

Summit County Township Environmental Planning Education Program Report

Volume Two: Sample Environmental Regulations



Summit County Department of Development

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Preface

This project was developed for the Department of Community & Economic Development. EnviroScience and Poggemeyer Design Group personnel involved in this study included:

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Abstract

Current Summit County Township environmental regulations were reviewed by EnviroScience, Poggemeyer Design Group, and the Summit County Planning Division of the Department of Community & Economic Development and compared to standard natural resource zoning tools. These tools included:

- Conservation Development
- Transfer of Development Rights
- Riparian and Wetlands Setbacks and Overlays
- Steep Slope Regulations
- Groundwater Protection
- Soil and Sediment Erosion Regulations
- Low Impact Design Standards

Some of the Townships had adopted versions of the recommended tools such as open space subdivision design and riparian setbacks. By outlining the standards and comparing existing regulations, suggestions for changes for the Townships were presented for consideration. Workshops were held with each Township where natural resources protection tools and suggestions for zoning revisions were presented based on the remaining natural landscapes and sensitive resources present in each Township.

Whether a Township currently has environmental regulations in place or not, the recommended environmental regulations in this report are presented for consideration. Summit County Townships can make better decisions about adopting natural resource zoning from reviewing not only the standards presented in this study but also what has been adopted by other Townships in the County. Volume One reviews current Summit County Township zoning and the standards for environmental protection tools.

Based on the discussions with Township officials, staff, and residents attending workshops, sample language was drafted with some options and alternatives so that the suggested codes could be easily adapted to the unique needs of each Township. By providing sample language, the hope is to speed up the rate and simplify how each community can implement these tools. Volume Two includes the sample environment language developed.

Introduction

The following sample regulations are proposed for Summit County Townships to consider as natural resource tools to protect natural resources at the local level. These sample natural resource land use regulations are provided in three general categories: Zoning Districts; Supplemental Development Regulations; and Definitions for the terms used throughout this report. The language was developed based on discussions with Township officials, staff, and residents attending the workshops.

The Team wants to clearly note that preparation of final zoning language for each Township in a form ready for each to adopt is deserving of considerable attention and effort at the local level. Property owners and members of the development community should look closely at proposed regulations and offer valuable input into the decision-making process that often and understandably yields different results in different places. By providing sample language, the hope is to speed up the rate at which the Townships will implement these tools.

Each of the sample regulations will need full legal review in light of recent zoning enabling amendments contained in HB 411 of the 125th General Assembly (ORC 504.21; effective 5-2-05) regarding authority given to Limited Home Rule Townships for erosion control, sediment control, and water management in conjunction with land grading, excavating, filling, or other soil disturbing activities, and the limitations placed by SB 18 of the 125th General Assembly (ORC 519.02; effective 5-27-05) on township general welfare zoning. Relevant portions of these session laws have been reproduced in the appendices.

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ESTABLISHMENT OF ZONING DISTRICTS

Three sample natural resource land use regulations are provided: Conservation Design Planned Unit Development; Transfer of Development Rights; and a Riparian Overlay District.

1. CD-PUD CONSERVATION DESIGN PLANNED UNIT DEVELOPMENT¹

[Note: The following sample zoning text is proposed for establishing “floating” and “overlay” PUD Districts. Conditional Use PUDs should have appropriate standards from this sample text added to the supplemental regulations or conditional use regulations of the Zoning Code. The Countryside Program model is also a good alternative.]

A. PURPOSE²

The purpose of the CD-PUD is to: promote the public health, safety, convenience, comfort, prosperity, and general public welfare; through the application of flexible subdivision development techniques which encourage the efficient and environmentally-sensitive use of land and preservation of prioritized natural, historic, and scenic rural resources; provide for greater efficiency in the provision of public roads and utilities than conventional subdivisions; and encourage innovation in the planning and building of all types of development to promote the conservation of high-quality open space while retaining for the property owner an equivalent amount of development density.

B. LAND USES

1) Permitted Uses

The following uses shall be permitted in a CD-PUD development only if allowed in the pre-existing Township Residential Zoning District for the site. **[OPTION: Any additional uses addressed in the Township Land Use Plan for a CD-PUD should be added to this regulation.]** Where permitted incompatible land uses are proposed for a CD-PUD development, buffering through graduated land use intensity or use of landscaping, mounding, walls, solid fencing, and other buffering techniques shall be required within and adjacent to the development:

- a) Agriculture, as restricted by any regulations contained in the Township Code in accordance with ORC 519.21.
- b) Residential development, including:
 - (1) Single-family dwellings in:

¹ This CD-PUD model is based on the Countryside Program *Conservation Development Resource Manual*. For more information, contact: Kirby Date, P.O. Box 24825, Lyndhurst, Ohio 44124.

² Combination of purposes provided by ORC 519.021 and ORC 519.02 (as modified November 5, 2005 by H.B. 148.)

- (a) detached buildings *[Note: definitions for this use may include “detached dwellings on lots,” “cluster development on one lot,” “zero-lot line housing” and “garden apartments”];*
 - (b) attached buildings *[Note: definitions for this use may include “two-family dwellings,” “row housing with up to four (4) units attached,” and “townhouses with up to six units attached”].*
- (2) Multi-family dwellings.
- c) Recreation facilities intended for use by residents of the development;
 - d) Restricted open space as required in [Section 1.E](#) (Restricted Open Space).
- 2) Permitted Accessory Uses
- a) Accessory uses customarily incidental to the principal permitted use;
 - b) Buildings incidental to recreational uses;

C. MINIMUM PROJECT AREA

- 1) The gross area of a tract of land proposed for a CD-PUD shall be a minimum of twenty-five (25) acres to provide the potential for larger contiguous areas of open space and to ensure that the homeowners’ association is large enough to sustain itself and fulfill its open space management and maintenance responsibilities. The Zoning Commission may reduce this requirement upon a finding a proposed smaller project area meets these objectives. A smaller project area may be found to be appropriate based upon the patterns of existing lot ownership, the extent of existing development, or when a smaller project size is a targeted component of the Township’s overall open space plan for the subject parcel or area of the Township.³
- 2) The area proposed shall be in one ownership or, if in multiple ownership, the application shall be filed jointly by all the owners of the properties included in the CD-PUD.

D. PERMITTED RESIDENTIAL DENSITY

The maximum number of dwelling units permitted in a CD-PUD shall not exceed the number of units permitted by the following formula, other CD-PUD regulations, or other applicable regulations, such as a minimum lot size imposed by the Summit County Combined General Health District for area, length, and width of on-site septic systems and minimum spacing of such systems from site elements as well as from other systems. The most restrictive regulation shall control.

³ The suggested minimum project area in some communities reaching “build-out” levels of development may need to be lower, perhaps to 10 to 15 acre minimums.

- 1) The maximum number of dwelling units permitted in a conservation development shall be calculated by the following formula:

(TSA/MLA) X 90%, where:

- a) **TSA** = the Total Site Area. TSA is determined by deducting the following from the total project area:
 - (1) Any area devoted to non-residential purposes;
 - (2) Any public right-of-way within the project boundary existing at the time the development plan is submitted;
 - (3) Any land subject to an existing conservation easement; and
 - (4) The area of land within a floodway, designated wetland or existing waterbody that exceeds the minimum acreage required for restricted open space as set forth in E. Where floodways and wetlands overlap, they shall be counted only once.
- b) **MLA** = Minimum Lot Area (in acres). The minimum overall lot area of a CD-PUD shall be the density recommendation provided for the proposed site area in the Township Land Use Plan based on health and safety considerations, the prevailing demographic trends, and desired characteristics for the Township; in the absence of such a recommendation, use the stated density for a single-family dwelling in the pre-existing zoning district which would be replaced by the CD-PUD.
- c) **90%** = A factor to account for losses in land area due to proposed roads and the fact that some of the lots in a development will be larger than the minimum required. [OPTION: While 80% is the typical formula factor that is realized in a conventional development "yield plan," the Township could increase this factor up to 90% and effectively provide a density bonus incentive for a property owner to choose the conservation development option over the standard subdivision option.]

When the above formula produces a fractional value for the total number of units for the total project area, this final number shall be rounded to the nearest whole number.

[OPTION: "Density Bonus. At the sole option of the Township, a bonus of additional housing units may be provided upon request by the applicant when required open space on nonpublic land is made available for general public use. For every whole acre of land devoted to walking/biking trails, equestrian trails, park areas, or other types of required open space listed in [Section 1.F.1](#)) that is also available for perpetual general public use, up to one additional housing unit may be added to the overall density, provided that overall density does not increase by more than ten (10) percent beyond the number of units allowed according to [Section 1.D.1\)b](#)) above."]

E. RESTRICTED OPEN SPACE

The minimum restricted open space required for a CD-PUD shall be determined as a percentage of the total project area based upon the maximum density permitted, as follows:

Minimum Restricted Open Space	
% of the Total Project Area	Maximum Density Requirement for Area
40%	½ acre or less per unit
50%	More than ½ acre per unit up to 1.5 acres per unit
60%	More than 1.5 acres per unit

F. REGULATIONS FOR RESTRICTED OPEN SPACE

- 1) General Standards. The restricted open space required in [Section 1.E](#) shall comply with the following:
 - a) Restricted open space shall be designed and located to conserve, maintain, and incorporate large blocks of natural land and significant wildlife habitats in existing wooded areas, meadows, and hedgerows and treelines between fields, as well as significant natural features and historical and cultural elements located on the site. The design of restricted open space shall be easily accessible to all lots through the use of open space connectors and pathways.
 - b) Areas designated for restricted open space purposes may be:
 - (1) Preserved in its natural state;
 - (2) Designed and intended for the use and/or enjoyment of residents of the proposed development or the general public;
[OPTION: It has been suggested that allowing general public use of required open space would not be desirable to adjacent Summit County homeowners unless the open space is acquired by a Park District for passive use; therefore, the phrase “or the general public” could be removed from b)(2) and a new provision added stating “(4) Utilized for passive recreation when purchased by a local Park District for public use.”]
 - (3) Utilized for farming when authorized in a conservation easement or in the Association's covenants and restrictions.
 - c) Restricted open space shall be interconnected with open space areas on abutting parcels.
 - d) Sewage service, stormwater management, and/or water supply facilities may be approved for location partially or entirely within restricted open space areas to provide additional flexibility in the arrangement of units and to overcome hardships in meeting the minimum specified area for the conservation of open



space. Where such facilities are so located, septic easements or conservation easements, as applicable, shall be established and at the option of the Township, name the Township a co-beneficiary to require and enable maintenance of such facilities by the appropriate parties. Such easements shall require approval from the Summit County Combined General Health District, Summit County Engineer, and Township Legal Advisor. The Zoning Commission may reduce the front building setback to increase required rear yard areas for conservation easements.

- 2) In order to encourage the creation of large areas of contiguous open space, areas that shall not be counted toward the requirement of restricted open space include:
 - a) Private roads and public road rights-of-way;
 - b) Parking areas, accessways and driveways;
 - c) Required setbacks between buildings, parking areas and project boundaries;
 - d) Required setbacks between buildings and streets;
 - e) Minimum spacing between buildings, and between buildings and parking areas;
 - f) Private yards;
 - g) A minimum of fifteen (15) feet between buildings and restricted open space; and
 - h) Other small fragmented or isolated open space areas that have a dimension less than twenty five (25) feet in any direction. **[OPTION: Typical minimum dimensions range between 50' and 100']**. The Zoning Commission may allow a fragmented or isolated open space area upon a finding the fragmented area is demonstrated to be purposeful and contextual to the development and not simply an isolated, left-over area with little or no contribution in terms of landscaped amenities, buffering, or recreation space.

[OPTION: Many communities place a limitation on the area or percentage of required open space that may be composed of ponds or lakes. This limitation often ranges between 50% and 80% of the required open space and could be stated as: "i) The sum area of all pond and lake water bodies in the development which exceeds fifty (50) percent of the area of required open space."]

- 3) Any restricted open space intended to be devoted to recreational activities shall be of a usable size and shape for the intended purposes. The maximum percentage of restricted open space that may be developed for active recreation areas, including a community center, shall be five (5) percent of the total project area. **[OPTION: The typical range is 5% to 25%.]**
 - a) Any area within the restricted open space that is disturbed during construction or otherwise not preserved in its natural state, other common areas such as required setback areas, and both sides of new streets shall be landscaped with vegetation that is compatible with the natural characteristics of the site.

- b) The restricted open space, including any recreational facilities proposed to be constructed in such space, shall be clearly shown on the general development plan.
- 4) Prohibition of Further Subdivision of Restricted Open Space. Restricted open space in a conservation development shall be prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the township's legal advisor and duly recorded in the office of the Recorder of Deeds of Summit County.
- 5) Ownership of Restricted Open Space. Subject to such permanent restriction as set forth above restricted open space in a conservation development may be owned by an association, the township, a land trust or other conservation organization recognized by the township, or by a similar entity, or may remain in private ownership.
 - a) *Offer of Dedication*. The township may, but shall not be required to, accept dedication in the form of fee simple ownership of the restricted open space.
 - b) *Associations*. Restricted open space may be held by the individual members of a Condominium Association as tenants-in-common or may be held in common ownership by a Homeowners' Association, Community Association, or other similar legal entity. The Township's legal advisor shall determine that, based on documents submitted with the development plan, the association's bylaws or code of regulations specify the following requirements:
 - (1) Membership in the Association shall be mandatory for all purchasers of lots in the development or units in the condominium.
 - (2) The Association shall be responsible for maintenance, control, and insurance of common areas, including the required open space.
 - (3) Transfer of Conservation Easements. With the permission of the township, the owner(s) of the restricted open space may, in accordance with the provisions of ORC 5301.67-70, grant a conservation easement to any of the entities listed in ORC 5301.68, provided that:
 - (a) The entity is acceptable to the township;
 - (b) The provisions of the conservation easement are acceptable to the township; and
 - (c) The conveyance contains appropriate provision for assignment of the conservation easement to another entity authorized to hold conservation easements under ORC 5301.68 in the event that the original grantee becomes unwilling or unable to ensure compliance with the provisions of the conservation easement.
 - c) *Private Ownership of Restricted Open Space*. Restricted open space may be retained in ownership by the applicant or may be transferred to other private parties subject to compliance with all standards and criteria for restricted open space herein.



G. DEVELOPMENT AND SITE PLANNING STANDARDS

Buildings, structures, pavement, and streets shall be located in compliance with the following development and site planning standards.

- 1) Ownership. Any ownership arrangement, including, but not limited to, fee simple lots and condominiums, is permitted in a conservation development. Regardless of the ownership of the land, the arrangement of the dwelling units shall comply with the spacing requirements of this section.
- 2) Lot Requirements
 - a) Principal buildings in a CD-PUD are not required to be on separate lots.
 - b) When lots are included as part of a conservation development, they shall be of sufficient size and shape to accommodate dwelling units in compliance with the spacing requirements of this section.
 - c) The applicant shall depict on the development plan the maximum parameters, or building envelopes, to indicate where buildings shall be located, and shall demonstrate that such building locations will be in compliance with the spacing requirements of this section.
- 3) Setbacks
 - a) *Perimeter Building Regulations*. The following perimeter setbacks shall apply to a CD-PUD. At the sole discretion of Zoning Commission, the minimum setback requirement may be reduced to allow more flexibility to conserve open space when:
 - a) natural features along the existing perimeter public street are substantial enough to provide adequate buffering between the units in the development and the road; or
 - b) when there are significant natural features located on the interior of the site and the Township's priorities dictate that it is more important to conserve those natural features than to maintain large building setbacks along the existing perimeter public road.
 - (1) The minimum perimeter setback from an existing public street shall be ...
[We suggest the Township adopt one or more of the following options]
 - Option 1:* ... (A dimension equivalent to the front yard setback in the standard Township single-family district zoning regulation).
 - Option 2:* ... Where a CD-PUD is adjacent to other existing housing development, the setback shall be equivalent to the front setback requirement for those adjacent lots outside the CD-PUD on the same side of the street. At the sole discretion of the Zoning Commission, the minimum setback requirement may mirror the setback for those adjacent lots directly across the street from the CD-PUD.

- Option 3:* ... Where a CD-PUD is not adjacent to other existing housing development, the minimum setback from an existing perimeter public street shall be equivalent to one hundred (100) feet from an existing state highway right-of-way, seventy (70) feet from an existing county road, or sixty (60) feet from a Township road.
- (2) The minimum perimeter setback for interior lots abutting the project boundary where there is no existing or proposed road shall be: ***[We suggest the Township adopt one or more of the following options]***
- Option 1:* ... (A dimension equivalent to the rear yard setback in the standard Township single-family district zoning regulation.)
- Option 2:* ... mirror the yard setback requirement of the adjoining district.
- Option 3:* ... fifty (50) feet with a twenty (20) foot buffer yard when adjacent to a similar use, and eighty (80) feet with a fifty (50) foot buffer yard when adjacent to an incompatible use.
- b) *Interior Building Setback/Spacing Regulations.* The buildable area for structures and streets on the interior of a CD-PUD shall be in compliance with the following development site planning standards:
- (1) *Interior Streets.* Interior streets which parallel a perimeter boundary shall be set back a minimum of twenty (20) feet from the boundary unless the Zoning Commission provides a modification pursuant to [Section 1.G.\(4\)](#) (Modification of Requirements).
- (2) *Front Yard Setback*
- (a) The minimum setback from a proposed local public right-of-way shall be thirty-five (35) feet.
- (b) The minimum setback from the edge of the pavement of a private street shall be twenty-five (25) feet.
- (c) *[Option for Consideration: Exception in a cul-de-sac which is not greater than two hundred (200) feet with no more than six (6) dwellings, the minimum building setback is fifteen (15) feet.⁴]*
- (d) In order to maximize rear yard areas when used for conservation easements, the Zoning Commission may reduce a front yard setback.
- (3) *Side Yard Setback.* [Select from a range of seven (7) to ten (10) feet, and/or one-half (1/2) the height of the tallest adjacent vertical wall as measured from the average grade of the vertical wall to the eave line.]

[Note: Where zero-lot line units are permitted in the PUD and are proposed for two adjacent lots, deed restrictions shall be required for

⁴ The Northfield Center Township Zoning Code has a 10 foot setback.

both lots requiring zero-lot line construction or a separation between buildings equivalent to the requirements for separation between buildings on the same lot, below.]

- (4) Separation of Buildings on the Same Lot. The minimum separation between dwellings shall be ... **[We suggest the Township adopt one or more of the following options⁵]**

Option 1: ... (A dimension equivalent to twice the minimum side setback in the standard Township single-family district zoning regulation.)

