

ARTICLE 10.
FP, FLOODPLAIN CONSERVATION DISTRICT

10.01 Purpose

In the interest of the public health, safety and welfare, the regulations of the Flood Plain Conservation District are intended to protect areas of flood plain subject to and necessary for the containment of flood waters, and to permit and encourage the retention of open space land uses which shall be so located and utilized as to constitute a harmonious and appropriate aspect of the continuing physical development of Southampton Township. Furthermore, in light of the Township's certification as eligible for Federal Flood Insurance, it is the intent of the District to provide adequate protection for flood prone properties within the Township. In advancing these principals and the general purpose of the Zoning Ordinance and Comprehensive Plan the following shall be the specific objectives of the Flood Plain Conservation District:

- A.** To combine with present zoning requirements, certain restrictions made necessary for flood prone areas to promote the general health, welfare and safety of the Township;
- B.** To prevent the erection of structures in areas unfit for human usage by reason of danger by flooding, unsanitary conditions or other hazard;
- C.** To minimize danger to public health by protecting the quality and quantity of surface and subsurface water supplies adjacent to the underlying flood hazard areas and promoting safe and sanitary drainage;
- D.** To reduce the financial burdens imposed on the Township, its governmental units and its individuals by frequent and periodic floods and overflow of lands;
- E.** To permit only those uses which can be appropriately located in the flood plain as herein defined and which shall not impede the flow or storage of flood waters, or otherwise cause danger to life and property at, above or below the locations along the floodway;
- F.** To permit only those uses in the flood plain compatible with the preservation of natural conditions which are conducive to the maintenance of constant rates of water flow throughout the year by withholding rapid water run-off contributing to downstream flooding and providing area for ground water absorption for maintenance of the subsurface water supply;
- G.** To provide sufficient drainage courses to carry abnormal flows of storm water in periods of heavy precipitation;

- H.** To protect those individuals who might choose despite the flood dangers, to develop or occupy land on a Flood Plain Conservation District;
- I.** To protect adjacent landowners and those both upstream and downstream from dangers resulting from development within a flood plain and the consequent obstruction or increase in flow of flood waters;
- J.** To maintain undisturbed an ecological balance between those natural system elements, including wildlife, vegetation and marine life, dependent upon water courses and water areas;
- K.** To protect other municipalities within the same watershed from the impact of improper development and the consequent increased potential for flooding;
- L.** To provide areas for the deposition of flood born sediment; and
- M.** To require that those uses vulnerable to floods be developed so as to protect them from flood damage in accordance with the requirements of the Federal Flood Insurance Program, P.L.93-234.

10.02 Applicability

The provisions of this article shall apply to all lands and land developments within Southampton Township which are flood prone or located within the boundary of a flood plain area delineated on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency in conjunction with the United States Department of Housing and Urban Development and the Federal Insurance Agency, which map is incorporated herein by reference.

10.03 Overlay Concept, Abrogation and Greater Restrictions

- A.** The Floodplain Conservation District shall be deemed an overlay on any zoning district now or hereafter applicable to any lot, tract or parcel of land in Southampton Township.
- B.** As an overlay, the regulations in this Article supplement and shall supersede the regulations of all other zoning districts created as a result of this ordinance or subsequent amendments to this ordinance, where applicable according to Section 10.02 above. To the extent that this imposes greater requirements or more complete disclosures in any respect, or to the extent that the provisions of this Article are more restrictive, it shall be deemed and interpreted to control other provisions of the Zoning Ordinance and the Southampton Township Subdivision and Land Development Ordinance.

- C. Should the Floodplain Conservation District be declared inapplicable to any lot, tract or parcel, or portion thereof, by reason of action of; the Board of Supervisors in amending this ordinance, or, the Zoning Officer, the Zoning hearing Board or any court of competent jurisdiction in interpreting the same, or, the Zoning Hearing Board or any court of competent jurisdiction in determining the legal effect of the same, the zoning applicable to such lot, tract or parcel, or portion thereof, shall be deemed to be the district in which it is located without consideration of this Article.

