

## ORDINANCE NO. 07-10-01

### MARLBOROUGH TOWNSHIP Montgomery County, Pennsylvania

An Ordinance amending the Marlborough Township Zoning Ordinance to (1) add Article XVII [RCC-Riparian Corridor Conservation District], providing the following sections: Legislative Intent; Application and Width Determination in District; Uses Permitted in the Riparian Corridor Conservation District; Uses Specifically Prohibited in the Riparian Corridor District; Nonconforming Structures and Uses in the Riparian Corridor Conservation District; Inspection of Riparian corridor Conservation District; Management of the Riparian Corridor District; Corridor Crossing Standards; and Use of Technical Terminology; and (2) add the RCC-Riparian Corridor Conservation District to the zoning districts designated in Article XI, Section 1100 [Establishment of Zoning Districts].

**WHEREAS**, the Board of Supervisors ("Board") of the Township of Marlborough is desirous of amending its Zoning Ordinance to ensure the continued protection of the health, safety, and welfare of the Township; and

**WHEREAS**, the Board wishes to add Article XXVII [RCC-Riparian Corridor Conservation District] to its Zoning Ordinance.

**NOW, THEREFORE, IT IS HEREBY ENACTED AND ORDAINED** by the Board that the Zoning Ordinance be amended as follows

**SECTION 1.** Article XXVII [RCC-Riparian Corridor Conservation District] shall be added to the Zoning Ordinance, and shall read as follows:

#### **ARTICLE XXVII RCC—Riparian Corridor Conservation District**

##### **Section 2700. Legislative Intent.**

In expansion of the legislative intent contained in Article I, Section 101, and the community development objectives contained in Article I, Section 102, of this chapter and in support of the goals and recommendations of the Upper Perkiomen Valley Comprehensive Plan and the Marlborough Township 2006 Open Space Plan, it is the intent of this Article to provide reasonable controls governing the restoration, conservation, disturbance, and management of existing riparian corridors by establishing a designated Riparian Corridor Conservation (RCC) District. In addition, the specific purposes and intent of this article are to:

- A. Improve surface water quality by reducing the amount of nutrients, sediment, organic matter, pesticides, and other harmful substances that reach wetlands and water bodies by using scientifically- proven processes including filtration, deposition, absorption,

adsorption, plant uptake, and denitrification, and by improving infiltration, encouraging sheet flow, and stabilizing concentrated flows.

- B. Improve and maintain the safety, reliability, and adequacy of the water supply for domestic, agricultural, commercial, industrial, and recreational uses along with sustaining diverse populations of aquatic flora and fauna.
- C. Preserve and protect areas that intercept surface water runoff, wastewater, subsurface flow, and/or deep groundwater flows from upland sources and function to remove or buffer the effects of associated nutrients, sediment, organic matter, pesticides, or other pollutants prior to entry into surface waters, as well as provide wildlife habitat, moderate water temperature in surface waters, and provide opportunities for passive recreation.
- D. Regulate the land use, siting, and engineering of all development to be consistent with the intent and objectives of this ordinance and the best-accepted conservation practices, and to work within the carrying capacity of existing natural resources.
- E. Assist in the implementation of pertinent state laws concerning erosion and sediment control practices, specifically Erosion Control, of the Pennsylvania Clean Streams Law, Act 394, P.L. 1987, Chapter 102 of the Administrative Code (as amended October 10, 1980 Act 157 P.L.), Title 25, and any subsequent amendments thereto, as administered by the Pennsylvania Department of Environmental Protection and the Montgomery County Conservation District.
- F. Conserve the natural features important to land or water resources such as headwater areas, groundwater recharge zones, floodway, floodplain, springs, streams, wetlands, woodlands, prime wildlife habitats and other features that provide recreational value or contain natural amenities that exist on developed and undeveloped land.
- G. Work with floodplain, steep slope, and other ordinances that regulate environmentally sensitive areas to minimize hazards to life, property, and riparian features.
- H. Recognize that natural features contribute to the welfare and quality of life of the Marlborough Township residents.
- I. Conserve natural, scenic, and recreation areas within and adjacent to riparian areas for the community's benefit.