Option 2: ... the greater of **[Select from range of fifteen (15) to twenty (20)]** feet, or one-half ($\frac{1}{2}$) the height of the tallest adjacent vertical wall as measured from the average grade of the vertical wall to the eave line.

Option 3: ... the greater of **[Select from range of fifteen (15) to twenty (20)]** feet, or one-half ($\frac{1}{2}$) the height of the tallest adjacent vertical wall as measured from the average grade of the vertical wall to the eave line plus one (1) foot for each linear foot of the horizontal wall length (adjacent to the side property line) which exceeds fifty (50) feet.

Option 4: ... Spacing between buildings is based on the direction for the buildings: If side wall to side wall, spacing is **[Select from range of fifteen (15) to twenty-five (25)]** feet; If side wall to front/rear wall, spacing is **[Select from range of twenty-five (25) to forty (40)]** feet; If front/rear wall to front/rear wall, spacing is **[Select from range of forty (40) to eighty (80)]** feet.

Option 5: ... the minimum spacing between windows of living areas, patios, decks, and terraces is fifty (50) feet. The Zoning Commission may determine that less setback is needed if adequate landscaping and screening is provided to ensure privacy between units.

- c) *Height.* The maximum building height shall be ... **[We suggest the Township adopt one of the following options]**

Option 1: ... (A dimension equivalent to the height regulation in the standard Township single-family district zoning regulation.)

Option 2: ... 35 feet.

- 4) Modification of Requirements. The Zoning Commission may modify these standards based on sound planning and design principles, taking into account the degree of compatibility between adjoining uses, sensitivity to the characteristics for the site, the need for free access for emergency vehicles, the need for adequate amounts of light and air between buildings, and the need for proper amounts for open space.

⁵ Options 2 and 3 are quite growing in popularity in many municipalities to meet comfort and prosperity purposes; however they are not preferred by the Planning Commission. Option 3 is not preferred by the HBA.

H. DEVELOPMENT DESIGN CRITERIA

In addition to the development and site planning standards set forth in [Section 1.G](#), all elements of a conservation development, particularly the restricted open space areas, shall be designed in accordance with the following criteria to ensure that the project is appropriate for the site's natural, historic and cultural features and meets the objectives of this district.

- 1) Priority of Open Space Conservation **[NOTE: The Township Land Use Plan should contain a ranking of natural resource conservation priorities from highest to lowest priorities. This list determines which sites have value to the community and should be preserved in CD-PUD design. The following list is suggested by the CountrySide Program for use in planning, recognizing that this list needs to be ranked based on local priorities and some categories may not be applicable to each Summit County Township.]**
 - a) *Conservation of Sloping Land.* The road system and buildings should be located to minimize changes to the topography and the need for cutting and filling.
 - b) *Conservation of Woodlands, Vegetation and other Natural Areas.* The design and layout of the development should conserve, maintain, and incorporate existing wooded areas, meadows, and hedgerows and treelines between fields or meadows, especially those containing significant wildlife habitats.
 - c) *Conservation of Wildlife Habitats.* Wildlife habitat areas of species listed as endangered, threatened or of special concern by the U.S. Environmental Protection Agency and/or by the Ohio Department of Natural Resources should be protected.
 - d) *Conservation of Prime Farmland.* Farmland that satisfies the USDA definition of "prime" or "locally unique" farmland should be conserved.
 - e) *Conservation of Existing Scenic Vistas and Visual Quality of the Environment.* Buildings should be located to ensure that scenic views and vistas are unblocked or uninterrupted.
 - f) *Conservation of Cultural Resources.* Sites of historic, archaeological, or cultural value and their environs should be protected insofar as needed to safeguard the character of the feature, including stone walls, spring houses, barn foundations, underground fruit cellars, earth mounds and burial grounds.
- 2) General Street Design Criteria. Interior street paved surfaces in a PUD should be planned as the minimum necessary to provide adequate and safe movement through the development. Street alignments should follow natural contours and be designed to conserve natural features. The locations of streets should be planned to avoid excessive stormwater runoff and the need for storm sewers.
- 3) Pedestrian Circulation Systems. A pedestrian circulation system shall be included in the conservation development and shall be designed to ensure that pedestrians can walk safely and easily throughout the development.

- a) The pedestrian system shall provide connections between properties and activities or special features within the restricted open space system and need not always be located along streets.
 - b) Trails for which public right of passage has been established should be incorporated in the pedestrian circulation system.
- 4) Sewage Disposal. Development shall be served by individual or public sewage disposal structures consistent with the Summit County systems. Individual sewage disposal systems shall comply with all applicable regulations of the Summit County Combined General Health District and may be located within restricted open space areas when approved by the township and the Summit County Combined General Health District.

I. PROJECT REVIEW PROCEDURES

Under the authority established in ORC 519.021, the Zoning Commission shall review and approve development plans for a proposed conservation development according to the procedures set forth in this Section.

- 1) Submission Requirements for Preliminary Development Plan. The applicant shall submit a CD-PUD Development Plan application to the Township Zoning Inspector. Maps shall be drawn at an engineer scale not less than one (1) inch = one hundred (100) feet, except that projects over two hundred (200) acres may be drawn at a scale of one (1) inch = two hundred (200) feet. The application shall include documentation illustrating compliance with the standards and criteria set forth in this Article. The application and documentation shall include, but not necessarily be limited to:
 - a) Identification of existing site characteristics, including a general depiction of:
 - (1) Boundaries of the area proposed for development, dimensions and total acreage;
 - (2) Contour lines at vertical intervals of not more than five (5) feet, highlighting ridges, rock outcroppings and other significant topographical features.
 - (3) Location of wetlands (and potential wetlands), the floodway boundary and floodway elevation as delineated by the Federal Emergency Management Agency, rivers and streams and their related river or stream bank, ponds, and water courses;
 - (4) Existing soil classifications;
 - (5) Locations of all wooded areas, tree lines, hedgerows, and specimen trees;
 - (6) Delineation of existing drainage patterns on the property, existing wells and well sites;
 - (7) Description of significant existing vegetation by type of species, health, quality, etc.;
 - (8) Existing buildings, structures and other significant man-made features on the site and within two hundred (200) feet of the project boundary;

- (9) Description of all structures and areas of known or potential historical significance; and
 - (10) Existing viewsheds and identification of unique vistas.
- b) The proposed Preliminary Development Plan documentation and maps shall include:
- (1) A summary of the proposed development including the total acreage, number of residential units, type of dwellings, density by type of dwelling, and acreage of restricted open space to be conserved;
 - (2) A sketch layout of standard single family lots, if any;
 - (3) The location of the restricted open space and any proposed recreational facilities;
 - (4) Natural features to be conserved and any required buffer areas;
 - (5) Natural features to be altered or impacted by the development and areas where new landscaping will be installed, etc.;
 - (6) General location of public street rights-of-way; and
 - (7) Proposed utility easement locations.
 - (8) An outline of the method/structure to perpetually preserve the required restricted open space which indicates:
 - (a) The structure of the Association;
 - (b) Membership requirements;
 - (c) Financial responsibilities; and
 - (d) The relationship of the entity to public agencies having responsibilities related to the project.
 - (9) A description of the project phasing including the phased construction of open space improvements.
- 2) Review For Completeness. Within five (5) business days of receiving the application, the Zoning Inspector shall review the application to determine that the application includes all the items required in [Section 1.1.\(1\)](#) (Submission Requirements for Preliminary Development Plan) above. If the application is deemed complete and the application fee paid, the Zoning Inspector shall officially accept the application on that date.
- 3) Review of Development Plan by Others. The Township Zoning Inspector shall distribute the Preliminary Development Plan application to the following officials and agencies for review and comment within thirty (30) days from the date distributed against applicable standards and criteria of the reviewing agencies.

- a) Regulatory agencies which have statutory authority to subsequently review and approve any aspect of the development, including but not limited to the Summit County Planning Commission, the Summit County Combined General Health District, the Summit County Sanitary Engineer, the Summit County Water and Soil District, and the Ohio Environmental Protection Agency.
 - b) Other agencies which, at the discretion of the Township, may have appropriate technical expertise.
 - c) Appropriate local Township administrative officials, including the Township's legal advisor.
 - d) Consultants retained by the Township.
- 4) Site Visit. The Township Zoning Commission shall, together with the applicant and the applicant's consultant(s), visit the site to gain a thorough understanding of the characteristics of the site and evaluate the application against the design criteria in the CD-PUD regulations and the applicable standards and criteria of other reviewing agencies.
- 5) Review and Approval by Township. The Zoning Commission shall review the general development plan and the comments received from [Section 1.I.\(3\)](#) (Review of the Development Plan by Others) above.
- a) The Zoning Commission shall take action on the submitted general development plan by either:
 - (1) Approving the general development plan as submitted; or
 - (2) Approving the general development plan subject to specific conditions not included in the plan as submitted, such as, but not limited to, improvements to the general building layout or open space arrangement; or
 - (3) Denying approval of the general development plan.
 - b) Failure of the Zoning Commission to act within sixty (60) days from the date the application was determined complete, or an extended period as may be agreed upon, shall at the election of the applicant be deemed a denial of the general development plan.
- 6) Significance of Approved Plan. Approval of the general development plan shall:
- a) Establish the development framework for the project, including the general location of open space, development areas, densities, unit types, recreational facilities, and street alignments.
 - b) Be the basis for the application to proceed with detailed planning and engineering in reliance on the approved general development plan.
 - c) Provide the benchmark for the Zoning Commission to consider and approve amendments to the general development plan when the Township Zoning

Commission determines that the amended plan is equal to or better than the approved general development plan.

- d) Authorize the applicant to apply for all other required regulatory approvals for the project or subsequent phases thereof.

J. FINAL DEVELOPMENT PLAN

After a Preliminary Development Plan has been approved, an applicant shall submit for review and approval a final development plan. The final development plan may be submitted either for the entire project or for each construction phase.

- 1) Submission Requirements for Final Development Plan. The final development plan shall include:
 - a) A site plan drawn at a scale not less than one (1) inch = one hundred (100) feet indicating:
 - (1) Boundaries of the area proposed for development, accurate dimensions and total acreage;
 - (2) The exact location and dimension of private streets, common drives and public street rights-of-way;
 - (3) Exact location of building footprints or envelopes within which dwelling units are to be constructed, and lot lines with dimensions for all residential units for which individual ownership is proposed;
 - (4) Dimensions of building/unit spacing;
 - (5) The extent of environmental conservation and change and the exact location of all no cut/no disturb zones ; and
 - (6) Designated restricted open space areas and a description of proposed open space improvements.
 - b) A grading plan drawn at a scale of one (1) inch = one hundred (100) feet, showing all information pertaining to surface drainage.
 - c) A detailed landscaping plan for new landscaping, including entry features and signs.
 - d) The Declaration, Articles of Incorporation and either Bylaws (for a Condominium Association) or Code of Regulations (for a Homeowners' Association) and any other final covenants and restrictions and maintenance agreements to be imposed upon all the use of land and pertaining to the ownership, use, and maintenance of all common areas, including restricted open space.
 - e) Conditions imposed by other regulatory agencies.
- 2) Review For Completeness. Within five (5) business days of receiving the application, the Zoning Inspector shall review the application to determine that the application includes all the items required in [Section 1.J.\(1\)](#) (Submission Requirements for Final Development Plan) above. If the application is deemed complete and the application fee paid, the Zoning Inspector shall officially accept the application on that date.

- 3) Distribution of Final Development Plan. The Zoning Inspector shall distribute the Final Development Plan application to the Zoning Commission, the Township legal advisor, and other appropriate administrative departments or professional consultants for review and comment. Any reports, comments, or expert opinions shall be compiled by the Zoning Inspector and transmitted to the Zoning Commission prior to the time of the Commission's review.
- 4) Review by the Township Legal Advisor. The township's legal advisor shall review the Declaration, Articles of Incorporation and either Bylaws (for a Condominium Association) or Code of Regulations (for a Homeowners' Association) and any other final covenants and restrictions and maintenance agreements to be imposed upon the conservation development. A written legal opinion shall be provided to the Zoning Commission by the applicant certifying that the above demonstrate full compliance with the requirements of this Chapter and the Ohio Revised Code.
- 5) Review and Approval by Township. The Zoning Commission shall review the Final Development Plan and the comments received from [Section 1.J.\(3\)](#) (Distribution of Final Development Plan) and [Section 1.J.\(4\)](#) (Review by Township Legal Advisor) above.
 - a) The Zoning Commission shall determine if the final development plan is in compliance with the general development plan and take action on the submitted final development plan by either:
 - (1) Approving the final development plan as submitted; or
 - (2) Approving the final development plan subject to specific conditions not included in the plan as submitted, such as, but not limited to, improvements to the general building layout or open space arrangement; or
 - (3) Denying approval of the general development plan.
 - b) Failure of the Zoning Commission to act within (60 days) from the date the application was determined complete, or an extended period as may be agreed upon, shall at the election of the applicant be deemed a denial of the general development plan.



2. TDR - TRANSFER OF DEVELOPMENT RIGHTS DISTRICT

[Note: Since enabling language has not been enacted by the State of Ohio, it is not clear whether a statutory township may institute a transfer of development rights (TDR) program at this time. Several commentators have suggested that political jurisdictions with self-rule powers could establish a TDR Program, such as an intra-municipal TDR program, an inter-municipal TDR program, or a charter county TDR program, and that these regulations would most likely be upheld. The following sample text is suggested only for consideration and legal review. Much more community planning is required, including the targets for sending and receiving areas, the value of various identified sending areas, and maximum densities for various receiving areas.]

A. PURPOSE AND INTENT

It is the purpose and intent of this resolution to provide for the transfer of development rights (the maximum development that would be allowed on a parcel under its current zoning) from one property to another to promote the conservation of natural, agricultural, environmental, historical and cultural resources and encourage smart growth in appropriate areas. Further this resolution provides a means to achieve the visions and goals of the Township Comprehensive Land Use Plan.

B. APPLICABILITY OF REGULATIONS

The provisions of this resolution apply only to the [name of TDR planning area(s)], which is that portion of [name township] bordered to the west by [name boundary], to the south by [name boundary], and to the east by [name boundary], as illustrated on the attached map. Compliance with all other applicable Township resolutions, regulations and resolutions is required; however, when in conflict, the provisions of this resolution shall prevail.

C. TRANSFER OF DEVELOPMENT RIGHTS

The transfer of development rights is a method for permanently conserving and protecting land by transferring the rights to develop from one property (sending area) to another (receiving area).

D. SENDING AREA

Sending areas are those properties designated as priority conservation areas from which development rights may be transferred to a receiving area. Sending areas may be any properties in the **[name of priority conservation area(s)]** except those areas designated as receiving areas or as otherwise prohibited by this resolution. Additional sending areas may be designated through the amendment process as set forth in **[Section XXX]** (Zoning Amendment Procedure) of the Township Zoning Resolution.

E. RECEIVING AREA

Receiving areas are those properties which may receive development rights from a sending area. Receiving areas are those properties intended for **[type of priority development, typically mixed-use]**, specifically the **[name of receiving areas]** designated in the Township Comprehensive Land Use Plan. Additional receiving areas may be designated through the amendment process as set forth in **[Section XXX]** (Zoning Amendment Procedure) of the Township Zoning Resolution.

F. ELIGIBILITY

Landowners or representatives with the authority to transfer fee simple ownership of any parcel in the [name of TDR planning area(s)] (except as noted below) may apply for a Transfer of Development Rights Certificate. Parcels not eligible are as follows:

- 1) Any parcel from which all development rights have previously been sold or transferred;
- 2) Any parcel on which a conservation easement (legally binding agreement between a property owner and a governmental body or charitable organization⁶ qualified under ORC [name of provision] that restricts the type and amount of development and use that may take place on a property) or other permanent deed restriction has been previously granted;
- 3) Any parcel fully developed based on its existing zoning;
- 4) Any parcel or portion of a parcel that has been designated as open space (land on which no additional development associated with residential, industrial or commercial purposes is allowed, except in compliance with this resolution and other Township zoning and planning regulations) in a conventional or conservation subdivision;
- 5) Any publicly owned parcel; and
- 6) Any land within riparian buffers mandated by state or local law.

G. APPLICATION REQUIREMENTS FOR A TRANSFER OF DEVELOPMENT RIGHTS CERTIFICATE

An eligible landowner or authorized representative must provide the following:

- 1) Name, address and telephone number of applicant and applicant's agent, if any;
- 2) Proof of ownership of the sending property;
- 3) Metes and bounds written legal description and plat prepared within ninety (90) days of the date of application by a licensed surveyor;
- 4) Written description of the physical characteristics of the property;
- 5) Site plan which illustrates existing or proposed dwellings, historic structures, easements or other encumbrances; and
- 6) The processing fee as established by other resolution by the Township Board of Trustees.

⁶ A charitable corporation, charitable association, or charitable trust, the purposes or powers of which include: retaining or protecting the natural, scenic, or open-space values of real property; assuring the availability of real property for agricultural, forest, recreational, or open-space use; protecting natural resources; maintaining or enhancing air or water quality; or preserving the historical, architectural, archeological, or cultural aspects of real property.



H. CALCULATION OF THE RESIDENTIAL TRANSFER OF DEVELOPMENT RIGHTS

Within thirty (30) days of the receipt of a complete application for a Transfer of Development Rights Certificate, the Zoning Inspector shall certify the number of transferable development rights, assign serial numbers accordingly, and issue a Transfer of Development Rights Certificate.

- 1) The following formula shall be used to compute the amount of land that must be preserved in the Sending Areas to develop a Receiving Area above its required density limit:

Total number of proposed ⁷ residential units in the Receiving Area, minus the maximum density ⁸ allowed by the Zoning Code for the total acreage of the area to be developed = Transfer of Development Rights from the Sending Areas.

- 2) For each eligible gross acre of the sending area, one development right (TDR) will be issued. ⁹
- 3) The area of a parcel with fractional acreage will be calculated by rounding the total acreage down to the nearest whole number and issuing one TDR per acre.