- D. Should the zoning of any lot, tract or parcel, or any portion thereof, in which the Floodplain Conservation District is located be changed through any legislative or administrative actions or judicial decision, such change shall have no effect on the Floodplain Conservation District unless a change to the Floodplain Conservation District was specifically included or named in such action or decision, and further that proper approval from the Federal Insurance Administration (FIA) and/or Federal Emergency Management Agency (FEMA) is obtained.

10.04 Description of Floodplain Areas

The identified floodplain area shall consist of one or more 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 Federal Emergency Management Agency (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 Studies.

For the purposes of this ordinance, the floodway is based upon the criteria that a certain area within the floodplain would be capable of carrying the waters of the one hundred (100) year flood without increasing the water surface elevation of that flood more than one (1) foot at any point.

- 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 profile 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 Township 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 Engineer.

10.05 Interpretation of Flood Hazard Area Boundaries

Initial interpretations of the boundaries of the Flood Plain Conservation District shall be made by the Zoning Officer by reference to the Flood Boundary and Flood Insurance Rate Map. Should an applicant dispute the boundaries of any of the areas, or the interpretation of the Zoning Officer, the landowner or other interested party shall file a written appeal to the Zoning Hearing Board setting forth the grounds for relief in detail. The Zoning Hearing Board shall hold a hearing pursuant to public notice, shall make the necessary determination and shall issue its decision in accordance with Article 16 of this ordinance. The Zoning Hearing Board may request the applicant to provide certification by an engineer with accompanying studies as stated in Section 10.04.

10.06 Boundary Changes

The delineation of any of the Flood Plain Areas may be revised by the Township Board of Supervisors where natural or man-made changes have occurred, or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, River Basin Commission, or other qualified agency or individual, and such studies provide the basis for such change. However, prior to any such change, the landowner or any other person seeking such change must obtain approval from the Federal Insurance Administration (FIA).

10.07 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 on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that land outside the flood plain 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 Southampton 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.

10.08 Compliance

No structure or land shall hereafter be used, and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this article, and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

10.09 Permitted Uses

The following uses and no others shall be permitted in a Flood Plain Conservation District:

- A.** Agricultural uses; excluding structures, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, stock farming, sod farming, forestry and reforestation, woodland, preserved wildlife sanctuary and arboretum operated in accordance with recognized natural resource conservation practices by permitting no structures.
- B.** Recreation uses; not requiring permanent structures for human habitation or facilities subject to damage by flooding, such as day camps, picnic groves, golf courses, athletic fields, hunting, fishing and boating clubs, game farms, recreational areas and parks including hiking, bicycling and bridal trails.
- C.** Paved roads and driveways, if necessary to provide access to the property, or paved bicycle trails. Any roads and driveways shall be perpendicular to the Flood Plain Conservation District.
- D.** Front, side or rear yards if they do not contain on-site sewage disposal systems or non-wire fences or any other structure.

- E.** Utility facilities such as power plant flowage areas, transmission lines, pipe lines, water monitoring devices, outlet installation for sewage treatment plants, sewage pumping stations, sealed public water supply wells, accessory uses customarily incidental to any of the foregoing permitted uses and approved by the appropriate authorities.
- F.** Dams, culverts and bridges when approved by the State Department of Environmental Resources, Water Power Resources Board.
- G.** Grading or regrading of lands to improve or facilitate flood carrying capacities, including the deposit of top soils and the grading thereof, provided that a plan is submitted to the Township for its review and approval, which indicates the composition of any fill or material proposed to be deposited by the grading or regrading of land, such fill or other materials shall be protected against erosion by rip-rap, vegetation cover or bulkheading.
- H.** Accessory uses customarily incidental to any of the foregoing permitted uses, when approved by the Township and its Engineer.

All permitted uses are subject to floodproofing regulations and applicable codes. Any of the uses in this section shall not be permitted within the designated Floodway, unless the effect of such proposed activity on flood heights is fully offset by accompanying stream improvements.