**Section 2701. Application and Width Determination of the District**

- A. Application. The Riparian Corridor Conservation District is an overlay district that applies to streams, wetlands, and water bodies, and the land adjacent to them, as specified in the following table:

Surface Water Feature	Minimum Corridor Width
<p><b>1. Perennial Streams</b> All perennial streams identified in the Soil Survey<sup>1</sup>.</p>	<p><b>Zone 1:</b> Minimum width of 25 feet from each defined edge of the stream at bank full flow, measured perpendicular to the edge of the stream. <b>Zone 2:</b> Minimum width of 50 feet from the outer edge of Zone 1, measured perpendicular to the edge of Zone 1, or equal to the extent of the 100-year floodplain<sup>3</sup>, or 25 feet beyond the outer edge of a wetland along the stream, whichever is greater. (Total minimum width of Zones 1 &amp; 2 = 150 feet plus the width of the stream.)</p>
<p><b>2. Intermittent Streams</b> Intermittent streams identified in the Soil Survey<sup>1</sup> or any stream otherwise identified in the applicant's plan that have an upstream drainage area 75 acres or more<sup>2</sup>.</p>	<p><b>Zone 1:</b> Minimum width of 25 feet from each defined edge of the stream at bank full flow, measured perpendicular to the edge of the stream. <b>Zone 2:</b> Minimum width of 50 feet from the outer edge of Zone 1, measured perpendicular to the edge of Zone 1, or equal to the extent of the 100-year floodplain<sup>3</sup>, or 25 feet beyond the outer edge of a wetland along the stream, whichever is greater. (Total minimum width of Zones 1 &amp; 2 = 150 feet plus the width of the stream.)</p>
<p><b>3. Other Streams:</b> All other streams with an upstream drainage area of less than 75 acres<sup>2</sup>, including intermittent streams identified in the Soil Survey<sup>1</sup>.</p>	<p><b>Zone 1:</b> Minimum width of 25 feet from the centerline of the stream, measured perpendicular to the centerline of the stream, or equal to the extent of the 100-year floodplain<sup>3</sup>, or 25 feet beyond the outer edge of a wetland along the stream, whichever is greater. (Total minimum width of 50 feet). <b>Zone 2:</b> Does not apply.</p>
<p><b>4. Wetlands and Waterbodies</b> Wetlands not located along a stream, and water bodies, where the wetland and/or water body is greater than 10,000 square feet in area.</p>	<p><b>Zone 1:</b> Minimum width of 25 feet from the outer edge of the wetland or water body, measured perpendicular to the edge. For wetlands located at the edge of a water body, the measurement shall be made from the outer edge of the wetland. <b>Zone 2:</b> Does not apply.</p>

<sup>1</sup>Soil Survey shall mean the most recent edition of the Soil Survey of Montgomery County.

<sup>2</sup>Upstream drainage area shall be measured from where the stream exits the applicant's site.

<sup>3</sup>100-year floodplain is identified on the Flood Insurance rate Map (FIRM) prepared by FEMA, or as calculated by the applicant where FEMA data does not apply.

- B. Zone Designation Adjustments for Steep Slopes. Where steep slopes in excess of 25 percent are located within Zone Two as identified in the table above, Zone One shall be extended to and include the steeply sloped area.
- C. Identification and Width Determination. The applicant shall be responsible for the following:
- (1) Identifying the watercourses, wetlands, and/or waterbodies on and within 75 feet of the applicant's site, and locating these features accurately on the applicant's plans.
  - (2) Initial width determination of the riparian corridor(s) in compliance with Section 2701(A), herein, and for identifying these areas on any plan that is submitted for

subdivision, land development, or other improvements that require plan submissions or permits.

**Section 2702. Uses Permitted in the Riparian Corridor Conservation District**

The following uses are permitted by right in the Riparian Corridor Conservation District in compliance with the requirements of this article.

A. Zones One and Two: At least half of any required yard setback area, for any individual lot, must be entirely outside of the Riparian Corridor Conservation District.

B. Zone One:

- (1) Open space uses that are primarily passive in character shall be permitted to extend into the area defined as Zone One, including:
  - (a) Wildlife sanctuaries, nature preserves, forest preserves, fishing areas, passive areas of public and private parklands, and reforestation.
  - (b) Unpaved trails, provided they are part of a planned, Township recreational trail system, that provide stream access or allow for a continuous trail where the trail segment cannot be located outside of Zone One. These unpaved trails shall be designed and constructed in a manner that minimizes disturbance of environmentally sensitive areas in Zone One, and in particular shall not result in concentrated stormwater flows.
  - (c) Streambank stabilization.
- (2) Forestry operations approved by the Montgomery County Conservation District.
- (3) Corridor Crossings:
  - (a) Agricultural crossings by farm vehicles and livestock.
  - (b) Driveways serving one or two single-family detached dwelling units, provided the mitigation requirements of Section 2707 are satisfied. The corridor crossing standards of Section 2708 should be considered during design of the driveway.
  - (c) Driveways serving more than two single-family detached dwelling units, or roadways, recreational trails, railroads, and utilities, provided the mitigation requirements of Section 2707 and the corridor crossing design standards of Section 2708 are satisfied.