Example: Suppose 100 acres are proposed to be developed at 17 units per acre for a total of (100 acres x 17 units per acre =) 1,700 units to be developed. If the existing Receiving Area zoning allows 3 units per acre to be developed for a total of (100 acres x 3 units per acre =) 300 acres, then the total number of acres to be preserved in the Sending Areas is (1,700 proposed units – 300 allowed units =) 1,400 TDRs. 1 TDR = 1 Acre. Therefore, 1,400 TDRs must be transferred to the Receiving Area resulting in the conservation of 1,400 acres of land in the Sending Area. ¹⁰

⁷ The Township may wish to consider placing a cap on the maximum density of the receiving area when using TDRs, taking into account traffic safety, congestion, and the cost of additional public services in developing such a cap. Density bonus incentives could be considered for historic preservation, brownfield development, or redevelopment of vacated big box sites.

⁸ The maximum density of the parcel allowed by the Zoning Code may be determined by simply dividing the gross size of the parcel by the minimum required lot size.

⁹ The township should develop a method for determination of the transfer of development rights as part of the Township Land Use Plan. This residential sample calculation assumes all acres of the Sending Area are equivalent and assigns a value of one acre of Sending Area per increase of one unit of development density in the Receiving Area. One option would be to assign the required area of land necessary to develop one dwelling unit in the Sending Area per increase of one dwelling unit over the development density permitted in the Receiving Area.

¹⁰ A commercial TDR calculation could be implemented as well. For instance, if a township places a limit on the permitted size of a commercial building in the Receiving Area, this could become the threshold for TDR acquisition. If a Township concern for maximum commercial building size is 50,000 s.f., then the difference in the size of the commercial building over the threshold size could be multiplied by a factor, such as 2% to calculate the number of TDRs to be transferred to the Receiving Area from the Sending Area. It has been suggested that the factor could be increased in tiers as the building size increases. Density bonus incentives

- I. **APPEAL OF CALCULATION**
Any landowner or authorized representative aggrieved by a final decision of the Zoning Inspector related to the certification of Transfer of Development Rights may appeal such final decision to the Board of Zoning Appeals by filing, in writing, setting forth plainly and fully why the calculation is in error. Such appeal shall be filed no later than thirty (30) days after the date of the Zoning Inspector's final decision.
- J. **APPROVAL OF TRANSFER OF DEVELOPMENT RIGHTS AND APPEAL PROCESS¹¹**
Any proposed transfer of development rights shall be subject to the approval of the Board of Trustees after an administrative hearing. A transfer of development rights shall be approved by the Board of Trustees if it meets the requirements of this resolution.
- K. **APPEAL OF TRANSFER DECISION**
Any appeal or other legal challenge to the Board of Trustees' final decision regarding a Transfer of Development Rights shall be pursued by petition for writ of certiorari filed with the Common Pleas Court of Summit County within thirty (30) days of the date of the Board of Trustee's decision.
- L. **RECORDATION OF TRANSFER OF DEVELOPMENT RIGHTS TRANSACTIONS (SENDING AREAS)**
- 1) **Deed of Transfer.** A Deed of Transfer shall be required to convey development rights from a sending parcel to a purchaser. The Deed shall be valid only if it is signed by the owner or authorized representative of the sending parcel, complies with all legal requirements for the transfer of real estate, contains provisions established by the Zoning Inspector and is recorded in the chain of title after the conservation easement is secured against the sending parcel.
 - a) A Deed of Transfer shall contain a metes and bounds written legal description and a plat prepare by a licensed surveyor, the names and addresses of the Grantor and the Grantee of the development rights, the serial numbers of the TDRs being conveyed along with a copy of the TDR certificate issued by the Zoning Inspector and proof of the execution and recordation of a conservation easement on the sending parcel.
 - b) **Conservation Easement.** To convey the certified development rights on a sending area, a conservation easement between the owner of the sending area and an organization authorized by the laws of the State of Ohio to accept, hold and administer conservation easements, pursuant to ORC [name of provision which discusses conservation easement process and requirements] must be signed and recorded with the Summit County Clerk, prior to the Deed of Transfer.

could be considered for historic preservation, brownfield development, or redevelopment of vacated big box sites.

¹¹ NOTE: In areas of the country where TDR is used, landowners are reportedly eager to implement and use a TDR program, but hesitate when they see the local government approval requirement of each and every TDR transaction. It is thought to make a TDR program more viable and efficient for the townships, landowners and developers, the Township should eliminate the local government approval requirement of each TDR transfer.

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Conservation easements established pursuant to this section may not be released or nullified by any party. The Zoning Inspector may develop a model conservation easement form and require it be used to fulfill the requirements of this section.

- c) Each conservation easement shall contain:
- (1) A metes and bounds written legal description and plat prepared by a licensed surveyor;
 - (2) Prohibitions against the use and development of the sending area property which are inconsistent with the terms of eligibility as required by the Township Land Use Plan and defined in [Section F](#) (Eligibility) above;
 - (3) Assurances that prohibitions will run with the land and bind the landowner and every successor in interest to include a statement that the easement shall survive any merger of the easement interest and the fee simple interest of the property;
 - (4) The serial numbers of the TDRs being transferred in the Deed of Transfer from the sending area property subject to the conservation easement; and
 - (5) A statement that nothing in the easement shall be construed to convey to the public a right of access or use of the property and that the owner of the property, his heirs, successors and assignees will retain exclusive right to such access or use subject to the terms of the easement.
 - (6) Sufficiency of Documents. Prior to the recordation of the Deed of Transfer and the conservation easement, parties to the transaction must obtain an opinion from a licensed Ohio attorney that the Deed and easement have been executed by all necessary parties and is perpetual and binding on the property owner and every successor in interest. A copy of this document shall be provided to the Township.
 - (7) Re-issuance of TDR Certificates. In the event of the transfer of fewer than all of a landowner's development rights, the landowner must return the original TDR certificate to the Zoning Inspector upon the recordation of the conservation easement and Deed of Transfer. The landowner must provide a copy of the Deed of Transfer that contains the serial numbers of the development rights transferred.
 - (8) Within ninety-five (95) days of the receipt of the complete TDR certificate, the Zoning Inspector shall reissue a certificate to the landowner reflecting the remaining TDRs and the corresponding serial numbers.

M. RECORDATION OF TRANSFER OF DEVELOPMENT RIGHTS TRANSACTIONS (RECEIVING AREAS)

The following information shall be recorded on the face of any plat for property which receives development rights under the provisions of this Resolution:



- 1) A statement that the development rights used in the plat have been transferred in accordance with the Deed of Transfer, prescribed above.
- 2) The serial numbers of the TDRs conveyed along with a copy of the TDR certificate issued by the Zoning Inspector.

N. TRANSFER OF DEVELOPMENT RIGHTS BANK

Subsequent to the adoption of this resolution, the Township may create a Transfer of Development Rights Bank (“the Bank”) to encourage the exchange of development rights in the private market and encourage the preservation of land. The Bank will facilitate the exchange by purchasing and selling development rights. Also for the purposes of conserving land, the Bank may hold TDRs for any length of time to include in perpetuity.

O. ORGANIZATION OF THE BANK

- 1) The Bank shall be directed and managed by a Bank Board.
 - a) The Bank Board shall consist of five (5) members who shall be residents of the Township, nominated by the Zoning Commission and appointed by the Township Board of Trustees. Specifically, one member shall be experienced in the banking or financial industry, one member shall be a private landowner in the TDR Planning area, one member shall be experienced in the legal industry, one member shall represent a conservation organization, and one member shall be a representative from the real estate development industry. If a candidate meeting the requirements for member cannot be found within the Township, the member may be a resident of Summit County.
 - b) The terms of office for the Bank Board members shall be four (4) years and staggered.
 - c) Three (3) members shall constitute a quorum. A majority vote shall be required for any action before the Bank Board.
 - d) The Bank Board may adopt procedural and substantive rules to govern its powers, duties and functions. Staff support shall be provided by the Zoning Inspector.
- 2) Empowerments. The Bank Board shall be empowered to:
 - a) Enter into agreements for professional services (e.g. consulting, appraising, accounting) subject to available funding;
 - b) Apply for and accept grants or loans for the Bank Board's authorized purposes;
 - c) Purchase, receive, sell or hold TDRs;
 - d) Purchase properties in fee simple to preserve them through conservation easements and resell the restricted properties at fair market value; and



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- e) Do all other things necessary to carry out the functions and operations of the Bank.
- 3) Authority and Compensation. The members of the Bank Board shall receive no compensation from the Bank except reimbursement for expenses incurred for the performance of their duties as Board members.
- 4) Registry of TDRs. For the purposes of tracking and marketing transfer of development rights, a central registry of available Transfer of Development Rights Certificates shall be established by the Bank or the Zoning Inspector in the event the Bank is not established.
- 5) Acquisition Priorities. The following priorities shall be considered by the Bank Board for purchasing TDRs:¹²
 - a) Properties adjacent to the Receiving Areas;
 - b) Properties that border the any water features, including wetlands;
 - c) Development pressures on the land;
 - d) Price of the development rights;
 - e) Pre-existing perpetual restrictions against development;
 - f) Proximity to other properties with easement restrictions for the purpose of creating large, contiguous tracts of conserved land;
 - g) Environmental assessments; and
 - h) Other factors of public interest determined by the Bank Board.
- 6) Purchase, Sale and Value of TDRs. To determine purchase and/or sales price of development rights, the Bank Board may negotiate, use a competitive bid process, or any other method deemed fair and equitable by the Bank Board.
 - a) Purchase and sale prices must be supported by an appraisal paid for by the Bank Board.
 - b) Any eligible landowner may approach the Bank Board with an offer to sell TDRs. The Bank Board shall have sixty (60) days to consider and respond to such offers.
 - c) Landowners shall follow the procedures and requirements for certification of TDRs as prescribed by this resolution.
 - d) All transactions through the Bank Board must follow the recordation requirements prescribed by this resolution.

¹² The acquisition priorities can be prioritized by the township if desired.



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- e) The Bank Board may, as a preservation measure, acquire fee simple interest in sending area parcels on a competitive basis in the open market. The intent of a purchase is to place a perpetual conservation easement on a property and then resell the restricted parcel for fair market value.
 - f) Purchase and resale of sending area parcels is limited to those parcels where development pressures or the prospects of a change of the use of the property are high and/or whose location and/or quality are such that the property's preservation is important to the continued viability of the TDR planning area.
- 7) Right of First Refusal. The Bank Board shall have the authority to enter into Right of First Refusal Agreements with sending area landowners for the purchase of either TDRs or property in fee simple.
- a) The Right of First Refusal Agreement is an instrument that is recorded in the chain of title for the subject property, and is to be effective concurrent with the ownership of the signer(s) of the agreement and to be renewed by immediate family members who may become successive owners.
 - b) In the event that all or a portion of the TDRs or property may be sold to someone other than an immediate family member or developed or subdivided, notification by the landowner to the Bank Board shall be required.
 - c) Within 90 days of notification, the Bank Board may exercise the right of first refusal by acquiring either the development rights or the property in fee simple at a price which is equal to any bona fide offer which has been tendered to the landowner or the appraised fair market value, if an offer has not been tendered, plus \$1.00.



3. RIPARIAN OVERLAY DISTRICT

[Note: The Summit County Natural Resource Study, (Davey Resource Group, May 2003) mapped two types of Riparian protection areas in Summit County on “Map 9: Riparian Corridor” in GIS format. The map first recognized the boundaries of the riparian corridor setback provisions established by Summit County (Ordinance 2002-154). Sample regulations which are based on this ordinance are suggested in the supplemental regulation section of this document. The map also identified additional riparian corridor areas not protected by the setback ordinance that need additional limitations on development. This map layer has been prepared for each Township to incorporate in their Zoning Map upon the establishment of a Riparian Overlay District]

A. PURPOSE

The purpose of this regulation is to promote the public health, safety, convenience, comfort, prosperity, and general welfare and to preserve and enhance the important hydrologic, biological, ecological, aesthetic, recreational, and educational functions that stream corridors, associated riparian areas, and wetlands provide, as well as to lessen flood damage to persons and property and reduce public expenditures for flood relief and flood control projects. The specific purpose and intent of the Riparian Corridor Overlay District is to implement provisions of point and non-point pollution and ecological studies of riparian systems in Summit County as contained in the Summit County Natural Resources Study (May 2003). As an overlay zone, this zoning district imposes additional development standards for new construction and land use beyond those of the underlying zoning district as well as the Riparian Corridor Setback requirement contained in [Section 1](#) of the Supplemental Regulations of this Code.

B. EXEMPT LAND USES

The following land uses are exempt from the terms and protection of the Riparian Overlay District.

- 1) Drainage ditches constructed along roadsides through upland areas, excluding captured streams and ditches constructed through wetlands. (See ODOT Technical Guidance Letter TG-Eco-11-02 for a full discussion.)
- 2) Drainage ditches created at the time of a subdivision to convey stormwater to another system.
- 3) Drainage tile systems.
- 4) Grassy swales constructed in non-wetland areas.
- 5) Stream culverts.

C. PERMITTED AND CONDITIONALLY PERMITTED LAND USES

- 1) Permitted and conditionally permitted uses include all permitted and conditionally permitted uses defined in the underlying zoning district(s) unless expressly regulated in this Riparian Overlay District.

- 2) All new construction within the Riparian Overlay District shall be considered a conditional use.

D. PROHIBITED USES

The following land uses are expressly prohibited in the Riparian Overlay District:

- 1) Asphalt plants.
- 2) Car washes and other auto-related uses.
- 3) Dredging or Dumping.
- 4) Dry cleaners.
- 5) Gasoline service stations.
- 6) Junk yards.
- 7) Landfills or transfer stations.
- 8) New Surface and/or Subsurface Sewage Disposal or Treatment Areas.
- 9) Parking Lots.
- 10) Pesticide, herbicide, and fertilizer applications for any purpose.
- 11) Petroleum and gas wells, storage, sales and distribution.
- 12) Quarries and borrow pits.
- 13) Recycling facilities.
- 14) Road maintenance facilities.
- 15) Road salt storage.
- 16) Sand and gravel extraction.
- 17) Storage or discharge of hazardous materials and chemicals.
- 18) Transportation facilities.
- 19) Underground storage tanks.

E. STANDARDS AND REGULATIONS

- 1) Site Plan Required. All applications for development within the Riparian Zoning Overlay District shall require Site Plan review.¹³
- 2) Setbacks. No filling, grading, or other construction activities shall occur within the following areas:
 - a) A riparian corridor setback pursuant to [Supplemental Regulations, Section 1](#) (Riparian Corridor Setback Requirements).
 - b) A required setback from a wetland setback pursuant to [Supplemental Regulations, Section 2](#) (Wetland Setback).
 - c) A required setback from an extreme steep slope area pursuant to [Supplemental Regulations, Section 4.B.1](#) (Extreme Steep Slope Areas).
- 3) Impervious Surface. Impervious surfaces shall not exceed a ten (10) percent coverage ratio in underlying residential districts with a density lower than one-half (½) acre per unit

¹³ Note: Ensure the Site Plan requirements in the Township Zoning Resolution list development in the Riparian Overlay District as a trigger for Site Plan review.

and a thirty (30) percent coverage ratio in underlying higher density residential districts, commercial districts, and industrial districts.

- 4) Low Impact Development. In order to minimize the impact of development and impervious surfaces on the local watershed and control of sediment pollution of water resources, new development and related soil disturbance within the Riparian Overlay District shall adhere to low impact development (LID) practices pursuant to [Supplemental Regulations, Section 6](#) (Low Impact Development). These regulations do not preclude the use of innovation or experimental storm water management technologies.
- 5) Vegetation
 - a) Existing landscaping or natural vegetation that is in satisfactory condition should be retained whenever possible within the Riparian Overlay District. On slopes greater than twelve (12) percent, no more than thirty (30) percent of the slope may be cleared.
 - b) Allowing natural ecological succession to occur is encouraged.
 - c) *Trees*. All existing trees with a trunk diameter of eighteen (18) inches or more shall be retained and protected as follows from harm, unless it is determined by the Zoning Commission that the retention of such trees would unreasonably burden the development or unreasonably limit reasonable use of the site.
 - (1) No excavation or other subsurface disturbance may be undertaken within the drip line of any such tree.
 - (2) No impervious surface (including, but not limited to, paving or buildings) may be located within twelve and one-half (12-½) feet from the center of the trunk of any such tree.
- 6) Grading. To the maximum extent practicable, all development shall conform to the natural contours of the land, and natural and preexisting man-made drainage ways shall remain undisturbed.
- 7) Stormwater. New construction shall adhere to best management practices (BMP's) to satisfy the conditions of these regulations and meeting the standards and specifications in the current edition of the State of Ohio's *Rain Water and Land Development* manual. The plans must make use of practices which preserve the existing natural condition to the maximum extent practicable (MEP). Any disturbance to the soil equal or greater than one (1) acre shall require preparation and approval of a Stormwater Pollution Prevention Plan (SWP3) by the Summit County SWCD. Any costs associated with review of the SWP3 may be assessed to the applicant.
- 8) Sewage Disposal. No on-site sewage disposal systems shall be allowed on any slope exceeding twenty (20) percent.



F. RIPARIAN OVERLAY MAPPING

The riparian corridor Overlay District includes all floodplains, steep slopes and wetlands adjacent to streams or within the floodplains. The Overlay was delineated based on aerial photographs, topographic maps, and mapped water features. The top of the valley slope has been used as the riparian boundary in areas with well-defined topography. All small tributaries mapped as streams or unmapped with obvious, well-defined valleys were included in the Riparian Overlay District. The Zoning Map has been field checked using GIS coordinates where possible; however:

- 1) It shall be used as a reference document and the information contained therein shall be believed to be accurate.
- 2) It shall be a guide only.
- 3) Nothing herein shall prevent the Township from amending the Riparian Overlay Map from time to time as may be necessary or granting a variance where the effect of the Overlay provisions totally restricts the use of an applicant's property.



SUPPLEMENTAL ZONING REGULATIONS FOR NATURAL RESOURCE PROTECTION

The following six sample natural resource supplemental regulations are proposed for Summit County Townships to consider as natural resource tools to protect natural resources at the local level. The first set of regulations is based on the current Summit County Riparian Setback Ordinance with suggested updates given in the footnotes for Townships to consider. It also contains recommended updates to the County riparian setback ordinance for Townships to consider. Townships that have not yet adopted the Summit County Riparian Setback are encouraged to do so. The second provides recommendations for the conservation of wetlands. The third is a sample groundwater protection ordinance and is based on the EPA and Health Department wellhead protection regulations. The fourth is a sample steep slope conservation regulation. The fifth is a sample soil and sediment erosion regulation. The sixth is a sample low impact development regulation.

