

EAST NORRITON TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING THE EAST NORRITON TOWNSHIP ZONING ORDINANCE OF 1963 AS AMENDED AND REVISED SEPTEMBER 11, 1973 (ORDINANCE NO. 96) PROVIDING FOR CONFORMANCE WITH SECTION 1910.3d, FEDERAL FLOOD INSURANCE PROGRAM

ARTICLE XV

Flood Plain Conservation District

Section 1500 - Declaration of Legislative Intent. In addition to the purpose stated in Article I, Section 101 and the Statement of Community Development Objectives found in Article I, Section 102 of the Zoning Ordinance of East Norriton Township, the specific intent of this Article shall be to protect areas of floodplain subject to and necessary for the containment of flood waters, and to permit and encourage the retention of open space land uses which will be so located and utilized as to constitute a harmonious and appropriate aspect of the continuing physical development of East Norriton Township. Furthermore, in light of the township's certification as eligible for Federal Flood Insurance, it is the intent of this article to provide adequate protection for flood prone properties within East Norriton. In advancing these principles and the general purpose of the Zoning Ordinance and Comprehensive Plan, the following shall be the specific objectives of the FP - Flood Plain Conservation District:

- a. To combine with present zoning requirements, certain restrictions made necessary for flood prone areas to promote the general health, welfare and safety of the Township.
- b. To prevent the erection of structures in areas unfit for human usage by reason of danger from flooding, unsanitary conditions or other hazard.
- c. To minimize danger to public health by protecting the quality and quantity of surface and subsurface water supplies adjacent to and underlying flood hazard areas and promoting safe and sanitary drainage.
- d. To permit only those uses which can be appropriately located in the flood plain as herein defined and which will not impede the flow or storage of flood waters, or otherwise cause danger to life and property at, above, or below their locations along the floodplain.
- e. To protect those individuals who might choose, despite the flood dangers, to develop or occupy land on a floodplain.
- f. To protect adjacent landowners and those both upstream and downstream from damages resulting from development within a floodplain and the consequent obstruction or increase in flow of flood waters.
- g. To protect the entire Township from individual uses of land which may have an effect upon subsequent expenditures for public works and disaster relief and adversely affect the economic well being of the Township.
- h. To maintain undisturbed the ecological balance between those natural systems elements, including wildlife, vegetation, and riverine life, dependent upon water courses and water areas.
- i. To protect other municipalities within the same watershed from the impact of improper development and the consequent increased potential for flooding.

- j. To provide areas for the deposition of flood-borne sediment.
- k. To require that uses vulnerable to floods, including public facilities, be constructed so as to be protected from flood damage in accordance with the requirements of the National Flood Insurance Program, P.L. 93-234.

Section 1501 - Definition and Establishment of Flood Plain Conservation District.

- a. The Flood Plain Conservation District is defined and established as follows:

- 1. Those areas subject to inundation by the waters of the 100 Year Flood as delineated in the Flood Insurance Study for the Township of East Norriton, Montgomery County, Pennsylvania, as prepared by the U.S. Department of Housing and Urban Development, Federal Insurance Administration.

Said floodplains shall be comprised of three (3) subdistricts as follows:

- (a) Floodway (F1) - That portion of the Flood Plain District required to carry and discharge the waters of the One Hundred (100) Year Flood without increasing the water surface elevation at any point more than one (1) foot above existing conditions, as demonstrated in the Flood Insurance Study referenced above. Within any designated Floodway area, no construction, development, use, activity, or encroachment of any kind shall be allowed except where the effect of such proposed activity on flood heights is fully offset by accompanying stream improvements.
- (b) Floodway Fringe (F2) - Those portions of land within the Flood Plain District subject to inundation by the One Hundred (100) Year Flood, lying beyond the floodway in areas where detailed study data and profiles are available.
- (c) Approximated Flood Plain (F3) - Those portions of land within the Flood Plain District subject to inundation by the One Hundred (100) Year Flood, where a detailed study has not been performed, but where a One Hundred (100) Year Flood Plain Boundary has been approximated.