C. Zone Two:

- (1) Open space uses including wildlife sanctuaries, reforestation areas, nature preserves, forest preserves, passive areas of public and private parklands, recreational trails, and reforestation.

- (2) Agricultural uses conducted in compliance with methods prescribed in the Department of Environmental Protection's *Erosion and Sediment Pollution Control Manual*, March 2000, as amended.
- (3) Corridor Crossings:
  - (a) Agricultural crossings by farm vehicles and livestock.
  - (b) Driveways serving one or two single-family detached dwelling units, provided the mitigation requirements of Section 2707 are satisfied. The corridor crossing standards of Section 2708 should be considered during design of the driveway.
  - (c) Driveways serving more than two single-family detached dwelling units, or roadways, recreational trails, railroads, and utilities, provided the mitigation requirements of Section 2707 and the corridor crossing design standards of Section 2708 are satisfied.
- (4) Residential accessory structures in accordance with Section 816.B of this chapter.
- (5) Forestry operations approved by the Montgomery County Conservation District.
- (6) Passive use areas such as camps, campgrounds, and picnic areas. Active recreation areas such as ball fields, playgrounds, golf courses, and courts provided these uses are designed in a manner that will not permit concentrated flow of storm water runoff.
- (7) Centralized sewer and/or water lines and public utility transmission lines running along the corridor. When proposed as part of a subdivision or land development, the mitigation requirements of Section 2707 shall be satisfied. In all cases, these lines shall be located as far from Zone One as practical.

### **Section 2703. Uses Specifically Prohibited in the Riparian Corridor District**

Any use or activity not authorized within Section 2702 shall be prohibited within the Riparian Corridor Conservation District and the following activities and facilities are specifically prohibited:

- A. Clearing of all existing vegetation, except where such clearing is necessary to prepare land for a use permitted under Section 2702, herein, and where the effects of these actions are mitigated by re-establishment of vegetation, as specified under Section 2707, herein.
- 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 Montgomery County Conservation District.

- D. Roads or driveways, except where permitted as corridor crossings in compliance with Sections 2702, herein.
- E. Motor or wheeled vehicle traffic in any area not designed to accommodate adequately the type and volume.
- F. Parking lots.
- G. Any type of permanent structure, including fences, except those needed for a use permitted in Section 2702, herein.
- H. Subsurface sewage disposal areas.
- I. Sod farming.
- J. Storm water basins, including necessary berms and outfall facilities.

**Section 2704. Nonconforming Structures and Uses in the Riparian Corridor Conservation District**

Nonconforming structures and uses of land within the Riparian Corridor Conservation District shall be regulated under the provisions of Article VI, Non-Conforming Status, of this chapter.

**Section 2705. Boundary Interpretation and Appeals Procedure**

- A. When a landowner or applicant disputes the Zone (One or Two) boundaries of the Riparian Corridor or the defined edge of a watercourse, surface water body, or wetland, the landowner or applicant shall submit evidence to the Township that describes the boundary, presents the landowner or applicant's proposed boundary, and presents all justification for the proposed boundary change.
- B. The Marlborough Township Engineer, and/or other advisors selected by the Board of Supervisors shall evaluate all material submitted and provide a written determination of the riparian corridor boundaries within 45 days to the Board of Supervisors, Township Planning Commission, and landowner or applicant.
- C. Any party aggrieved by any such determination or other decision or determination under this section may appeal the decision of the Zoning Hearing Board to the appropriate administrative appellate body. The party contesting the location of the district boundary shall have the burden of proof in case of any such appeal.

**Section 2706. Inspection of Riparian Corridor Conservation District**

- A. Lands within or adjacent to an identified Riparian Corridor Conservation District may be inspected by the Township Zoning Officer and/or other representatives designated by the Board of Supervisors when:
  - (1) A subdivision or land development plan is submitted.
  - (2) A building permit is requested.