1. RIPARIAN CORRIDOR SETBACK REQUIREMENTS ¹⁴

A. PUBLIC PURPOSE

- 1) Summit County adopted a Countywide Riparian Ordinance (Ord. No. 2002-154; effective May 29, 2002 as amended Ord. 2004-133; effective April 14, 2004). The purpose of _____ Township adopting this model into the Township Zoning Resolution is to maintain local control over consideration of variance requests. This will benefit the Township to be able to consider varying certain setback requirements, as a way for affected landowners to comply with the new Countywide Riparian Ordinance. It is in the best interest of the Township to allow flexibility in the implementation of the new Countywide Riparian Ordinance, and to reduce the need for variance requests from the specific provisions of this Chapter, and thereby promote environmental quality.
- 2) Since it is hereby determined that the system of streams within the Township contribute to the health, safety and general welfare of the residents of the Township. The purpose of these Riparian Setback Development Standards is to protect and preserve the water quality within streams of the Township and to protect residents of the Township from property loss and damage because of flooding and other impacts of the stream. These regulations shall control uses and development within a Riparian Setback that would impair the ability of the riparian area to:
 - a) Reduce flood impacts by absorbing peak flows, slowing the velocity of floodwaters and regulating base flow.
 - b) Stabilize the banks of streams to reduce bank erosion and the downstream transport of sediments eroded from stream banks.
 - c) Reduce pollutants in streams during periods of high flows by filtering, settling and transforming pollutants already present in streams.

¹⁴ This is the Summit County Riparian Setback Ordinance, as amended March 15, 2004.

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- d) Reduce pollutants in streams during periods of high flows by filtering, settling and transforming pollutants in runoff before they enter streams.
 - e) Provide areas for natural meandering and lateral movement of stream channels.
 - f) Reduce the presence of aquatic nuisance species to maintain diverse and connected riparian vegetation.
 - g) Provide high quality stream habitats with shade and food to a wide array of wildlife by maintaining diverse and connected riparian vegetation.
 - h) Benefit the Township economically by minimizing encroachment on stream channels and reducing the need for costly engineering solutions such as dams and riprap, to protect structures and reduce property damage and threats to the safety of watershed residents, and by contributing to the scenic beauty and to the environment of the Township, the quality of life of the residents of the Township and corresponding property values.
 - i) Protect the health, safety, and welfare of the citizens of the Township.
- 3) This Chapter has been adopted to protect these services of riparian areas by providing reasonable controls governing structures and uses in Riparian Setbacks.

B. COMPLIANCE, AND VIOLATIONS

- 1) No zoning approvals shall be issued by the Township without full compliance with the terms of these provisions.
- 2) In addition to the enforcement powers of the Township to enforce the provisions of this Zoning Resolution, these requirements may be enforced through civil or criminal proceedings brought by the County of Summit Prosecutor on behalf of the County of Summit.

C. ESTABLISHMENT OF A RIPARIAN SETBACK

- 1) Riparian Setbacks are established as provided in this Chapter.
- 2) Streams addressed by these regulations are those which meet the definition of “stream” in the [Appendix](#) (Definitions) and are indicated on at least one of the following maps:
 - a) USGS topographical map
 - b) Summit County Riparian Setback map
 - c) Soils maps located in the Soil Survey for Summit County, Ohio, USDA, NRCS
- 3) Widths of setbacks are measured as horizontal map distance outward from the ordinary high water mark on each side of a stream, and are established as follows:
 - a) A minimum of three hundred (300) feet on each side of all streams draining an area greater than three hundred (300) square miles.



Natural Resource Zoning Samples for Townships RIPARIAN CORRIDOR SETBACK REQUIREMENTS

- b) A minimum of one hundred (100) feet ¹⁵ on each side of all streams draining an area greater than twenty (20) square miles and up to three hundred (300) square miles.
 - c) A minimum of seventy-five (75) feet on each side of all streams draining an area greater than five one-half (0.5) square mile (320 acres) and up to twenty (20) square miles.
 - d) A minimum of fifty (50) feet on each side of all streams draining an area greater than five-hundredths (0.05) square mile (32 acres) and up to one-half (0.5) square mile (320 acres).
 - e) A minimum of thirty (30) feet on each side of all streams draining an area less than five-hundredths (0.05) square mile (32 acres).
- 4) The following are exempt from the terms and protection of this chapter:
- a) Grassy swales; ¹⁶
 - b) Roadside ditches; ¹⁷
 - c) Drainage ditches created at the time of a subdivision to convey stormwater to another system;
 - d) Tile drainage systems; and
 - e) Stream culverts.
- 5) The following shall apply to the Riparian Setback:
- a) Where the hundred-year floodplain is wider than the Riparian Setback on either or both sides of the stream, the Riparian Setback shall be extended to the outer edge of the hundred-year floodplain. The hundred-year floodplain shall be defined by FEMA and approved by the County of Summit Department of Building Standards. ¹⁸
 - b) Because the gradient of the riparian corridor significantly influences impacts on the stream, the following adjustment for steep slopes will be integrated into the Riparian Setback formulae for width determination:

¹⁵ *Option:* 120 feet recommended by EnviroScience, Inc.

¹⁶ *Option:* "Grassy swales in non-wetland areas" recommended by EnviroScience, Inc.

¹⁷ *Option:* "Drainage ditches constructed along roadsides through upland areas, excluding captured streams and ditches constructed through wetlands (See ODOT Technical Guidance Letter TG-Eco-11-02 for a full discussion)" recommended by EnviroScience, Inc.

¹⁸ *Option:* If a FEMA defined floodplain does not exist for a designated watercourse, the Township may require site-specific floodplain delineation in conformance with standard engineering practices and approved by the Township. Any costs associated with reviewing this site-specific floodplain delineation may be assessed to the applicant.

**Natural Resource Zoning Samples for Townships
RIPARIAN CORRIDOR SETBACK REQUIREMENTS**

Average Percent Slope	Width of Setback
15% ¹⁹ through 20%	Add 25 feet
Greater than 20% through 25%	Add 50 feet
Greater than 25%	Add 100 feet

- (1) Average percent slope of the streambank is to be calculated for the area within the Riparian Setback and is to be measured as a line perpendicular to the stream channel at the location where structures or uses are proposed in the plan.
 - (2) All of the following measurements are to be performed using County of Summit Geographical Information System data (1994, 2000).
 - (3) Calculate slope as follows: The change in elevation from the edge of the stream channel to edge of Riparian Setback, *divided by* the horizontal map distance from the edge of the stream channel to the edge of the Riparian Setback.
- c) Where wetlands protected under federal or state law are identified within the Riparian Setback, the Riparian Setback shall consist of the full extent of the wetlands plus the following additional setback widths:
- (1) A fifty (50) foot setback extending beyond the outer boundary of a Category 3 wetlands.²⁰
 - (2) A thirty (30) foot setback extending beyond the outer boundary of a Category 2 wetlands.²¹
 - (3) No additional setback will be required adjacent to Category 1 wetlands
- d) Wetlands shall be delineated by a qualified professional under guidelines established by the U.S. Army Corps of Engineers and Ohio Environmental Protection Agency and the delineation approved by the appropriate agencies. All wetland delineations shall also include the latest version of the Ohio Rapid Assessment Method for wetland evaluation approved at the time of application of the regulations.
- e) The applicant shall be responsible for delineating the Riparian Setback, including any expansions or modifications as required by [subsections 2\), 3\), and 4\)](#) of this section, and identifying this setback on all subdivisions, site plans, and/or zoning permit applications. This delineation shall be done at the time of application of the preliminary plans, or all plans that are required, or at the time of submission of any permit applications. This delineation shall be subject to review and approval by the Summit SWCD. As the result of this review, the Summit SWCD may require further studies from the applicant.

¹⁹ Option: 12% recommended by EnviroScience, Inc.
²⁰ Option: 120 feet recommended by EnviroScience, Inc.
²¹ Option: 75 feet recommended by EnviroScience, Inc.



Natural Resource Zoning Samples for Townships RIPARIAN CORRIDOR SETBACK REQUIREMENTS

- f) Prior to any soil disturbing activity, the Riparian Setback shall be clearly delineated with construction fencing or other suitable material by the applicant on site, and such delineation shall be maintained throughout the soil-disturbing activities. The delineated area shall be maintained in an undisturbed state unless otherwise permitted by these regulations. All fencing shall be removed when a development project is completed.
- g) No approvals or permits shall be issued by the Township prior to delineation of the Riparian Setback in conformance with these regulations.
- h) Upon completion of an approved subdivision, the Riparian Setback shall be permanently recorded on the plat records for the County of Summit.

D. USES PERMITTED IN THE RIPARIAN SETBACK

- 1) The following uses are permitted by right within the Riparian Setbacks without prior approval. Open space uses that are passive in character shall be permitted in the Riparian Setback including, but not limited to, those listed in paragraphs a) through d) of this section. No use permitted under these regulations shall be construed as allowing trespass on privately held lands. Alteration of this natural area is strictly limited. Except as otherwise provided in these regulations, the Riparian Setback shall be preserved in its natural state.
 - a) *Recreational Activity.* Passive recreational uses, as permitted by federal, state, and local laws, such as hiking, non-motorized bicycling, fishing, hunting, picnicking and similar uses and associated structures including boardwalks, pathways constructed of pervious material, picnic tables, and wildlife viewing areas.
 - b) *Removal of Damaged or Diseased Trees.* Damaged or diseased trees may be removed. Because of the potential for felled logs and branches to damage downstream properties and/or block ditches or otherwise exacerbate flooding, logs and branches resulting from the removal of damaged or diseased trees that are greater than six (6) inches in diameter, shall be anchored to the shore or removed from the hundred-year floodplain.
 - c) *Revegetation and/or Reforestation.* The revegetation and/or reforestation of the Riparian Setback shall be allowed without approval of the Summit SWCD. Species of shrubs and vines recommended for stabilizing flood prone areas along streams within the County of Summit are listed in [Section L](#) (Woody Plants Suitable for Riparian Areas).
 - d) The County of Summit Engineer maintains the right of access to all streams within the County of Summit for the purposes outlined in ORC Sections 6131.01 to 6131.64, 6133.01 to 6133.15, 6135.01 to 6135.27, and 6137.05.1.
- 2) The following uses are permitted by right within the Riparian Setbacks with prior approval of the design.



Natural Resource Zoning Samples for Townships RIPARIAN CORRIDOR SETBACK REQUIREMENTS

- a) **Stream bank Stabilization/Erosion Control Measures.** Best Management Practices (BMP's) for stream bank stabilization or erosion control may be allowed if such practices are within permitted uses by the local, state, and federal government regulations and are ecologically compatible and emphasize the use of natural materials and native plant species where practical and available. Such stream bank stabilization/ erosion control practices shall only be undertaken upon approval of a Stormwater Pollution Prevention Plan (SWPPP or SW3P) by the Summit SWCD.

- b) **Crossings.** In reviewing plans for stream crossings, the Township may confer with the Summit SWCD, the Ohio Department of Natural Resources, Division of Natural Areas; the Ohio Environmental Protection Agency, Division of Surface Water; the County of Summit Engineer; the Department of Environmental Services of Summit County; the Summit County Health Department; or other technical experts as necessary.
 - (1) Limited crossings of designated streams through the Riparian Setback by vehicles, storm sewers, sewer and / or water lines, and public utility lines will be per the approval of local, county, and state governing agencies and as a part of the regular subdivision review process.
 - (2) One (1) driveway crossing per stream per tax parcel will be allowed for individual landowners.
 - (3) Roadway crossings for major and minor subdivisions, open space subdivisions, or any other non-single family residential use shall be designed and constructed per the County of Summit Engineer's design standards and as approved by the Summit County Planning Commission and approving township. If more than two (2) crossings per one thousand (1,000) linear feet of stream center are required for these areas, the applicant must apply for a variance.
 - (4) All roadway crossings shall be perpendicular to the stream flow and shall minimize disturbance to the Riparian Setback and shall mitigate any necessary disturbances.

- c) Placement of stormwater retention or detention facilities may be considered within the Riparian Setback if:
 - (1) Stormwater quality treatment that is consistent with current state standards is incorporated into the basin.
 - (2) The stormwater quality treatment basin is located at least fifty (50) feet from the ordinary high water mark of the stream.



E. USES PROHIBITED IN THE RIPARIAN SETBACK

The following uses are specifically prohibited within the Riparian Setback:

- 1) Construction. There shall be no structures of any kind, except as permitted under these regulations.
- 2) Dredging or Dumping. There shall be no drilling for petroleum or mineral products, mining activity, filling or dredging of soil, spoils, or any material—natural or man-made—except as permitted under these regulations.
- 3) Roads or Driveways. There shall be no roads or driveways, except as permitted under these regulations.
- 4) Motorized Vehicles. There shall be no use of motorized vehicles of any kind, except as permitted under these regulations.
- 5) Modification of Natural Vegetation. Modification of the natural vegetation shall be limited to conservation maintenance that the landowner deems necessary to control noxious weeds; for such plantings as are consistent with these regulations; for such disturbances as are approved under these regulations; and for the passive enjoyment, access and maintenance of landscaping or lawns existing at the time of passage of these regulations.

Nothing in this section shall be construed as requiring a landowner to plant or undertake any other activities in the Riparian Setback provided the landowner allows for natural succession.

- F. **Parking Lots**. There shall be no parking lots or other human made impervious cover, except as permitted under these regulations.
- G. **New surface and/or subsurface sewage disposal or treatment area**. Riparian Setbacks shall not be used for the disposal or treatment of sewage except for:
- 1) Undeveloped parcels that have received site evaluation approval and / or permit approval prior to May 29, 2002.²²
 - 2) Dwellings served by disposal / treatment systems existing on May 29, 2002,²³ when such systems are properly sited (approved site evaluation) and permitted or in accordance with the Summit County Health Department and / or the Ohio Environmental Protection Agency. Existing failing systems which are located within the Riparian Setback can be upgraded with approval of the Summit County Health Department and / or the Ohio Environmental Protection Agency.

H. NON-CONFORMING STRUCTURES OR USES IN THE RIPARIAN SETBACK

²² The date the County Riparian Setback Ordinance went into effect.
²³ The date the County Riparian Setback Ordinance went into effect.

Natural Resource Zoning Samples for Townships RIPARIAN CORRIDOR SETBACK REQUIREMENTS

- 1) Structures and uses within the Riparian Setback, existing on May 29, 2002,²⁴ that are not permitted under these regulations may be continued but shall not be expanded except as set forth below.
- 2) If damaged or destroyed, these structures or uses may be repaired or restored within two years from the date of damage /destruction, at the property owners own risk.
- 3) A residential structure or use within the Riparian Setback existing on May 29, 2002,²⁵ may be expanded subject to the following provisions:
 - a) The expansion conforms to existing zoning regulations.
 - b) The expansion must not impact the stream channel or the hundred-year flood plain.
 - c) The expansion must not exceed an area of fifteen (15) percent of the footprint of existing structure or use that lies within the Riparian Setback. Expansions exceeding fifteen (15) percent of the total footprint within the Riparian Setback must be obtained through a variance from the Board of Zoning Appeals.
- 4) Non-residential structure or use expansions will be permitted only through a variance from the Board of Zoning Appeals.

I. BOUNDARY INTERPRETATION AND APPEALS PROCEDURE

- 1) When an applicant disputes the boundary of the Riparian Setback or the ordinary high water mark of a stream, the applicant shall submit evidence to the Summit SWCD, with a copy to the Township Zoning Inspector that describes the boundary, presents the applicant's proposed boundary and presents all justification for the proposed boundary change.
- 2) The Summit SWCD shall evaluate all materials submitted and shall make a written recommendation to the Township Board of Zoning Appeals within a reasonable period of time not to exceed sixty (60) days. A copy of this recommendation shall be submitted to the applicant. If during this evaluation the Summit SWCD requires further information to complete this evaluation, the applicant may be required to provide additional information.
- 3) The Township Board of Zoning Appeals shall decide such boundary disputes. The party contesting the location of the Riparian Setback or the ordinary high water mark of the streams as determined by these regulations shall have the burden of proof in case of any such appeal.

J. VARIANCES WITHIN RIPARIAN SETBACK

Applications for variances to the provisions of this Chapter shall be submitted to the Township Board of Zoning Appeals.

²⁴ The date the County Riparian Setback Ordinance went into effect.
²⁵ The date the County Riparian Setback Ordinance went into effect.



Natural Resource Zoning Samples for Townships RIPARIAN CORRIDOR SETBACK REQUIREMENTS

- 1) The Township Board of Zoning Appeals shall consult with representatives from the Summit SWCD; the Ohio Department of Natural Resources, Division of Natural Areas; the Ohio Environmental Protection Agency, Division of Surface Water; the County of Summit Engineer; the Department of Environmental Services of Summit County; the Summit County Health Department; or other technical experts as necessary to consider variance requests.
- 2) Expansions of residential structures or uses exceeding fifteen (15) percent of the footprint area and expansions of all non-residential structures or uses are subject to the following provisions:
 - a) The expansion conforms to the existing zoning regulations.
 - b) The expansion must not impact the stream channel or the hundred-year floodplain.
 - c) The expansion of a non-residential structure or use must not affect upstream or downstream hydrologic conditions which could cause damage from flooding or streambank erosion to landowners in those areas. A hydrologic study must be completed by non-residential applicants only as a process of the variance application.
 - d) The expansion of a non-residential structure or use will not exceed twenty-five (25) percent of the footprint area. The twenty-five (25) percent expansion limit is per the portion of the structure or use that lies within the Riparian Setback.
- 3) Requests for variances for subdivisions will be considered for the following:
 - a) An additional stream crossing or crossings for a subdivision or open space development which is necessary for the health, welfare, and safety of the residents of the subdivision.
 - b) A reduction of the setback width, not to exceed ten (10) percent of the prescribed Riparian Setback width.
- 4) No variances shall be granted for expansion of the following structures or uses:
 - a) Facilities which use, store, distribute, or sell petroleum-based products or any hazardous materials. Such facilities include, but are not limited to: asphalt plants, dry cleaners, gasoline service stations, and road maintenance facilities.
 - b) Facilities which use, store, distribute, or sell products which may contribute higher than acceptable concentrations of dissolved or particulate matter to stormwater runoff around the facility. Such facilities include, but are not limited to: landfills or transfer stations, junk yards, recycling facilities, quarries and borrow pits, sand and gravel extraction operations, and road salt storage barns.
- 5) In reviewing whether to grant variances, the Township Board of Zoning Appeals shall consider the following:



**Natural Resource Zoning Samples for Townships
 RIPARIAN CORRIDOR SETBACK REQUIREMENTS**

- a) The extent to which the requested variance impairs the functions of the riparian area. This determination shall be based on sufficient technical and scientific evidence as provided by the applicant and the agencies listed in [Sections J.1\) through J.4\)](#) above.
- b) The soil type and natural vegetation of the parcel as well as the percentage of the parcel that is in the hundred-year floodplain.
- c) The degree of hardship these regulations place on the applicant and the availability of alternatives to the proposed activity.
- d) Whether a front, side or rear yard setback zoning variance or similar variance should be considered to maintain the required Riparian Setback area.