- 2. The low area adjoining and including any water or drainage course or body of water subject to periodic flooding or overflow and delineated as alluvial soils or local alluvium by the Soil Conservation Service, United States Department of Agriculture, in the Soil Survey of Montgomery County, 1967, wherever said area is more extensive than the floodplain defined in a.1. above.

- b. The Flood Plain Conservation District shall be delineated on the Flood Plain Overlay Map of East Norriton Township which is hereby made a part of this Ordinance, and is available for inspection at the Township Office.

- c. Any change in the Flood Plain Conservation District as from time to time may be determined to be proper hereunder shall be forthwith reflected on the said Map. All changes to the boundaries of the Flood Plain Conservation District are subject to the review and approval of the Federal Insurance Administrator.
- d. Studies used to establish the flood plain boundaries shall be available in the Township Office for reference.

Section 1502 - Overlay Concept. The Flood Plain Conservation District shall be deemed an overlay on any zoning district now or hereafter applicable to any lot.

- a. Should the Flood Plain Conservation District be declared inapplicable to any tract by reason or action of (1) the Township Supervisors in amending this Ordinance; or (2) the Zoning Officer, the Zoning Hearing Board, or any court of competent jurisdiction in interpreting the same; or (3) The Zoning Hearing Board or any court of competent jurisdiction in determining a legal effect of the same; the zoning applicable to such lot shall be deemed to be the District in which it is located without consideration of this Article.
- b. Should the zoning of any parcel or any part thereof which the Flood Plain Conservation District is located be changed through any legislative or administrative actions or judicial discretion, such change shall have no effect on the Flood Plain Conservation District unless such change was included as part of the original application.
- c. Except where this article prescribes a greater setback due to the boundaries of the floodplain as defined in Section 1501 herein, the minimum setback from any watercourse for a structure shall be equal to the horizontal distance from the top of the bank of the watercourse extended to a point at which the elevation is one foot above the elevation of the top of the bank, as verified by the township engineer. All changes to the boundaries of the Flood Plain Conservation District are subject to the review and approval of the Federal Insurance Administrator.

Section 1503 - Permitted Uses.

- a. The following uses and no other will be permitted in a Flood Plain Conservation District. All such uses shall be subject to the flood proofed requirements as stipulated in this ordinance as well as Ordinances 133 and 134.
 - 1. Cultivation and harvesting of crops in accordance with the recognized soil conservation practices;
 - 2. Pasture and grazing land in accordance with recognized soil conservation practices;
 - 3. Outdoor plant nursery or orchard in accordance with recognized soil conservation practices;
 - 4. Wildlife sanctuary, woodland preserve, arboretum; and passive recreation or parks, including hiking, bicycle and bridle trails, but including no facilities subject to damage by flooding.
 - 5. Forestry, lumbering, and reforestation in accordance with recognized natural resource conservation practices, but permitting no structures;
 - 6. Utility transmission lines;

7. Sealed public water supply wells with the approval of the Township Engineer;
 8. Sanitary sewers, with the approval of the Township Engineer;
 9. Front, side, or rear yards, and required lot area, for any District provided such yards are not to be used for onsite sewage disposal systems or for fences or any other structure.
- b. The following uses shall be specifically prohibited in a Flood Plain Conservation District.
1. All freestanding structures and buildings and retaining walls, with the exception of flood retention dams, culverts and bridges as approved by the Pennsylvania Department of Environmental Resources.
 2. The relocation of any watercourse without approval by the Township Supervisors of East Norriton Township, which shall first have received the recommendation of the Township Planning Commission and the Soil Conservation Service, U.S. Department of Agriculture, thereon; the relocation of any watercourse without the approval of the Pennsylvania Department of Environmental Resources. In addition all adjacent communities and the State Coordinator's Office shall be notified prior to any alteration of relocation of a water course; copies of such notification shall be sent to the Federal Insurance Administrator. The flood carrying capacity within the altered or relocated portion of the water course shall be maintained.
 3. Sanitary landfills, dumps, junkyards, outdoor storage of vehicles and materials.
 4. On-site sewage disposal systems.
 5. Private water supply wells.
 6. A mobile home is a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. The term includes, but is not limited to, the definition of a mobile home as set forth in regulations governing the MOBILE HOME SAFETY AND CONSTRUCTION STANDARD PROGRAM (24 C.F.R. 3282.7a).

