffer zone shall be applied to all areas delineated as wetlands. Within this ten feet (10') buffer zone no earth disturbance will be permitted, unless in association with wetlands disturbance activities under permit by the Army Corps of Engineers or Pennsylvania Department of Environmental Protection.

(5) If any provisions specified under this Section are in dispute, the applicant shall be responsible for an Army Corps of Engineers and/or Environmental Protection Agency jurisdictional determination. All pertinent costs incurred shall be the responsibility of the applicant and not the Township.

(c) Uses Permitted by Right.

(1) Natural Resource Conservation.

(2) Unimproved Paths and Trails.

(Ordinance 192, September 16, 2002, Section 8; as amended by Ordinance 215, July 5, 2005, Section 2)