K. INSPECTION OF RIPARIAN SETBACK

- 1) The Riparian Setback shall be inspected by the Summit SWCD:
 - a) When a preliminary subdivision plat or other land development plan is submitted to the County of Summit.
 - b) When a building or zoning permit is requested.
 - c) Prior to any soil disturbing activity to inspect the delineation of the Riparian Setback as required under these regulations.
- 2) The Riparian Setback shall also be inspected annually or as time permits by the Summit SWCD or approved monitoring entity for compliance with any approvals under these regulations or at any time evidence is brought to the attention of the Summit SWCD that uses or structures are occurring that may reasonably be expected to violate the provisions of these regulations.

L. WOODY PLANTS SUITABLE FOR RIPARIAN AREAS

<u>Flood Tolerance*</u>	<u>Shade Tolerance**</u>	<u>Common Name</u>
<u>High Flood Tolerance*</u>		
<i>Aronia arbutifolia</i>	3	Red chokeberry
<i>Aronia melanocarpa</i>	3	Black chokeberry
<i>Cephalanthus occidentalis</i>	5	Common buttonbush
<i>Clethra alnifolia</i>	2	Summersweet clethra***
<i>Cornus amomum</i>	4	Silky dogwood
<i>Cornus stolonifera (sericea)</i>	5	Redosier dogwood
<i>Hamamelis vernalis</i>	3	Vernal witchhazel ***
<i>Ilex decidua</i>	3	Possumhaw ***
<i>Ilex glabra</i>	2	Inkberry ***
<i>Ilex verticillata</i>	3	Common winterberry
<i>Itea virginica</i>	1	Virginia sweetspire ***

[Note: This sample zoning text is not intended to be adopted as written, but to serve as a basis for local consideration, adaptation and legal review.]



**Natural Resource Zoning Samples for Townships
 RIPARIAN CORRIDOR SETBACK REQUIREMENTS**

<u>Flood Tolerance*</u>	<u>Shade Tolerance**</u>	<u>Common Name</u>
<i>Magnolia virginiana</i>	2	Sweetbay magnolia ***
<i>Myrica pensylvanica</i>	4	Northern bayberry
<i>Physocarpus opulifolius</i>	4	Common ninebark
<i>Potentilla fruticosa</i>	4	Bush cinquefoil
<i>Sambucus canadensis</i>	1	American elderberry
<i>Salix x cotteti</i>	5	"Bankers" willow ***
<i>Salix exigua</i>	5	Sandbar willow
<i>Salix purpurea</i>	5	"Streamco" willow ***
<i>Viburnum cassinoides</i>	2	Witherod viburnum
<i>Parthenocissus quinquefolia</i>	1	Virginia creeper (vine)
<u>Moderate Flood Tolerance*</u>		
<i>Calycanthus floridus</i>	1	Common sweetshrub
<i>Hypericum kalmianum</i>	5	Kalm St. Johnswort
<i>Viburnum dentatum</i>	2	Arrowwood viburnum
<i>Xanthorhiza simplicissima</i>	1	Yellowroot ***
<u>Intermediate Flood Tolerance*</u>		
<i>Aesculus parviflora</i>	2	Bottlebush buckeye ***
<i>Aesculus pavia</i>	2	Red buckeye ***
<i>Cornus racemosa</i>	2	Gray dogwood
<i>Lindera benzoin</i>	1	Common spicebush
<i>Rosa setigera</i>	4	Prairie rose
<i>Campsis radicans</i>	3	Trumpet creeper (vine)
<i>Lonicera dioica</i>	2	Limber honeysuckle (vine)
<i>Corylus americana</i>	2	American filbert
<i>Diervilla lonicera</i>	1	Dwarf bushhoneysuckle
<i>Fothergilla gardeni</i>	1	Dwarf fothergilla ***
<i>Fothergilla major</i>	1	Large fothergilla ***
<i>Hydrangea arborescens</i>	1	Smooth hydrangea
<i>Hydrangea quercifolia</i>	1	Oakleaf hydrangea ***
<i>Mahonia aquifolium</i>	1	Oregongrape holly ***
<i>Rosa carolina</i>	4	Carolina rose
<i>Rubus odoratus</i>	1	Fragrant thimbleberry
<i>Vaccinium stamineum</i>	2	Common deerberry
<u>Low Flood Tolerance*</u>		
<i>Arctostaphylos uva-ursi</i>	4	Bearberry
<i>Cornus rogersiana</i>	1	Roundleaf dogwood
<i>Corylus Americana</i>	2	American filbert
<i>Diervilla lonicera</i>	1	Dwarf bushhoneysuckle
<i>Fothergilla gardeni</i>	1	Dwarf fothergilla ***
<i>Fothergilla major</i>	1	Large fothergilla ***
<i>Hydrangea arborescens</i>	1	Smooth hydrangea
<i>Hydrangea quercifolia</i>	1	Oakleaf hydrangea ***
<i>Mahonia aquifolium</i>	1	Oregongrape holly ***

[Note: This sample zoning text is not intended to be adopted as written, but to serve as a basis for local consideration, adaptation and legal review.]



**Natural Resource Zoning Samples for Townships
 RIPARIAN CORRIDOR SETBACK REQUIREMENTS**

<u>Flood Tolerance*</u>	<u>Shade Tolerance**</u>	<u>Common Name</u>
<i>Rosa Carolina</i>	4	Carolina rose
<i>Rubus odoratus</i>	1	Fragrant thimbleberry
<i>Symphoricarpos albus</i>	1	Common snowberry
<i>Vaccinium stamineum</i>	2	Common deerberry
<u>No Flood Tolerance*</u>		
<i>Amorpha canescens</i>	5	Leadplant ***
<i>Ceanothus americanus</i>	3	New Jersey tea
<i>Comptonia peregrina</i>	2	Sweetfern
<i>Dirca palustris</i>	1	Leatherwood
<i>Hypericum frondosum</i>	5	Golden St. Johnswort
<i>Juniperus communis</i>	5	Common juniper
<i>Juniperus horizontalis</i>	5	Creeping juniper ***
<i>Rhus aromatica</i>	5	Fragrant sumac
<i>Sambucus pubens</i>	1	Scarlet elder
<i>Symphoricarpos albus</i>	1	Common snowberry

***High Flood Tolerance:** Generally lowland wet species surviving when flooded or exposed to high water table more than 40% of the growing season.

***Moderate Flood Tolerance:** Generally lowland wet species surviving when flooded or exposed to high water table more than 30% of the growing season but less than 40%.

***Intermediate Flood Tolerance:** Generally lowland wet-mesic species surviving occasional inundation or elevated water table between 20% and 30% of the growing season.

***Low Flood Tolerance:** Generally upland mesic and mesic-dry species rarely inundated or exposed to an elevated water table for periods of short duration, between 5% and 20% of the growing season.

***No Flood Tolerance:** Generally upland dry species exhibiting immediate and rapid decline frequently culminating in death if inundated or exposed to elevated water table for more than 5% of the growing season.

****Shade Tolerance:** Shade tolerance means able to grow in a state of health and vigor beneath dense shade. In this ranking, shrubs and vines are ranked on a scale of 1 to 5, with 1 being very shade tolerant, and 5 being very shade intolerant.

*** Denotes plant species that are not native to Ohio.

Note:

1. The majority of plants listed are available on the local commercial market and do not displace native species.
2. The cultivated varieties (“cultivars”) of the species listed above may also be used.
3. Primary information taken from Hightshoe, Gary, 1987. Native Trees, Shrubs, and vines for Urban and Rural America. Van Nostrand. NY, NY

[Note: This sample zoning text is not intended to be adopted as written, but to serve as a basis for local consideration, adaptation and legal review.]



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Natural Resource Zoning Samples for Townships RIPARIAN CORRIDOR SETBACK REQUIREMENTS

4. For further assistance contact Roger Gettig, Landscape Consulting Program, The Holden Arboretum, or Steve Roloson, ODNR Scenic Rivers Program.
5. This list was assembled by Roger Gettig, The Holden Arboretum for Chagrin River Watershed Partners.

[Note: This sample zoning text is not intended to be adopted as written, but to serve as a basis for local consideration, adaptation and legal review.]



EnviroScience, Inc.
3781 Darrow Road, Stow, Ohio 44224
PH: 800-940-4025 Fax: 330-688-3858
Project #: 543-1105

Teaming with:



2. WETLANDS SETBACK REGULATIONS

A. PUBLIC PURPOSE

- 1) It is hereby determined that the wetlands within the Township contribute to the health, safety, and general welfare of the residents of the Township. The specific purpose and intent of this regulation is to regulate uses and developments within wetland setbacks that would impair the ability of wetlands to:
 - a) Minimize flood impacts by absorbing peak flows, slowing the velocity of flood waters, regulating stream base flows, and maintaining stream flow patterns.
 - b) Minimize streambank erosion by reducing runoff volume and velocity.
 - c) Protect groundwater quality by filtering pollutants from storm water runoff.
 - d) Recharge groundwater reserves.
 - e) Protect surface water quality by minimizing sediment pollution from streambank erosion, and trapping sediments, chemicals, salts, and other pollutants from flood waters and storm water runoff.
 - f) Provide habitat for aquatic and terrestrial organisms, many of which are on Ohio's Endangered and/or Threatened Species listings.
 - g) Benefit the Township economically by minimizing encroachment on wetlands and the need for costly engineering solutions, such as retention/detention basins and rip rap, to protect structures and reduce property damage and threats to the safety of watershed residents; and by contributing to the scenic beauty and environment of the Township, thereby preserving the character of the Township, the quality of life of residents of the Township, and corresponding property values.
- 2) The following regulation has been enacted to protect these services of wetlands by providing reasonable controls governing structures and uses within wetlands.

B. APPLICABILITY, COMPLIANCE & VIOLATIONS

This regulation shall apply to all lands that are within the jurisdiction of the Township and that border Ohio EPA Category 1, 2 and 3 wetlands as defined in this regulation.

- 1) No approvals or permits shall be issued by the Township without full compliance with the terms of this regulation where applicable.
- 2) Any person who shall violate any section of this regulation shall be required to restore the wetland and the wetland setback through a restoration plan approved by the Township.

C. CONFLICTS WITH OTHER REGULATIONS & SEVERABILITY

- 1) Nothing within this regulation shall be construed to conflict with the Clean Water Act or ORC 6111.03 et seq.
- 2) Where this regulation imposes a greater restriction upon land than is imposed or required by any other provision of law, regulation, contract, or deed, the provisions of this regulation shall control.
- 3) This regulation shall not limit or restrict the application of other provisions of law, regulation, contract, or deed, or the legal remedies available hereunder, except as provided in Subsections 1) and 2) above.
- 4) If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, validity of the remainder shall not be affected thereby.

D. ESTABLISHMENT OF WETLAND SETBACKS²⁶

- 1) Wetland setbacks are established as follows:
 - a) A minimum of seventy five (75) feet surrounding all Ohio EPA Category 3 Wetlands and forested wetlands.
 - b) A minimum of fifty (50) feet surrounding all Ohio EPA Category 2 Wetlands.
 - c) A minimum of thirty (30) feet surrounding all Ohio EPA Category 1 Wetlands.
 - d) *[OPTION: This regulation is based on the Chagrin River Watershed Partners model ordinance which recommends one hundred twenty (120) feet for Category 3 Wetlands and seventy five (75) for Category 2 wetlands. Ohio EPA suggests fifty (50) feet as the minimum effective buffer for all wetlands. EnviroScience, Inc. biologists suggest townships also consider adopting requirements for mitigation of impacts to Ohio EPA Category 1 Wetlands within the watershed. Whether devised as a mitigation fund or actual construction requirement, the mitigation wetlands should be only of Ohio EPA Category 2 quality, contain less than ten (10) percent invasive species, and establish a setback as noted above in Section 2.D.1)b). Summit County currently requires a fifty (50) foot setback around Category 3 Wetlands and a thirty (30) foot setback around Category 2 Wetlands.]*
- 2) The following conditions shall apply in wetland setbacks:
 - a) Wetland setbacks shall be measured in a perpendicular direction from the defined wetland boundary.

²⁶ It should be noted that these recommendations exceed the current county standards of 50 feet for Category 3 Wetlands and 30 feet for Category 2 Wetlands in riparian corridors.

- b) Except as otherwise provided in this regulation, the wetland setback shall be preserved in its natural state and shall be established prior to any soil disturbing activities.
- 3) No net loss of wetlands is permitted in any watershed. Where construction is shown to be necessary resulting in the loss of any regulated wetland, the applicant shall mitigate the loss of wetland by type within the same watershed.

E. PROCEDURE

- 1) Upon filing a request for approval of a preliminary plat or building permit, the applicant or their designated representative shall retain a qualified professional to survey the proposed development site for wetlands. If no wetlands are found, the applicant or their designated representative shall submit a letter with the preliminary plat or permit application verifying that a qualified professional has surveyed the site and found no wetlands. If wetlands are found, the following procedures shall be followed:
 - a) A qualified professional shall determine the presence of any Ohio EPA Category 1, 2 or 3 wetlands, including forested wetlands and size of the watershed, on the proposed development site using the latest version of the Ohio Rapid Assessment Method for wetland evaluation approved at the time of application of this regulation. Acceptance of this determination shall be subject to approval by the Township. In the course of this approval, the Township may consult with a representative of the Ohio Department of Natural Resources; the Ohio EPA; the Summit County Planning Commission; the Summit County Soil and Water Conservation District; or other technical experts as necessary. Any costs associated with such consultations may be accessed to the applicant or their designated representative.
 - b) If Ohio EPA wetlands are located on the proposed development site, the applicant or their designated representative shall delineate these wetlands and the wetland setback on all subdivision plans, land development plans, and/or permit applications submitted to the Township.
 - (1) Wetlands shall be delineated by a site survey approved by the Township using delineation protocols accepted by the US Army Corps of Engineers and the Ohio EPA at the time of application of this regulation. If conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetland shall apply.
 - (2) Wetland setbacks shall be delineated through a metes and bounds survey or equivalent delineation, subject to approval by the Township.
 - (3) In the course of approval of the delineation of wetlands and their associated setbacks, the Township may consult with a representative of the Ohio Department of Natural Resources; the Ohio EPA; the Summit County Planning Commission; the Summit County Soil and Water Conservation District; or other technical experts as necessary. Any costs associated with

such consultations may be accessed to the applicant or their designated representative.

- c) Prior to any soil disturbing activity, the applicant or their designated representative shall delineate wetland setbacks on the development site, and such delineation shall be maintained throughout construction.
 - d) No approvals or permits shall be issued by the Township prior to delineation of wetland setbacks in conformance with this regulation.
- 2) Upon completion of an approved subdivision, land development, or other improvement, wetland setbacks shall be permanently recorded on the plat records for the Township.

F. USES PERMITTED IN WETLAND SETBACKS

- 1) Open space uses that are passive in character shall be permitted in wetland setbacks, including, but not limited to, the following:
 - a) Recreational Activity. Passive recreational uses, as permitted by federal, state, and local laws, such as hiking, fishing, hunting, picnicking, and similar uses.
 - b) Removal of Damaged or Diseased Trees. Damaged or diseased trees may be removed.
 - c) Revegetation and/or Reforestation. Wetland setbacks may be revegetated and/or reforested.
- 2) No use permitted under this regulation shall be construed as allowing trespass on privately held lands.

G. USES PROHIBITED IN WETLAND SETBACKS

Any use not authorized under this regulation shall be prohibited in wetland setbacks. By way of example, the following uses are specifically prohibited; however, prohibited uses are not limited to those examples listed here:

- 1) Construction. There shall be no structures of any kind.
- 2) Dredging or Dumping. There shall be no drilling, filling, dredging, or dumping of soil, spoils, liquid, or solid materials, except for noncommercial composting of uncontaminated natural materials and except as permitted by this regulation.
- 3) Roads or Driveways. There shall be no roads or driveways.
- 4) Motorized Vehicles. There shall be no use of motorized vehicles of any kind.
- 5) Disturbance of Natural Vegetation. There shall be no disturbance of the natural vegetation, except for such conservation maintenance that the landowner deems necessary to control noxious weeds; for such plantings as are consistent with this regulation; for such disturbances as are approved under this Section; and for the



passive enjoyment, access, and maintenance of landscaping or lawns existing at the time of passage of this regulation. Nothing in this regulation shall be construed as requiring a landowner to plant or undertake any other activities in wetland setbacks.

- 6) Parking Lots. There shall be no parking lots or other human made impervious cover.
- 7) New Surface and/or Subsurface Sewage Disposal or Treatment Areas. Wetland setbacks shall not be used for the disposal or treatment of sewage except in accordance with Summit County Combined General Health District regulations at the time of application of this regulation.

H. VARIANCES WITHIN WETLAND SETBACKS

The Township may grant a variance to this regulation as provided herein. In determining whether there is unnecessary hardship or practical difficulty such as to justify the granting of a variance, the Township shall consider the potential harm or reduction in wetland functions that may be caused by a proposed structure or use.

- 1) In making a determination of unnecessary hardship or practical difficulty, the Township may consider the following:
 - a) The soil type and natural vegetation of the parcel.
 - b) The extent to which the requested variance impairs the flood control, erosion control, water quality protection, or other functions of the wetland or wetland setback. This determination shall be based on sufficient technical and scientific data.
 - c) The degree of hardship this regulation places on the applicant or their designated representative and the availability of alternatives to the proposed activity.
 - d) Soil-disturbing activities permitted in the wetland setback through variances should be implemented to minimize clearing to the extent possible and to include Best Management Practices necessary to minimize erosion and control sediment.
 - e) The presence of significant impervious cover or smooth vegetation such as maintained lawns in the wetland setback compromises its benefits to the Township. Variances should not be granted for asphalt or concrete paving in the wetland setback. Variances may be granted for gravel driveways when necessary.