Section 1504 - Special Exceptions

The following special exceptions shall be allowed or denied by the Zoning Hearing Board after recommendations by the Planning Commission pursuant to the standards set forth in this Article:

- a. Game farm, fish hatchery, or hunting and fishing reserve, for the protection of propagation of wildlife, but permitting no structures;
- b. Commercial recreation use, whether open to the public or restricted to private membership, such as parks, camps, picnic areas, golf courses, fishing, sport or boating clubs; not to include enclosed structures excepting toilet facilities but permitting piers, docks, floats, or shelters usually found in developed outdoor recreational areas. Any toilet facilities provided shall be connected to public water and sewage systems.
- c. Storm sewers or impoundment basins with the approval of the Township Engineer;

- d. Outlet installations for sewage treatment plants and sewage pumping stations, with the approval of the Township Engineer and appropriate sewer authorities;
- e. Dams, bridges, and culverts, approved by the Commonwealth of Pennsylvania, Department of Environmental Resources or the Power and Water Resources Board, if the same has jurisdiction over the watershed in question;
- f. Paved roads and driveways, parking lots, where required by the regulations for the district applicable to the lot without consideration of this Article provided that:
 - 1. In the case of roads and driveways no such facilities shall be permitted as a Special Exception, if viable alternative alignments are feasible.
 - 2. In the case of parking facilities, no such facility shall be permitted as a Special Exception unless satisfactory evidence is submitted that such parking will not be utilized during periods of flood flow, thus posing no threat to the safety of the vehicles, their uses and/or to downstream properties. Temporary parking for periods not to exceed one hour, and/or parking for recreation uses would be examples of such exceptions.
 - 3. Any road, driveway or parking lot located within the Flood Plain Conservation District shall be constructed of pervious paving materials in accordance with the provisions of the East Norriton Subdivision and Land Development Ordinance.
- g. Grading or regrading of lands, including the deposition of top soils and the grading thereof, and the construction of retaining walls: In addition, an application for a special exception for such use shall also be accompanied by a plan indicating the deposition of any fill or material proposed to be deposited by the grading or regrading of land; such fill or other materials shall be protected against erosion by rip-rap, vegetation cover or bulk-heading; and
- h. Other uses similar to the above.

Section 1505 - Application Procedures.

- a. An application for a zoning permit shall be filed with the Zoning Officer who shall make an initial determination on the application. For a use other than those permitted in Section 1503, an application seeking approval of a Special Exception or variance shall be forwarded to the Township Supervisors or Zoning Hearing Board, as appropriate, along with required studies or information and the findings of the Zoning Officer.

- b. The application for Special Exception or use by variance shall be accompanied by the following:
 1. Detailed engineering studies indicating the effects on drainage and streams on all adjacent properties as well as the property in question.

Section 1506 - Procedures for Consideration of a Special Exception or Variance

All applications for approval of special exceptions or variances shall be considered using standards listed in Section 1507.

- a. The Zoning Hearing Board shall hold a public hearing within sixty days after an application is filed. Public notice of the hearing shall be given in accordance with Section 2003 of the Zoning Ordinance.
- b. The Zoning Hearing Board shall request the review and recommendations of the Soil Conservation Service, at least thirty days prior to the public hearing.
- c. The Zoning Hearing Board shall request, at least thirty days prior to a public hearing, the review and recommendations of the East Norriton Township Planning Commission.
- d. The Zoning Hearing Board shall request, at least thirty days prior to a public hearing, the review and recommendation of technical agencies, such as the Montgomery County Planning Commission, or other planning agencies to assist in determining the impact of the proposed use.
- e. The Zoning Hearing Board shall render a decision within forty-five days after the public hearing. In rendering a decision, the Zoning Hearing Board may impose special measures or conditions as deemed reasonably necessary and appropriate for the use to conform with the intent of the Ordinance.