10.10 Prohibited Uses

The following uses shall be specifically prohibited in a Flood Plain Conservation District:

- A.** All freestanding structures, buildings, mobile homes and retaining walls with the exception of flood retention dams, culverts and bridges as approved by the Pennsylvania Department of Environmental Resources.
- B.** The filling in of the FP District, removal of top soil or damming or relocation of any watercourse without approval from the Board of Supervisors, which shall first have received the recommendation of the Planning Commission, the Township Engineer and the Soil Conservation Services, U.S. Department of Agriculture, thereon; and the approval of the Pennsylvania Department of Environmental Resources. In addition, it shall be the responsibility of the developer to notify all adjacent communities and the Bureau of Community Affairs prior to the alteration or relocation of a watercourse. Copies of such notification shall be sent to the Township and to the Federal Insurance Administrator. The flood carrying capacity within the altered or relocated portion shall be maintained.
- C.** Sanitary landfills, dumps, junk yards, outdoor storage of vehicles and/or materials.

- D. On-site sewage disposal systems.
- E. Private water supply wells.
- F. Swimming pools.
- G. Parking lots.

10.11 The Fifty Foot Rule

No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, whether or not such area is located in a FP, Flood Plain Conservation District.

10.12 Nonconforming Uses or Structures

Following the adoption of this article, any use or structure which is situated within the boundaries of the Flood Plain Conservation District and which does not conform with the permitted uses specified herein shall become a nonconforming use or structure.

- A. The expansion or continuance of a nonconforming use or structure which is rendered nonconforming by the adoption of this District shall be governed by the standards contained in Section 10.13 and 10.14. Any expansion of nonconformities shall first be approved by the Zoning Hearing Board. The Zoning Hearing Board shall insure that the standards of Section 10.13 and 10.14 are enforced with respect to such nonconforming use or structure.

10.13 Variance Procedures

The application for a use or expansion by variance shall be accompanied by the following:

- A. Detailed study prepared by a registered professional engineer indicating the effects on drainage and streams on all adjacent properties as well as the property in question.
- B. An application for amending the boundaries of the Flood Plain Conservation District, if the boundaries shall be affected by the proposed variance.

10.14 Standards for Granting of Variances

The Zoning Hearing Board shall exercise discretion by allowing only those uses which are substantially in accord with the stated objectives in Section 10.01 herein. The Board, in considering variance applications, shall consider the following:

- A. That there is good and sufficient cause.
- B. That failure to grant the variance would result in exceptional hardship to the

applicant.

- C.** 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.
- D.** The danger to life and property due to increased flood heights or velocities caused by encroachments. No special exceptions or variances shall be granted in any Floodway for any proposed use, development or activity that will cause any increase in flood levels during the 100-year flood.
- E.** The effect of the use shall not substantially alter the cross-section profile of the stream or Flood Plain Conservation District at the location of the proposed use;
- F.** Lands abutting the waterway, both upstream and downstream shall not be unreasonably affected by the proposed use.
- G.** The general welfare or public interest of the Township or of other municipalities in the same watershed shall not be adversely affected.
- H.** Any new structures permitted by variance shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water, and shall be designed to have a minimum effect upon and height of flood water. Such structures shall be elevated and/or floodproofed to a height at least 1 1/2 feet above the 100 year flood elevation.
- I.** Any new structure permitted by variance shall be elevated and/or floodproofed to a height at least 1 1/2 feet above the 100 year flood elevation.
- J.** Any additions to existing structures permitted by variance shall be elevated and/or floodproofed to the greatest extent possible.
- K.** The importance of the services provided by the proposed facility to the community.
- L.** The requirements of the facility for a waterfront location.
- M.** The availability of alternative locations not subject to flooding for the proposed use.
- N.** The safety of access to the property in times of flood for ordinary and emergency vehicles.
- O.** The expected heights, velocities, duration, rate of rise and sediment transport of the

flood waters expected at the site.

The Zoning Hearing Board may refer any application and accompanying documentation pertaining to any request for a special exception or variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that (i) the granting of the variance may result in increased premium rates for flood insurance and (ii) such variances may increase the risks to life and property.

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