I. BOUNDARY INTERPRETATION & APPEALS PROCEDURE

- 1) When an applicant or their designated representative disputes the boundary of a wetland setback, the applicant or their designated representative shall submit evidence to the Township that describes the boundary, the applicant's or their designated representative's proposed boundary, and justification for the proposed boundary change.
- 2) The Township shall evaluate all materials submitted and shall make a written determination within a reasonable period of time not to exceed sixty (60) days, a copy of

which shall be submitted to the applicant or their designated representative. If during this evaluation the Township requires further information, it may require that this be provided by the applicant or their designated representative. In the event that the Township requests such additional information, the sixty (60) day limit on the Township's review shall be halted until such information is provided by the applicant or their designated representative.

- 3) In evaluating these materials, the Township may consult with a representative of the Ohio Department of Natural Resources; the Ohio EPA; the Summit County Planning Commission; the Summit County Soil and Water Conservation District; or other technical experts as necessary. Any costs associated with such consultations may be assessed to the applicant or their designated representative.
- 4) Any party aggrieved by any such determination, or other decision or determination under this regulation, may appeal to the Board of Zoning Appeals under the provisions of Section **[cite existing Board of Zoning Appeals section]**.

J. INSPECTION OF WETLAND SETBACKS

The delineation of wetland setbacks shall be inspected by the Township:

- 1) Prior to soil-disturbing activities authorized by the Township under a subdivision, land development plan, and/or building permit. The applicant or their designated representative shall provide the Township with at least two (2) working days notice prior to starting such soil-disturbing activities.
- 2) Any time evidence is brought to the attention of the Township that uses or structures are occurring that may reasonably be expected to violate the provisions of this regulation.



3. GROUNDWATER PROTECTION REGULATION

A. PURPOSE AND INTENT

The Township recognizes that many residents rely on groundwater pumped from wells that are drilled into aquifers or springs for their safe drinking water supply, and that certain land uses can contaminate groundwater particularly in shallow/surficial aquifers.

- 1) The purpose of these groundwater protection regulations are to protect public health, safety, convenience, comfort, prosperity, and general welfare by minimizing contamination of shallow/surficial aquifers and preserving and protecting existing and potential sources of drinking water supplies, and to minimize or eliminate costs associated with investigation, clean up, and remediation costs, which may include: the cost of purchasing a temporary water supply from another community or bottled water; new wellfield development if the affected wells must be abandoned; real estate devaluation; decline in consumer confidence in water quality; potential lawsuits from the consumption of contaminated water; and lost jobs. It is the intent to accomplish this through both public education and public cooperation, as well as by creating appropriate land use regulations that may be imposed in addition to those currently imposed by existing zoning districts or other county regulations.
- 2) The groundwater protection regulations shall apply to all new construction, reconstruction, or expansion of existing structures and new or expanded land uses. Applicable activities/uses allowed in a portion of any zoning district must comply with the requirements of this chapter. The mention of a land use in this chapter shall not imply that a use otherwise prohibited in a zoning district shall be permitted.

B. GROUNDWATER DRINKING WATER SYSTEM SETBACK ESTABLISHED

A well or spring used as a water source for any public or private drinking water system shall be isolated the maximum practical distance from any known or suspected source of contamination by a six (6) month time-of-travel distance.

- 1) Where available, hydrogeologic data shall be used to establish the six (6) month time-of-travel distance setback for a well or spring used as a drinking water system.
- 2) The Zoning Inspector, upon recommendation of the Ohio EPA or the Summit County Combined General Health District, shall require a hydrogeologic investigation prior to any required administrative review for the issuance of a zoning permit.²⁷
- 3) Where no hydrogeologic data is available or recommended, as noted above, the following specified setback distances are established for a well or spring used as a drinking water system:
 - a) *Minimum Setback Based on Average Water System Demand.* This minimum setback requirement uses a formula to determine the setback where the variable

²⁷ Public wells within Ohio which have at least 15 service connections or serve 25 or more people at least 60 days per year are regulated by the Ohio EPA Division of Drinking and Ground Water. Private water systems are regulated by the Summit County Combined General Health District.

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“Q” is used to represent the estimated average daily water demand of the well or spring.

Estimated Average Daily Water Demand (Q gallons per day)	Water Source Setback Radius (feet)
0-2,500	50
2,501-10,000	Square Root of Q
10,001-50,000	50 + (Q / 200)
Over 50,000	300

- b) *Minimum Setback Based on Potential or Known Sources of Contamination.* Where the following minimum setback standards for specified potential or known contamination sources exceed the setback distance established above in the formula based on daily water demand, the Zoning Inspector shall enforce the following setback distances:

Land Use	Water Source Setback
Solid waste, residual waste, industrial waste, and construction and demolition debris waste landfills	1,000'
Animal or poultry yards:	
- (1,000 or more animal units)	500'
- (Less than 1,000 animal units)	100'
Manure lagoons	300'
Underground fuel oil, liquid petroleum, chemical, or gasoline storage tanks:	
- (1,100 or more gallons without secondary containment)	300'
- (1,100 or more gallons with secondary containment)	150'
- (less than 1100 gallons)	50'
Composting facilities	200'
Storage or preparation area for fertilizers or pesticides	150'
Drainage wells	100'
Land application of septage waste or sludge	100'
Leaching privies	100'
Oil and gas wells	100'
Salt storage piles	100'
Sewage absorption fields	100'
Above ground fuel oil, liquid petroleum, chemical or gasoline storage tanks	50'
Leaching pit	50'

[Note: This sample zoning text is not intended to be adopted as written, but to serve as a basis for local consideration, adaptation and legal review.]



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Land Use	Water Source Setback
Sewage tanks	50'
Vault privies	50'
Vertical or horizontal geothermal loop systems with high toxicity heat transfer fluid	50'

- c) *Exceptions.* The following land uses shall only require the setback specified in the following table from a well or spring used as a drinking water system.

Land Use	Water Source Setback
Roads and highways	25'
Streams, lakes, ponds, ditches	25'
Vertical or horizontal geothermal loop systems with low toxicity heat transfer fluid	25'
Easements granted to other persons	10'
Existing properly constructed water well	10'
Property Boundaries	10'
Properly sealed well	10'
Sewers and drains--watertight pipe	10'
Structures, buildings and foundations, except a structure designed and constructed solely to house pumping and water system equipment	10'
Parking Lot or Driveway	5'

- 4) The Zoning Inspector may specify greater groundwater protection setbacks in excess of those set forth in this Section if conditions are known to exist where the distance set forth in this Section is considered insufficient to protect the public health and the private water system from contamination.

C. Performance Standards for a Groundwater Drinking Water System

- 1) A well shall be located so it is accessible for cleaning, treatment, repair, alteration, testing, and such other actions as may be necessary.
- 2) No potential source of contamination may be constructed or permanently placed within the above specified setbacks distances from a well or spring water supply. The owner shall be responsible for maintaining setback distances.

[Note: This sample zoning text is not intended to be adopted as written, but to serve as a basis for local consideration, adaptation and legal review.]



- 3) Since it is known that improperly abandoned wells can become a direct conduit for contamination of groundwater by surface water, all permanently out of service wells, including abandoned wells, dry holes, or test holes, shall be properly sealed according to local and state regulations.
 - 4) *Prohibited Areas for a Well or Spring.* A well or a spring used for a drinking water system shall not be located within a one hundred year flood plain without a variance, as described below in **Section D** (Variance).
- D. **Variance.** In addition to the general variance requirements of this Zoning Resolution, the Board of Zoning Appeals shall not grant any variance unless the applicant demonstrates that:
- 1) There will be unusual and unnecessary hardship in complying with the rules;
 - 2) Contamination of the water supply will not occur as a result of construction and operation of the system;
 - 3) The health of persons using water from the water system will not be endangered thereby; and
 - 4) No other technically feasible and economically reasonable means of obtaining water from the proposed type of water source exists.
- E. **Groundwater Recharge Area Regulations**

[NOTE: The Summit County Natural Resource Study (May 2003) states that:

“The groundwater recharge potential of an area is a key issue the County should consider when making future land-use determinations. The County should identify significant recharge areas and consider measures to assure the preservation of mature vegetation and minimize impervious surfaces within them” (page 56).

This study has not been undertaken by the County to date; however, once identified, the County or Township should consider establishing the following regulations either as a zoning overlay district or as supplemental regulations applied to all districts.]

All proposed development within areas identified by Summit County as “significant water recharge areas” shall meet the following requirements:

- 1) **Impervious Surface Cover Development Standard.** ***[NOTE: This paragraph should be considered as an additional requirement in the development standards matrix or section of the resolution.]*** To promote replenishment of groundwater supplies by precipitation, the maximum impervious surface coverage of any lot shall be ten (10) percent in a residential district or thirty (30) percent in a commercial or industrial district. The Zoning Commission may increase the maximum impervious surface coverage where low impact development techniques are proposed to maximize retention and absorption of storm water on-site (e.g. use of parking lot islands to capture parking lot stormwater; use of porous/permeable paving material; directing of roof drains to grassy

swales, depressions, or rain gardens to allow ponding). **[NOTE: Make sure these low impervious coverage ratios work in each district prior to adoption.]**

- 2) Landscaping Requirements. Residential major subdivisions and developments over one (1) acre shall maintain and preserve a minimum of fifty (50) percent of the mature woodlands, twenty-five (25) percent of young woodlands, and other individual trees with a trunk diameter of eight (8) inches or more when practicable. The Zoning Inspector may approve clearance of more trees than specified only when the property owner or developer agrees to a reforestation plan at a ratio of one hundred twenty (120) percent the area or diameter of the trees otherwise required to be preserved.
- 3) Hazardous Material Handling and Storage Performance Standards **[This section may be used as a stand-alone supplemental regulation applicable to all districts or just applicable to sites in the areas of “significant water recharge.” State and federal regulations will continue to apply in the areas the township does not have hazardous material handling and storage requirements.]**

All permitted facilities must adhere to appropriate federal and state standards for storage, handling and disposal of any hazardous waste materials. Except where preempted by state regulation of hazardous waste facilities licensed under ORC 3734.05(E), hazardous material handling and storage in areas identified by Summit County as “significant water recharge areas” shall meet the following additional performance standards.

- a) Any facility involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or wastes, including open liquid waste ponds, must have a secondary containment system which is easily inspected and whose purpose is to intercept any leak or release from the primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and inspectible sumps.
- b) Storage of petroleum products in quantities exceeding twenty-five (25) gallons shall require a secondary containment system. Underground petroleum storage facilities must be constructed of non-metallic materials, such as fiberglass, or have corrosion protection using interior liners and 30-year sacrificial anodes which are connected to the tank.
- c) An acceptable contingency plan for all permitted facilities must be prepared for preventing hazardous materials from contaminating the shallow/surficial aquifer should floods, fire, or other natural catastrophes, equipment failure, or releases occur:
 - (1) For flood control, all underground facilities (other than heating oil tanks for on-site use) shall include, but not be limited to, a monitoring system and secondary standpipe above the hundred-year flood control level, for monitoring and recovery.
 - (2) All above-ground facilities shall be placed within an impervious dike, which shall be above the hundred-year flood level and large enough to hold the

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volume of the largest tank plus anticipated rainfall, and shall be provided with an overflow recovery catchment area (sump).

- (3) For fire control, plans shall include but not be limited to a safe fire fighting procedure, a fire retarding system, effective containment of any liquid runoff, and provide for dealing safely with any other health and technical hazards that may be encountered by disaster control personnel in combating fire. Hazards to be considered are pipes, liquids, chemicals, or open flames in the immediate vicinity. The above ground storage of petroleum products shall be setback fifty (50) feet from a building.
 - (4) For equipment failures, plans shall include but not be limited to:
 - (a) Below ground level, removal and replacement of leaking parts, a leak detection system with monitoring, and an overflow protection system.
 - (b) Above ground level, liquid and leaching monitoring of primary containment systems, the replacement or repair and cleanup and/or repair of the impervious surface.
 - (5) For any other release occurring on the site, the owner and/or operator shall report all incidents involving liquid or chemical material to the groundwater protection coordinator designated by the Township.
 - (6) Storage of petroleum products in quantities exceeding: six hundred sixty (660) gallons in any single above-ground oil storage container; or one thousand three hundred twenty (1,320) gallons aggregate total above-ground oil storage capacity; or forty two thousand (42,000) gallons total underground oil storage capacity at one locality in one tank or series of tanks, shall provide the Township with a plan which describes and documents the spill prevention, control, and response capabilities in place at the facility. At a minimum, the plan shall meet the requirements of ORC 6111.03(R) Spill Prevention, Control, and Countermeasure (SPCC) Plan.
- 4) Liability. Nothing in this ordinance shall be construed to imply that the Township has accepted any of an owner/developer's liability if a permitted facility or use contaminates groundwater in any aquifer.
- 5) Prohibited Land Uses. ***[NOTE: If this section is established as a zoning overlay district, the following uses could be prohibited in addition to uses prohibited in the underlying zoning district. As an alternative, the uses could be made conditional upon a showing that the additional performance standards have been met to ensure the protection of the groundwater system.]***
- a) Automobile body/repair shop.
 - b) Gas station.
 - c) Fleet/trucking/bus terminal.
 - d) Dry cleaner.

- e) Electrical/electronic manufacturing facility.
 - f) Machine shop.
 - g) Metal plating/finishing/fabricating facility.
 - h) Chemical processing/storage facility.
 - i) Wood preserving/treating facility.
 - j) Junk/scrap/salvage yard.
 - k) Mines/gravel pit.
 - l) Irrigated nursery/greenhouse stock.
 - m) Confined animal feeding operations.
 - n) Septic systems on lots of one acre or less.
 - o) Equipment maintenance/fueling areas.
 - p) Injection wells/dry wells/sumps, except for single-family residences directing gutter downspouts to a drywell.
 - q) Underground storage tanks, (except those with spill, overflow, and corrosion protection requirements in place).
 - r) All other facilities involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having potentially harmful impact on groundwater quality.
- 6) **DISTRICT BOUNDARY DISPUTES**
If the location of the area identified by Summit County as “significant water recharge areas” **[or a Groundwater Protection Overlay Zoning District]** in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through an appeal application. The burden of proof shall be upon the owner(s) of the land to demonstrate where the boundaries of the district with respect to their individual parcel(s) of land should be located. If the owner(s) request that the local government agency determine more accurately the boundaries of the district with respect to individual parcels of land, the agency may engage a professional engineer, hydrologist, geologist, or soil scientist and charge the owner(s) for the cost of the investigation.



4. STEEP SLOPE REGULATIONS

A. PURPOSE

The Township contains areas of steep topography. These naturally vegetated scenic features present erosion hazards with the potential for property damage or loss and the potential to impact downstream flooding and water quality. The following Steep Slope Regulations are established as public health, safety, convenience, comfort, and general welfare measures to achieve the following objectives:

- 1) To permit development on hillside areas while minimizing storm water run-off and soil erosion problems incurred in adjustment of the topography to meet development needs.
- 2) To use best management practices in the design, landscape architecture, architecture, and civil engineering to ensure the integrity of natural drainage systems is preserved and soil stability is maintained.
- 3) To preserve and enhance the natural beauty of the landscape by encouraging the maximum retention of natural topographic features such as natural drainage swales, streams, slope ridge lines, rock outcroppings, vistas from and of the hillsides, trees and other natural plant formations, and to retain the sense of identity and image that the hillside areas now impart to the Township.

B. DEVELOPMENT PROHIBITED ON EXTREME STEEP SLOPE AREAS

- 1) Extreme Steep Slope Areas. Any filling, grading, or other construction activities otherwise allowed by this Resolution that would occur on a steep slope area is prohibited where the average land surface gradient over any one hundred (100) foot horizontal plane segment exceeds thirty (30) percent.
- 2) Planned Unit Development and Subdivision design shall not establish or otherwise create new lots where the buildable area of the lot (i.e., the lot area exclusive of any portion that is within any required front, side or rear yard setback) contains a steep slope area where the average land surface gradient over any one hundred (100) foot horizontal plane segment exceeds thirty (30) percent.

C. EXTREME STEEP SLOPE SETBACKS REQUIRED

Where the average land surface gradient exceeds thirty (30) percent over any one hundred (100) foot horizontal plane segment, development shall be setback from the outer edge of this extreme steep slope area a distance of one-half (½) the length of the steep slope.

D. BASE DEVELOPMENT REQUIREMENTS

- 1) Finished grades in disturbed areas shall not exceed a thirty (30) percent slope.
- 2) Construction of retaining walls shall be avoided, but when demonstrated to be necessary, shall not exceed a height of eight (8) feet and shall be constructed to include decorative landscape elements including vegetated plantings that soften edges and create visual interest.

- 3) Excavation and fills should not exceed eight (8) feet in cumulative height.
- 4) To the greatest extent possible, new roadways shall follow natural contours and care should be taken to include areas of highest environmental significance as part of the non-building areas of each lot.
- 5) Substantial earth moving shall not be permitted. Excavation required for building foundations, parking, and access drives shall be minimized by site design which fits development into the slope rather than altering the slope to fit the development.
 - a) Earth moving shall be limited to the minimum required for building foundations, driveways, drainage control structures, and immediate yard areas. No unnecessary cuts and/or fills shall be allowed in order to create additional lots or building sites.
 - b) All earth moving shall create the lowest possible potential for airborne or waterborne transportation of soil.
 - (1) Natural drainageways shall be preserved to the maximum extent possible or established by means consistent with sound professional engineering practice in order to convey the discharge without channel erosion and in such manner as to dissipate the energy of the discharge.
 - (2) Run-off from concentrated impervious surfaces shall be collected in a safe, adequate, and non-erosive manner, piped to a storm sewer system, storm water retention or detention facilities, or the bottom of a ravine or steep slope.
 - (3) Where required, interceptor ditches shall be established above steep slopes in such a way as not to saturate or erode soil.
 - (4) The overall drainage system shall be completed and made operational at the earliest possible time during construction.
 - c) All earth moving shall be accomplished in the shortest practical period of time. In no event shall the existing natural vegetation be destroyed, removed, or disturbed more than fifteen (15) days prior to the initiation of construction.
 - d) All fill shall be stabilized in conformance with generally-accepted engineering standards, including a compacted density of at least ninety-five (95) percent.
- 6) Buildings proposed below or above the brow of a steep slope must be staggered or stepped in depth and width to match topography and slope.
- 7) Rooftop utilities and mechanical equipment should be avoided, but if necessary, screening and sound control must be provided to integrate them into the rooftop.

- 8) Buildings should be clustered where possible to retain surrounding tree cover and minimize alterations to the existing topography.
- 9) All pervious surfaces remaining after completion of construction must be landscaped in trees, shrubs, grass or other ground covers to promote hillside stability and reduce excessive water runoff.