Section 1507 - Standards for Granting of Special Exceptions or Variances.

The Zoning Hearing Board shall exercise discretion in allowing only those uses which are substantially in accord with the stated objectives in Section 1500 herein. The Zoning Hearing Board, in considering special exceptions or variance applications, shall consider the following:

- a. The effect of the use shall not alter the carrying capacity of the stream and flood plains at the location of the proposed use in place of what is given.

- b. Lands abutting the waterway, both upstream and downstream, shall not be unreasonably affected by the proposed use.
- c. The general welfare or public interest of East Norriton Township or of other municipalities in the same watershed shall not be adversely affected.
- d. Any new structures permitted by special exception or by variance shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water, and shall be designed to have a minimum effect upon the flow and height of flood water. Such structures shall be elevated and/or flood proofed in accordance with the provisions contained in the East Norriton Township Building Code, as amended.
- e. Any new structure permitted as a special exception or by variance shall be floodproofed in accordance with the provisions contained in the East Norriton Township Building Code, as amended
 - 1. All such structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
 - 2. All such structures shall be constructed so as to prevent the entrance of flood waters into the water supply and waste treatment systems as well as other utility and facility systems. In addition, waste treatment systems shall be designed to minimize or eliminate discharges from the systems into the flood waters.
- f. Any additions to existing structures permitted as a special exception or by variance shall be elevated according to the provisions contained in the East Norriton Township Building Code, as amended. However, any portion of a non residential structure not so elevated shall be floodproofed, also in accordance with the township building code, as amended.
- g. An affirmative decision shall not be issued by the Zoning Hearing Board for an application within the designated floodway if any increase in the flood levels during the base flood discharge would result.
- h. The Zoning Hearing Board shall notify the applicant in writing over the signature of community officials that (i) the issuance of a decision to allow construction of a structure below the Base Flood Elevation will result in increased premium rates for flood insurance, (ii) such construction below the Base Flood Elevation increases risks to life and property. Such notification shall be maintained with a record of all decisions as required in Section 1508 (i); and
- i. The Zoning Hearing Board shall (i) maintain a record of all decisions including justification for their issuance, and (ii) report such decisions issued in its annual report submitted to the Federal Insurance Administration.

Section 1509 - Additional Standards for Approval of Uses by Variance.

A property owner of a lot of record, as of the date of the enactment of this Article, who is able to prove that the strict enforcement of this Article would create undue hardship by denying a reasonable use of an existing lot which is situated wither wholly or partially in the Flood Plain Conservation District, may seek relief by applying for a variance from the Zoning Hearing Board.

- a. The Zoning Hearing Board, after deciding upon the merits of the application, may permit the applicant to make some reasonable use of the property in question, while ensuring that such use will not violate the basic objectives of this Article, as specified in Section 1500 herein.
- b. In considering a use as a variance, the Zoning Hearing Board shall consider those standards outlined in Section 1508 herein.
- c. Requests for variances shall be considered by the Zoning Hearing Board in accordance with the following:
 1. Affirmative decisions shall only be issued by the Zoning Hearing Board upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the appeal would result in exceptional hardship to the applicant, and (iii) a determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
 2. Affirmative decisions shall only be issued upon determination that it is the minimum necessary, considering the flood hazard, to provide relief.

Section 1510 - Boundary Disputes and Appeals Procedure.

- a. In cases of any dispute concerning the boundaries of a Flood Plain Conservation District, initial determination shall be made by the Township Zoning Officer.
- b. Any party aggrieved by the decision of the Zoning Officer as to the boundaries of the Flood Plain Conservation District as defined above, which may include the grounds that the said map referred to therein is or has become incorrect because of changes due to natural or other causes, or changes indicated by future detailed hydrologic and hydraulic studies, may appeal to the Zoning Hearing Board as provided in Article XX, Section 2005 of this Ordinance and Sections 1507, 1508, and 1509 herein. The burdan of proof in such an appeal shall be on the applicant.