- (3) A change or resumption of nonconforming use is proposed.
- (4) A grading permit is requested.
- B. The district may also be inspected periodically by the Township Zoning Officer and/or other representatives designated by the Board of Supervisors for compliance with an approved restoration plan, excessive or potentially problematic erosion, hazardous trees, or at any time when the presence of an unauthorized activity or structure is brought to the attention of township officials.

**Section 2707. Management of the Riparian Corridor District**

- A. Riparian Corridor Planting. Re-establishment of forest cover and woodland habitat shall be required consistent with the requirements of Section 420.6 of the Marlborough Township Subdivision and Land Development Ordinance.
- B. Mitigation Measures. Uses permitted in Section 2702 involving corridor crossings or other encroachment within the riparian corridor shall be mitigated by increasing the width of the corridor as replacement for the area lost due to the encroachment or disturbance, so that the total corridor area (land area within Zone One and Zone Two) for each applicable side of the stream or watercourse is equal to that required by Section 2701.

Corridor area is the product of the corridor width required by Section 2701 and the total length for each applicable side of the stream or watercourse for which a riparian corridor is being established. Perimeter shall be used in place of length for determining wetland buffer area. The increased width shall be spread throughout the corridor to the maximum extent possible, to the satisfaction of the Township. For streams and watercourses, the increased width shall be applied along the length of the stream in blocks of 1,000 feet or more, or the full length of the corridor on the affected property, whichever is less.

**Section 2708. Corridor Crossing Standards**

All stream crossings permitted under Section 2702, herein, shall incorporate, as required, the following design standards.

- A. The width of the right-of way should not be greater than the minimum right-of-way width required by the Subdivision and Land Development Ordinance.
- B. Crossings should be designed to cross the riparian corridor at direct right angles to the greatest extent possible in order to minimize disturbance of the corridor.
- C. Crossings should be separated by a minimum of 1,000 feet of buffer length.
- D. Bridges should be used in place of culverts when crossings would require a 72-inch or greater diameter pipe. When culverts are installed they should consist of slab, arch, or box culverts and not corrugated metal pipe. Culverts should also be designed to retain the natural channel bottom to ensure the passage of water during low flow or dry weather periods.

**Section 2709. Use of Technical Terminology**

Technical terminology used in this article shall be interpreted to have the meanings used by recognized sources and experts in the fields of forestry, woodland or meadow management, stream bank protection, wetlands management, erosion and sedimentation control, or other relevant fields.

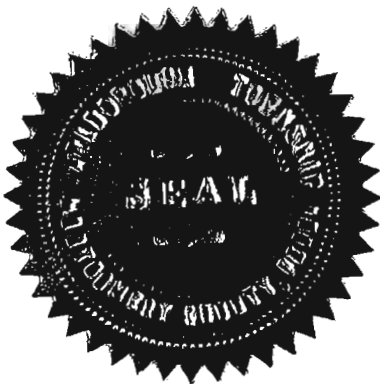
**SECTION 2.** Article XI, Section 1100 [Establishment of Zoning Districts] shall be amended to include the RCC-Riparian Corridor Conservation District to the list of designated zoning districts.

**SECTION 3. Repeal and Ratification.** All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed. Any other terms and provisions of the ordinances of the Township of Marlborough that are unaffected by this Ordinance are hereby reaffirmed and ratified.

**SECTION 4. Severability.** Should any section, paragraph, sentence, clause, or phrase in this Ordinance be declared unconstitutional or invalid for any reason, the remainder of the Ordinance shall not be affected thereby and shall remain in full force and effect, and for this reason the provisions of this Ordinance shall be severable.


**SECTION 5. Effective Date.** This Ordinance shall become effective immediately upon enactment.

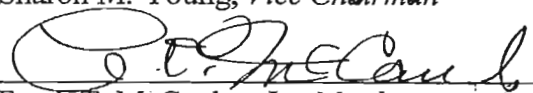
**ORDAINED AND ENACTED** by the Board of Supervisors of the Township of Marlborough this 10th day of October, 2007.



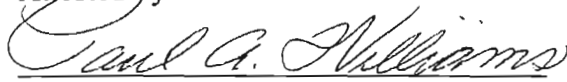
**BOARD OF SUPERVISORS  
MARLBOROUGH TOWNSHIP**

  
\_\_\_\_\_  
Carl A. Ascoli, *Chairman*

  
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Sharon M. Young, *Vice Chairman*

  
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Frank T. McCauley, Jr., *Member*

Attested by:

  
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Paul A. Williams, *Secretary*