E. SITE PLAN REVIEW REQUIRED FOR LAND DISTURBANCE ON STEEP SLOPES ²⁸

Activity on steep slopes where the average land surface gradient over any one hundred foot (100) foot distance is greater than twelve (12) percent slope requires Site Plan review by the Zoning Commission for any filling, grading, or other construction activities otherwise allowed by this Resolution. Existing steep slope areas may not undergo earthwork or any type of cutting and filling to alter topographical site conditions prior to formal zoning approval.²⁹

- 1) A video tape record shall be filed with the Site Plan prior to any building, grading, or clearing activity on the parcel to be developed. The video tape record shall completely depict the pre-development condition of the parcel in sufficient detail to enable the evaluation of compliance with these regulations during and following completion of construction activities.
- 2) A grading plan shall be required for each lot. In addition to the requirements of the topographic site plan now required by the Summit County Department of Building Standards, the grading plan shall show:
 - a) The natural topography of the total parcel to be developed on a contour map with two-foot integrals. Notes and details of existing terrain shall be shown over the required topographic information.
 - b) A hydrologic inventory describing the direction of flow within the local drainage basin and channels within fifty (50) feet of the perimeter of the site, natural drainageways which may affect or be affected by the proposal, and any proposed realignment of the natural ravine channel. Special notations shall be included highlighting areas subject to seepage or spring flow.
 - c) Suitable cross-sections or profiles of areas where streets, driveways, buildings, utilities, or grading construction is proposed. Cross-sections shall show proposed and natural grade at the centerline of a road, the right-of-way line, and the proposed building setback line.
 - d) The location and size of all structures.

²⁸ Note: This model requires Site Plan review by the Zoning Commission where development is proposed on steep slopes. The Township should add development on steep slopes as a trigger in the chapter of the Code which defines Site Plan requirements. As an alternative, the Bath Township steep slope regulation made development of a steep slope a conditional use which would require BZA approval.

²⁹ Note: A township should carefully consider the minimum slope trigger where Site Plan review is required. EnviroScience biologists believe that disturbance to the vegetative cover on as little as 12% slopes present health and safety concerns. Most steep slope regulations we reviewed did not consider slopes to be steep slopes until they were in the range of 18% to 25%.

- e) The finished grade of all improvement locations.
 - f) The dimensions, elevations, and contours of any proposed earth moving.
 - g) A description of methods to be employed in disposing of soil and other material removed, including the location of the disposal site.
 - h) A schedule showing when each stage of the project will be completed, including the estimated starting and completion dates.
- 3) Evidence that structural issues related to development on steep slopes have been addressed by the applicant shall be provided. This evidence shall include a preliminary geotechnical evaluation which addresses relative hillside stability. Foundation plans shall be approved and stamped by a Professional Engineer (P.E.).
- 4) Evidence that adequate measures will be taken to prevent erosion and sedimentation during and after construction shall be provided by the applicant. In areas with very steep slopes, or for areas very close to a waterway, the Zoning Commission may require the preparation of a Storm Water Pollution Prevention Plan (SWP3) for any type of construction in accordance with requirements in **Section 1** (Riparian Corridor Setbacks).
- 5) Development in steep slope areas shall demonstrate sensitivity to natural systems and ecological features of the site as described in the Summit County Natural Resource Protection Study.
- a) Evidence that ecological issues are addressed shall be provided by the applicant.
 - b) For areas that are shown as having a high ecological value according to the Summit County Natural Resource Protection Study, the Zoning Commission may require the applicant to present plans for vegetation preservation and tree planting/replanting and documentation from environmental scientists that the proposed development will not substantially harm downstream water quality, habitats of state or federally protected species or impact other ecological considerations. Such documentation should also address long-term impacts and cumulative effects of development.



5. LOW IMPACT DESIGN STANDARDS

A. PURPOSE

Low impact Design is an ecologically friendly approach to site development and storm water management that aims to mitigate development impacts to land, water, and air. The approach emphasizes the integration of site design and planning techniques that conserve natural systems and hydrologic functions on a site. Impact Development site design and strategies may provide the means by which stormwater management objectives may be achieved. The goals of low impact development include:

- 1) Incorporating natural topographic features (wetlands, stream corridors, mature forests) and constraints in site design;
- 2) Maintaining site hydrologic functions and mitigate impacts to such functions;
- 3) Providing alternative layout and sizing of traditional site;
- 4) Maintaining the total number of buildable lots within a development (lot yield);
- 5) Customizing infrastructure (lots, streets, curbs, gutters, sidewalks) to each site;
- 6) Decentralizing and micro-management of stormwater at its source; and
- 7) Providing of aesthetically pleasing stormwater management controls

Maintaining natural function and mitigating impact to the hydrologic cycle of a site allows for greater protection of the water resources of the site. This benefits the health, safety, and welfare of local stakeholders by controlling stormwater at its source and minimizing the non-point source pollution that results in water resource degradation.

B. APPLICATION

Low impact design requirements are applicable design considerations and should be addressed during site plan review prior to receiving a zoning permit for new or expanded site construction for all non-residential uses. Demonstration of compliance with this Chapter is accomplished as part of the site plan review process.

C. LOW IMPACT DEVELOPMENT STANDARDS³⁰

The use of low impact development standards may provide developers with flexibility in site design and numerous environmental and economic benefits. The following site design elements should be considered in low impact development.

- 1) Reduce Limits of Clearing and Grading. The limits of clearing and grading refer to the site area to which development is directed. This development area includes all impervious areas (roads, sidewalks, and rooftops) and pervious areas (graded lawn areas and open drainage systems).

³⁰ It has been suggested that this section could be included as a reference document instead of within the regulation itself.

- a) To minimize hydrologic impacts on existing site land cover the area of development should be located:
 - (1) In less sensitive areas or areas with lower value in terms of hydrologic function (e.g., developing barren clay soils will have less hydrologic impact than development of forested sandy soils).
 - (2) Outside of sensitive area buffers such as streams, floodways, floodplains, wetlands, and steep slopes.
 - (3) Outside of areas with soils which have high infiltration rates to reduce net hydrologic site impacts.
 - b) Additionally, minimal disturbance techniques may be employed to further reduce the limits of clearing and grading, by restricting ground disturbance by identifying the smallest possible area and clearly delineating it on the site. These techniques include:
 - (1) Reduce paving and compaction of highly permeable soils;
 - (2) Minimizing the size of construction easements and material storage areas during the construction phase of a development;
 - (3) Avoid removal of existing trees where possible, and specifically those trees over 18 inches in diameter;
 - (4) Minimizing imperviousness by reducing the total area of paved surfaces;
 - (5) Disconnecting as much impervious area as possible to increase opportunities for infiltration and reduce water runoff flow;
 - (6) Maintaining existing topography and associated drainage divides to encourage natural dispersed flow paths.
- 2) Drainage as a Design Element. To reduce impacts created by land development, site planning should incorporate drainage by carefully conducting hydrologic evaluations and reviewing spatial site layout options. These procedures should be incorporated into the site planning process early on to understand and take advantage of site conditions. Hydrologic evaluation procedures can be used to minimize runoff potential and to maintain the predevelopment time of concentration. Open drainage systems should be designed within natural landforms and land uses to become major design elements of a site plan or development plan. The stormwater management drainage system can suggest pathway alignment, optimum locations for open space, and potential building sites. The drainage system helps to integrate urban forms, giving the development an integral, more aesthetically pleasing relationship to the natural features of the site. Not only does the integrated site plan complement the land, but it can also save on development costs by minimizing earthwork and construction of expensive drainage structures.

- 3) **Minimize Impervious Surfaces.** The entire traffic distribution network, (roadways, sidewalks, driveways, and parking areas), are the greatest source of impervious area. Changes in the impervious area alter runoff, recharge values, and site hydrology. Managing the imperviousness contributed by road and parking area pavement is an important component of the site planning and design process. An appropriate strategy may avoid problems from runoff and water table depletion, by reducing such surfaces that prevent natural filtration. Methods that can be used to achieve a reduction in the total runoff volume from impervious surfaces are presented below:
 - a) **Rooftops.** Rooftops contribute to site imperviousness, and the number of lots per acre (or lot coverage) generally determines the site's rooftop impervious area. House type, shape, and size can affect rooftop imperviousness. Vertical construction (two-story) is favored over horizontal layouts (ranch-style) to reduce the square footage of rooftops.
 - b) **Vegetative Roof Systems.** Moss, grass, herbs, wildflowers, and native plants may be used to create a lightweight and aesthetically pleasing permeable vegetative surface on an impervious roof area.
 - c) **Driveways.** Driveways can be planned to reduce the total site imperviousness. Some techniques that can be used include:
 - (1) Using shared driveways whenever possible, but especially in sensitive areas.
 - (2) Limiting driveway width (for both single and shared driveways).
 - (3) Minimizing building setbacks to reduce driveway length.
 - (4) Using driveway and parking area materials which reduce runoff and increase travel times such as pervious pavers or gravel.
 - d) **Permeable Pavement Surfaces.** A variety of materials ranging from traditional asphalt, and concrete, gravel or pavers may be used to construct these surfaces. These roadways or parking areas must allow water to flow through, replenishing the soil areas directly beneath. The subbase underneath these permeable pavements must be engineered to accommodate temporary water storage and filtration.
- 4) **Modify Drainage Flow Paths.** The time of concentration, in conjunction with hydrologic site conditions, determines the peak discharge rate for a storm event. Site and infrastructure components such as: travel distance (flow path); slope of the ground surface and/or water surface; surface roughness; and channel shape, pattern, and material components can affect the time of concentration. The following techniques can affect and control the time of concentration and can be incorporated into site design by managing flow and conveyance systems within the development site:
 - a) Disconnecting roof drains and directing flows to vegetated detention areas.

- b) Directing flows from impervious (paved) areas to stabilized vegetated areas.
- c) Breaking up flow directions from large paved surfaces.
- d) Encouraging sheet flow through vegetated areas.
- e) Carefully locating impervious areas so that they drain to natural systems, vegetated buffers, natural resource areas, or infiltratable soils.
- f) Maximize overland sheet flow;
- g) Increase and lengthen flow paths;
- h) Lengthen and flatten site and lot slopes;
- i) Maximize use of open swale systems;
- j) Increase and augment site and lot vegetation.

D. LID STRATEGIES

To reduce the volume of stormwater runoff and decentralize flows, a basic strategy incorporating the following low impact development practices and techniques should be integrated in the overall site design. The following are examples of acceptable LID strategies outlined in "Rainwater and Land Development, Ohio's Standard for Stormwater Management, Land Development, and Urban Stream Protection," prepared by the Ohio Department of Natural Resources:

- 1) Open Swales. These may serve as alternatives to curb and gutter systems. Grass or other vegetation should be used to reduce runoff velocity and allow filtration, while channeling high volume flows safely away.
 - a) Plantings, checkdams, and other similar features may be incorporated to further reduce velocity and increase filtration;
 - b) Walkways shall be separated from roadways by such swales or relocated to another area;
 - c) Plant species used shall be selected for their tolerance to salt.
- 2) Rain Gardens. These areas provide storage for excess stormwater to collect and filter into the soil. Typical components of these gardens include grass buffers, sand beds, a ponding area for excess runoff storage, organic layers, and planting soil and vegetation.
 - a) They shall be located on site away from any structures and/or roadways;
 - b) Downspouts should be directed towards such rain gardens;
 - c) Permanent ponds may be incorporated into the design of the garden;

- d) Temporary storage areas without ponds may be used;
 - e) Such areas shall be landscaped with native plants and grasses;
 - f) Plantings shall be selected according to their ability to tolerate pollutants;
 - g) Annual maintenance guarantees must be provided for these areas in the site plan or development plan.
- 3) Filter Strips. These areas are designed to collect flow from large impervious surfaces (parking lots, etc.). They may direct water into vegetated detention areas or special sand filters that capture pollutants and gradually discharge the water.
- 4) Cisterns/Rain Barrels
- a) Cisterns are designed to store stormwater for irrigation during dry periods, rather than channeling it away. Cistern collection systems may be designed to be installed beneath permeable pavement areas allowing for maximum storage capacity.
 - b) Rain barrels are smaller and are designed to collect individual residential stormwater from roof drainage.



APPENDICES

DEFINITIONS

For purpose of this regulation, the following terms shall have the meaning herein indicated:

ABBREVIATED STORM WATER POLLUTION PREVENTION PLAN (ABBREVIATED SWP3): The written document that sets forth the plans and practices to be used to meet the requirements of this regulation.

ACRE: A measurement of area equaling 43,560 square feet.

ADVERSE IMPACT: Any deleterious effect on receiving waters, including their quality, quantity, surface area, aesthetics or usefulness for human or natural uses. Such deleterious effect is or may potentially be harmful or injurious to human health, welfare, safety or property, or which unreasonably interferes with the enjoyment of life or property, including outdoor recreation.

APPLICANT: Any person who executes the necessary forms to procure official approval of a project or a permit to carry out a project.

AQUIFER: A geological formation, group of formations or part of a formation composed of rock, sand or gravel capable of storing and yielding groundwater to wells and springs.

BEST MANAGEMENT PRACTICES (BMPs): Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and non-structural) to prevent or reduce the pollution of water resources and wetlands. BMPs also include treatment requirements, operating procedures, and practices to control facility and/or construction site runoff, spillage, or leaks; sludge or waste disposal; or drainage from raw material storage. BMPs for construction are outlined in "Rainwater and Land Development, Ohio's Standard for Stormwater Management, Land Development, and Urban Stream Protection," prepared by the Ohio Department of Natural Resources.

BIORETENTION SYSTEMS: Rain gardens, vegetated swales, trenches, and infiltration basins used to minimize stormwater infrastructure improve the quality of groundwater.

CATEGORY 1 WETLANDS: Those wetlands classified by the Ohio Environmental Protection Agency (Ohio EPA) as Category 1 wetlands under OAC 3745-1-54 (C)(3), in accordance with generally accepted wetland functional assessment methods acceptable to the U.S. Army Corps of Engineers and Ohio EPA at the time of application of this regulation.

CATEGORY 2 WETLANDS: Those wetlands classified by the Ohio Environmental Protection Agency (Ohio EPA) as Category 2 wetlands under OAC 3745-1-54 (C)(2),

CATEGORY 3 WETLANDS: Those wetlands classified by the Ohio EPA as Category 3 wetlands under OAC 3745-1-54(C)(3), in accordance with generally accepted wetland functional assessment methods

acceptable to the U.S. Army Corps of Engineers and Ohio EPA at the time of application of this regulation.

CLEARING: Any activity which removes the vegetative ground cover.

CRITICAL AREA: The land area at the top of bank of a stream or wetland boundary.

CONTAMINATION. An impairment of water quality by chemicals, radionuclides, biologic organisms, or other extraneous matter whether or not it affects the potential or intended beneficial use of water.

TOWNSHIP: Throughout this regulation, this shall refer to the Township, its designated representatives, boards, or commissions.

CONSTRUCTION ENTRANCE: The permitted points of ingress and egress to development areas regulated under this regulation.

DAMAGED OR DISEASED TREES: Trees that have split trunks; broken tops; heart rot; insect or fungus problems that will lead to imminent death; undercut root systems that put the tree in imminent danger of falling; lean as a result of root failure that puts the tree in imminent danger of falling; or any other condition that puts the tree in imminent danger of being uprooted or falling into or along a watercourse or onto a structure.

DEFINED CHANNEL: A natural or man-made depression in the terrain which is maintained and altered by the water and sediment it carries.

DESIGNATED WATERCOURSE: A watercourse within the Township that is in conformity with the criteria set forth in this regulation.

DETENTION: A practice designed for temporary storage of storm water with a controlled release rate. Generally detention basins will be “dry” between storm events.

DEVELOPMENT: To make a site or area available for use by physical alteration. Development includes but is not limited to: providing access to a site, clearing of vegetation, grading, earth moving, providing utilities and other services such as parking facilities, storm water management and erosion control systems, and sewage disposal systems, altering landforms, or construction of a structure on the land.

DEVELOPMENT AREA: A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.

DISTURBED AREA: An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.

DRAINAGE: (1) The area of land contributing surface water to a specific point, and/or its watershed. (2) The removal of excess surface water or groundwater from land by surface or subsurface drains.

EROSION: The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.

EROSION AND SEDIMENT CONTROL: The control of soil, both mineral and organic, to minimize the removal of soil from the land surface and to prevent its transport from a disturbed area by means of wind, water, ice, gravity, or any combination of those forces.

FACILITY. Something that is built, installed, or established for a particular purpose.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): The agency with overall responsibility for administering the National Flood Insurance Program.

FINAL PLAT: A final tracing of all or a phase of a subdivision in and its complete survey information.

FINAL STABILIZATION: All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 80% coverage for the area has been established or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed.

FIRST FLUSH: The delivery of a large load of pollutants during the early part of storms due to rapid runoff of accumulated pollutants. The first flush in these guidelines is defined as the runoff generated from a one year 24 hour storm event from land which has been made more impervious from pre-development conditions through land grading and construction/ development activities.

FLOODPLAIN: For a given flood event, that area of land temporarily covered by water which adjoins a watercourse.

FLOODWAY: That channel of a river or other watercourse and the adjacent land areas that is extremely hazardous due to the velocity of storm waters which carry debris and projectiles and have erosion potential such that these areas must be reserved to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels and flow velocities.

FLOODWAY FRINGE: That portion of a floodplain that is inundated by floodwaters but is not within a defined floodway. Floodway fringes serve as temporary storage for floodwaters.

GREY WATER. All domestic wastewater except toilet discharge water.

GROUNDWATER PROTECTION OVERLAY DISTRICT: The Township zoning district defined to overlay other Township zoning districts. This district may include specifically designated recharge areas that collect precipitation or surface water and carry it to aquifers.

GRUBBING: The removal of the vegetative underground root structure.

HAZARDOUS MATERIAL. A material in one or more of the following categories: an ignitable gas, liquid, or solid which may cause fires through friction, absorption of moisture, or which has low flash points (e.g., white phosphorous and gasoline); an explosive or reactive gas, liquid, or solid which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure or combinations thereof (e.g., dynamite, organic peroxides and ammonium nitrate); a carcinogenic gas, liquid, or solid which is normally considered to be cancer causing or mutagenic (e.g., PCB's in some waste oils); a highly toxic gas, liquid, or solid so dangerous to man as to afford an unusual hazard to life (e.g., chlorine gas); a moderately toxic gas, liquid, or solid which through repeated exposure or in a single large dose can be hazardous to man; or a corrosive material, whether acid or alkaline, which will cause severe damage to human tissue, or in

case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents (e.g., battery acid and phosphoric acid).