- c. Insofar as various natural conditions, including the Flood Plain Conservation District as herein defined, may change, such changes may be validated by detailed onsite survey techniques approved by the U.S. Army Corps of Engineers, Philadelphia District. Whether a proposed use is within the Flood Plain Conservation District shown on the Flood Plain Overlay Map shall upon appeal from the decision of the Zoning Officer be determined by the Zoning Hearing Board upon receipt of the findings of the detailed onsite survey by the petitioner. The Zoning Hearing Board, in addition to other evidence and standards may consider the recommendations of a Township Planning Commission and the validation of the U.S. Army Corps of Engineers, Philadelphia District and/or other Municipal agencies.
- d. The Zoning Hearing Board shall request a review and recommendation of the Soil Conservation Service, at least thirty days prior to the public hearing.
- e. All changes to the boundaries of the Flood Plain Conservation District are subject to the review and approval of the Federal Insurance Administrator.

Section 1511 - Uses and/or Structures Rendered Non-Conforming by the Adoption of this District. Following the adoption of this Article, any use or structure which is situated within the boundaries of the FP-Flood Plain Conservation District and which does not conform to the permitted uses specified in Section 1503, herein, shall become a non-conforming use or structure, regardless of its conformance to the District in which it is located without consideration of this Article.

- a. The expansion or continuance of a non-conforming use or structure which is non-conforming with respect to the District in which it is located without consideration of this Article, shall be governed by the requirements of Article XXVIII of this Ordinance. However, the Zoning Hearing Board shall ensure that the standards contained in Section 1507, herein, are applied to the expansion or continuance of said non-conforming use or structure.
- b. The expansion or continuance of a non-conforming use or structure which is rendered non-conforming use to the adoption of this Article shall be governed by the standards contained in Section 1507, herein. The Zoning Hearing Board shall ensure that these standards are enforced with respect to said non-conforming use or structure.

Section 1512 - Municipal Liability.

The grant of a zoning permit of approval of a subdivision plan in the Flood Plain Conservation District shall not constitute a representation, guarantee or warranty of any kind by the Township, or by any official or employee thereof of the practicability or safety of the proposed use and shall create no liability upon the Township, its officials, or employees.

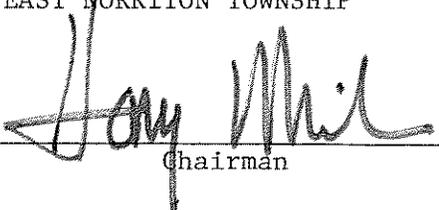
Section 200: Insert the following definitions as lettered and re-letter the displaced existing definitions accordingly: (or number the definitions):

- g. Base Flood - the flood which has been selected to serve as the basis upon which the flood plain management provisions of this and other ordinances have been prepared; for purposes of this ordinance, the one hundred year flood, as referenced in the current Flood Insurance Study, Twp. of East Norriton, prepared by the Federal Insurance Administration, U.S. Department of Housing and Urban Development.
- h. Base Flood Elevation - the 100 year flood elevation, as referenced in the Flood Insurance Study, East Norriton Township prepared by the Federal Insurance Administration, U.S. Department of Housing and Urban Development. Within the approximated flood plain, the 100 year flood elevation shall be established as a point on the boundary of the approximated flood plain nearest to the construction site in question.
- r. Construction - the construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of mobile homes.
- u. Development - any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of mobile homes, streets and other paving, utilities, mining, dredging, filling, grading, excavation, or drilling operations.
- z. Flood (Note: Delete the existing floodplain definition) - A temporary condition of partial or complete inundation of normally dry land areas.
- mm. One Hundred Year Flood - a flood that has one chance in one hundred or a one percent change of being equaled or exceeded in any given year. For the purposes of this ordinance, the one hundred year flood (base flood) as defined by the Federal Insurance Administration, U.S. Department of Housing and Urban Development, in the Flood Insurance Study, East Norriton Township.

Enacted and ordained by the Board of Supervisors of East Norriton Township, Montgomery County, Pennsylvania, this 20th day of September, A.D., 1977.

BOARD OF SUPERVISORS
EAST NORRITON TOWNSHIP

By: _____


Chairman

Attest:


Secretary