HYDROGEOLOGIC ANALYSIS: A study by a hydrogeologist to collect information of the subsurface and geologic conditions, including the type and thickness of geologic materials, the occurrence of ground water, how it flows in pore spaces and fractures, and the quantity and quality of the ground water. The analysis of the data collected in the investigation of a site can be used: to select the location of a well where a sufficient quantity of ground water exists for the intended purpose; to identify environmentally-sensitive groundwater recharge areas; and to identify an area where potential or known contamination could be drawn into a well or spring.

HUNDRED-YEAR FLOODPLAIN: Any land susceptible to being inundated by water from a base flood. The base flood is the flood that has a one percent or greater chance of being equaled or exceeded in any given year. For the purposes of this regulation, the hundred-year floodplain shall be defined by FEMA and approved by the County of Summit Department of Building Standards.

INTERMITTENT STREAM: A natural channel that may have some water in pools but where surface flows are non-existent or interstitial for periods of one week or more during typical summer months.

IMPERVIOUS COVER: Any paved, hardened, or structural surface, regardless of its composition, that cannot effectively absorb or infiltrate water, including, but not limited to, buildings, roads, driveways, parking lots, loading/unloading areas, decks, patios, and swimming pools.

INVASIVE SPECIES: Invasive plant species are non-native (or alien) to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health. They are usually characterized by fast growth rates, high fruit production, rapid vegetative spread and efficient seed dispersal and germination. Since these plants are not native to Ohio, they lack the natural predators and diseases which would naturally control them in their native habitats. Some of the top invasive non-native plants include: bush honeysuckles (Amur, Morrow and Tatarian), buckthorn (glossy and common), garlic mustard, purple loosestrife, common reed grass, reed canary grass, autumn and Russian olive, multiflora rose, Japanese honeysuckle, narrow-leaved cattail, Canada thistle and tree-of-heaven. For more information, see the website for the Ohio Department of Natural Resources Division of Natural Areas and Preserves.

LANDSCAPE ARCHITECT: A Professional Landscape Architect registered in the State of Ohio.

LARGER COMMON PLAN OF DEVELOPMENT OR SALE: A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

MAXIMUM EXTENT PRACTICABLE: The level of pollutant reduction that site owners of small municipal separate storm sewer systems regulated under 40 CFR Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.

NATURAL SUCCESSION: A gradual and continuous replacement of one kind of plant and animal group by a more complex group. The plants and animals present in the initial group modify the environment through their life activities thereby making it unfavorable for themselves. They are gradually replaced by a different group of plants and animals better adapted to the new environment.

NOXIOUS WEED: Any plant species defined by the Ohio Department of Agriculture as a “noxious weed” and listed as such by the Department. For the purposes of this regulation, the most recent version of this list at the time of application of this regulation shall prevail.

NPDES: National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.

OHIO ENVIRONMENTAL PROTECTION AGENCY: Referred throughout this regulation as the "Ohio EPA."

OHIO RAPID ASSESSMENT METHOD: A multi-parameter qualitative index established by the Ohio Environmental Protection Agency to evaluate wetland quality and function.

ORDINARY HIGH WATER MARK: The point of the bank or shore to which the presence and action of surface water is so continuous as to leave a district marked by erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. The ordinary high water mark defines the bed of a watercourse.

PARCEL: Means a tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A parcel may contain more than one contiguous lot individually identified by a ‘Permanent Parcel Number’ assigned by the Summit County Auditor’s Office.

PEAK FLOW: The maximum rate of flow of water at a given point and time resulting from a storm event.

PERENNIAL STREAM: A natural channel that contains water throughout the year except possibly during periods of extreme drought.

PERMEABLE PAVERS: Permeable pavement surfaces include a variety of materials ranging from traditional asphalt, and concrete, gravel or pavers used for roadways or parking areas and which allow water to flow through to the subbase underneath, which must be engineered to accommodate temporary water storage and filtration.

PERSON: Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof.

PHASING: Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.

POLLUTION: Any contamination or alteration of the physical, chemical, or biological properties of any waters that will render the waters harmful or detrimental to: public health, safety or welfare; domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; livestock, wildlife, including birds, fish or other aquatic life.

POLLUTION: NON-POINT SOURCE pollution is generated by various land use activities rather than from an identifiable or discrete source, and is conveyed to waterways through natural processes, such as rainfall, storm runoff, or ground water seepage rather than direct discharge.

POLLUTION: POINT SOURCE pollution is traceable to a discrete point or pipe.

PRELIMINARY PLAN: A drawing of a major subdivision for the purpose of study and which, if approved, permits proceeding with the preparation of the final plat.

PRIMARY CONTAINMENT FACILITY: A tank, pit, container, pipe or vessel of first containment of a liquid or chemical.

PROFESSIONAL ENGINEER: A Professional Engineer registered in the State of Ohio.

RAINBARRELS AND CISTERNS: Cisterns are designed to store stormwater for irrigation during dry periods, rather than channeling it away. Cistern collection systems may be designed to be installed beneath permeable pavement areas allowing for maximum storage capacity. Rain barrels are smaller and are designed to collect individual residential stormwater from roof drainage.

RAINWATER AND LAND DEVELOPMENT: Ohio's standards for storm water management, land development, and urban stream protection. The most current edition of these standards shall be used with this regulation.

RELEASE: Any unplanned or improper discharge, leak, or spill of a potential contaminant including a hazardous material.

RETENTION: A practice designed to store storm water runoff by collection as a permanent pool of water without release.

RIPARIAN AREA: A transitional area between flowing water and terrestrial ecosystems, which provides a continuous exchange of nutrients and woody debris between land and water. This area is at least periodically influenced by flooding. Riparian areas, if appropriately sized and managed, help to stabilize banks, limit erosion, reduce flood size flows and/ or filter and settle out runoff pollutants, or perform other functions consistent with the purposes of these regulations.

RIPARIAN SETBACK: The real property adjacent to a designated watercourse to protect the riparian area and stream from impacts of development, and streamside residents from impacts of flooding and land loss through erosion. The Riparian Setback are those lands located in the area defined by the criteria set forth in this regulation.

RIPRAP: A combination of large stone, cobbles and boulders used to line channels, stabilize storm sewer outfalls and reduce runoff velocities.

RUNOFF: The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually conveyed to water resources or wetlands.

SECONDARY CONTAINMENT FACILITY. A second tank, catchment pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area; monitoring and recovery are required.

SEDIMENT: The soils or other surface materials that are transported or deposited by the action of wind, water, ice, gravity, or any combination of those forces, as a product of erosion.

SEDIMENTATION: The deposition or settling of sediment.

SETBACK: A designated transition area around water resources or wetlands that is left in a natural, usually vegetated, state so as to protect the water resources or wetlands from runoff pollution. Soil disturbing activities in this area are restricted by this regulation.

SHALLOW/SURFICIAL AQUIFER. An aquifer in which the permeable medial (sand and gravel) starts at the land surface or immediately below the soil profile.

SOIL AND WATER CONSERVATION DISTRICT: An entity organized under ORC Chapter 1515 referring to either the Soil and Water Conservation District Board or its designated employees, hereinafter referred to as the Summit County SWCD.

SOIL DISTURBING ACTIVITY: Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, erosion and sediment pollution.

SOIL AMENDMENTS: Any material added to a soil to improve its physical properties, such as water retention, permeability, water infiltration, drainage, aeration and structure. There are two broad categories of soil amendments: organic and inorganic. Organic amendments come from something that is or was alive and include sphagnum peat, wood chips, grass clippings, straw, compost, manure, biosolids, sawdust and wood ash. Inorganic amendments are either mined or man-made and include vermiculite, perlite, tire chunks, pea gravel and sand. Organic amendments improve soil aeration, water infiltration, and both water- and nutrient-holding capacity.

SPILL RESPONSE PLANS. Detailed plans for control, recontainment, recovery, and clean up of hazardous material releases, such as during fires or equipment failures.

STABILIZATION: The use of BMPs, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces.

STEEP SLOPE: Any land area where the greatest amount of slope over any one hundred (100) foot distance is greater than twelve (12) percent.

STEEP SLOPE, EXTREME: Any land area where the greatest amount of slope over any one hundred (100) foot distance is greater than thirty (30) percent.

STORMWATER POLLUTION PREVENTION PLAN (SW3P): The plan which describes all the elements of the stormwater strategy implemented during and after construction. The plan addresses erosion control and abatement of excess stormwater runoff quality.

STORMWATER TREATMENT PRACTICES (STPs). Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER QUALITY TREATMENT: The removal of pollutants from urban runoff and improvement of water quality, accomplished largely by deposition and utilizing the benefits of natural processes.

STREAMS: A surface watercourse with a well-defined bed and bank, either natural or artificial, which confines and conducts continuous or periodic flowing water in such a way that terrestrial vegetation cannot establish roots within the channel. Further, a stream must appear on at least one of the following maps: USGS topographical map, Summit County Riparian Setback map, or soils maps located in the Soil Survey for Summit County, Ohio, USDA, NRCS.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would be equal to, or would exceed, 50% of the market value of the structure before the damage occurred.

TIME-OF-TRAVEL DISTANCE. The distance that groundwater will travel in a specified time. This distance is generally a function of the permeability and slope of the aquifer.

TREE BOX FILTERS: Mini-bioretenion systems installed beneath trees that can be very effective at controlling runoff, especially when distributed throughout the site. Runoff is directed to the tree box, where it is cleaned by vegetation and soil before entering a catch basin. The runoff collected in the tree-boxes helps irrigate the trees. Tree box filters are ideal for situations where infiltration is undesirable or not possible, such as with clay soils, karst topography, high groundwater conditions, close proximity to buildings, steep slopes, contaminated soils, brownfield sites, highly contaminated runoff, maintenance facilities, and gas stations.

UNSTABLE SOILS: A portion of land determined by the Township to be prone to slipping, sloughing, or landslides, or otherwise identified by the U.S. Department of Agriculture Natural Resource Conservation Service methodology as having low soil strength.

VARIANCE (RIPARIAN SETBACK): A modification of the enforcement of the Riparian Setback regulations which will not be contrary to the public interest and where, due to conditions peculiar to this property and not the result of the action of the applicant, a literal enforcement of the regulation would result in undue hardship to the applicant.

WATERCOURSE: Any natural, perennial, or intermittent, channel, creek, stream, river, or brook having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.

WATERSHED: The total area above a given point on a watercourse that contributes water to its flow.

WATERSHED DELINEATION: Mapping of a watershed requires identification of the topography and the accumulation and direction of surface water runoff and exit through the lowest "pour point" of a drainage boundary.

WATER RESOURCE: Any public or private body of water including lakes and ponds, as well as any brook, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.

WELL: Any excavation made by digging, boring, drilling, driving, or other method for the purpose of removing ground water from an aquifer, except a monitoring well used to extract samples of ground water or for the purpose of determining the quality, quantity, or level of ground water.

WETLANDS: Those areas that are inundated or saturated by surface or ground water 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, including swamps, marshes, bogs, and similar areas. (40 CFR 232, as amended). Wetlands shall be delineated by a site survey approved by the Township using delineation protocols accepted by the U.S. Army Corps of Engineers and the Ohio EPA at the time of application of this regulation. If a conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetlands shall apply. In reviewing this wetland delineation, the Township may consult with a representative of the Ohio Environmental Protection Agency, Division of Surface Water; the U.S. Army Corps of Engineers; the Summit County Soil and Water Conservation District; or other technical experts as necessary. Any costs associated with such consultations may be assessed to the applicant or their designated representative.

WETLAND SETBACK: Those wetland areas within the Township that fall within the setback area set forth in this regulation.



HB 411 [Effective 5-6-2005]

[...]

Sec. 504.21. (A) The board of township trustees of a township that has adopted a limited home rule government may, for the unincorporated territory in the township, adopt, amend, and rescind rules establishing technically feasible and economically reasonable standards to achieve a level of management and conservation practices that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed in the township for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of those management and conservation practices. The rules shall be designed to implement the applicable areawide waste treatment management plan prepared under section 208 of the "Federal Water Pollution Control Act," 86 Stat. 816 (1972), 33 U.S.C.A. 1228, as amended, and to implement phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. Part 122. The rules to implement phase II of the storm water program of the national pollutant discharge elimination system shall not be inconsistent with, more stringent than, or broader in scope than the rules or regulations adopted by the environmental protection agency under 40 C.F.R. Part 122. The rules adopted under this section shall not apply inside the limits of municipal corporations, to lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code, or to land being used in a surface mine operation as defined in section 1514.01 of the Revised Code. The rules adopted under this section may require persons to file plans governing erosion control, sediment control, and water management before clearing, grading, excavating, filling, or otherwise wholly or partially disturbing one or more contiguous acres of land owned by one person or operated as one development unit for the construction of nonfarm buildings, structures, utilities, recreational areas, or other similar nonfarm uses. If the rules require plans to be filed, the rules shall do all of the following:

- (1) Designate the board itself, its employees, or another agency or official to review and approve or disapprove the plans;
- (2) Establish procedures and criteria for the review and approval or disapproval of the plans;
- (3) Require the designated entity to issue a permit to a person for the clearing, grading, excavating, filling, or other project for which plans are approved and to deny a permit to a person whose plans have been disapproved;
- (4) Establish procedures for the issuance of the permits;
- (5) Establish procedures under which a person may appeal the denial of a permit.

Areas of less than one contiguous acre shall not be exempt from compliance with other provisions of this section or rules adopted under this section. The rules adopted under this section may impose reasonable filing fees for plan review, permit processing, and field inspections.

No permit or plan shall be required for a public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water conservation in the department of natural resources.

(B) Rules or amendments may be adopted under this section only after public hearings at not fewer than two regular sessions of the board of township trustees. The board shall cause to be published, in a newspaper of general circulation in the township, notice of the public hearings, including time, date, and place, once a week for two weeks immediately preceding the hearings. The proposed rules or amendments shall be made available by the board to the public at the board office or other location indicated in the notice. The rules or amendments shall take effect on the thirty-first day following the date of their adoption.

(C) The board of township trustees may employ personnel to assist in the administration of this section and the rules adopted under it. The board also, if the action does not conflict with the rules, may delegate duties to review sediment control and water management plans to its employees, and may enter into agreements with one or more political subdivisions, other township officials, or other government agencies, in any combination, in order to obtain reviews and comments on plans governing erosion control, sediment control, and water management or to obtain other services for the administration of the rules adopted under this section.

(D) The board of township trustees or any duly authorized representative of the board may, upon identification to the owner or person in charge, enter any land upon obtaining agreement with the owner, tenant, or manager of the land in order to determine whether there is compliance with the rules adopted under this section. If the board or its duly authorized representative is unable to obtain such an agreement, the board or representative may apply for, and a judge of the court of common pleas for the county where the land is located may issue, an appropriate inspection warrant as necessary to achieve the purposes of this section.



(E)(1) If the board of township trustees or its duly authorized representative determines that a violation of the rules adopted under this section exists, the board or representative may issue an immediate stop work order if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity. In addition, if the board or representative determines such a rule violation exists, regardless of whether or not the violator has obtained the proper permits, the board or representative may authorize the issuance of a notice of violation. If, after a period of not less than thirty days has elapsed following the issuance of the notice of violation, the violation continues, the board or its duly authorized representative shall issue a second notice of violation. Except as provided in division (E)(3) of this section, if, after a period of not less than fifteen days has elapsed following the issuance of the second notice of violation, the violation continues, the board or its duly authorized representative may issue a stop work order after first obtaining the written approval of the prosecuting attorney of the county in which the township is located if, in the opinion of the prosecuting attorney, the violation is egregious.

Once a stop work order is issued, the board or its duly authorized representative shall request, in writing, the prosecuting attorney to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules adopted under this section. If the prosecuting attorney seeks an injunction or other appropriate relief, then, in granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule or stop work order issued under this section shall be considered a separate violation subject to a civil fine.

(2) The person to whom a stop work order is issued under this section may appeal the order to the court of common pleas of the county in which it was issued, seeking any equitable or other appropriate relief from that order.

(3) No stop work order shall be issued under this section against any public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water conservation in the department of natural resources.

(F) No person shall violate any rule adopted or order issued under this section. Notwithstanding division (E) of this section, if the board of township trustees determines that a violation of any rule adopted or administrative order issued under this section exists, the board may request, in writing, the prosecuting attorney of the county in which the township is located, to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules or order. In granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule adopted or administrative order issued under this section shall be considered a separate violation subject to a civil fine.



SENATE BILL 18 [Effective 5-27-05]

Sec. 519.02. Except as otherwise provided in this section, in the interest of the public health and safety, the board of township trustees may regulate by resolution, in accordance with a comprehensive plan, regulate by resolution the location, height, bulk, number of stories, and size of buildings and other structures, including tents, cabins, and trailer coaches, percentages of lot areas that may be occupied, set back building lines, sizes of yards, courts, and other open spaces, the density of population, the uses of buildings and other structures, including tents, cabins, and trailer coaches, and the uses of land for trade, industry, residence, recreation, or other purposes in the unincorporated territory of the township. Except as otherwise provided in this section, in the interest of the public convenience, comfort, prosperity, or general welfare, the board by resolution, in accordance with a comprehensive plan, may regulate the location of, set back lines for, and the uses of buildings and other structures, including tents, cabins, and trailer coaches, and the uses of land for trade, industry, residence, recreation, or other purposes in the unincorporated territory of the township, and may establish reasonable landscaping standards and architectural standards excluding exterior building materials, in the unincorporated territory of the township. Except as otherwise provided in this section, in the interest of the public convenience, comfort, prosperity, or general welfare, the board may regulate by resolution, in accordance with a comprehensive plan, for nonresidential property only, the height, bulk, number of stories, and size of buildings and other structures, including tents, cabins, and trailer coaches, percentages of lot areas that may be occupied, sizes of yards, courts, and other open spaces, and the density of population in the unincorporated territory of the township. For all these purposes, the board may divide all or any part of the unincorporated territory of the township into districts or zones of such number, shape, and area as the board determines. All such regulations shall be uniform for each class or kind of building or other structure or use throughout any district or zone, but the regulations in one district or zone may differ from those in other districts or zones.

For any activities permitted and regulated under Chapter 1509, 1513, or 1514 of the Revised Code and any related processing activities, the board of township trustees may regulate under the authority conferred by this section only in the interest of public health or safety.

