

ARTICLE VIII

Environmental Protection Overlay Districts

Section 800 Environmental Protection Overlay Districts

- a. The York County Comprehensive Plan has provided an inventory of important natural and cultural features that include wetlands, floodplains, watersheds, streams, soils, historic sites and buildings. The Borough recognizes the interrelationship between its natural resources and the health, safety and general welfare of the community, and that these resources have a major role in the quality of life in the community and must be protected and preserved for future generations. Recognizing that the County's Comprehensive Plan promotes the preservation and protection of these important features, this section provides appropriate standards and regulations for the following purposes:
 - 1) To minimize negative impacts from development on hillside and slope areas.
 - 2) To protect water features from development impacts.

Section 801 Hillside and Slope Protection Overlay District (HSPOD)

- a. Steep slopes and hillsides areas are fragile and susceptible to erosion, landslides, mudslides, degradation of their natural vegetation and increased flooding. It is the intent of this Section to provide reasonable standards for hillside development that guide development away from steep areas; minimize grading and other site preparation in steep areas; provide safe means for ingress and egress while minimizing scarring from hillside construction; preserve the natural conditions in steep areas; and prevent flooding and the deteriorating effects of erosion to streams and drainage areas. An HSPOD is hereby established as a district which overlays other zoning districts of this Ordinance.
- b. Establishment of district boundaries. The HSPOD shall consist of all land which has 25% slope or more. The HSPOD boundary shall be based on a topographic investigation of critical sloped areas. The average natural slope of an area shall be determined by dividing the horizontal run of the slope into the vertical rise of the same slope and converting the resulting figure into a percentage value. The sloped area shall be measured at right angles to the natural contours.
- c. Permitted uses. The following uses shall be permitted in the HSPOD, provided that they are in compliance with the provisions of the underlying district and are

not prohibited by another ordinance, and provided that they do not require structures, grading, fill or storage of materials and equipment:

- 1) Common open space
- 2) Educational or scientific use not involving buildings or structures
- 3) Trail access
- 4) Passive recreational areas not involving structures
- 5) Accessory residential uses such as gardens, play areas or fences
- 6) Accessory commercial uses such as picnic areas or fences
- 7) Wildlife preserves
- 8) Underground public utilities

d. Standards

- 1) The HSPOD shall be established at the time of subdivision or land development or the application for a zoning permit if there is no subdivision or land development proposed.
- 2) In all subdivision and land development applications, the HSPOD shall be described by metes and bounds. A conservation easement covering the HSPOD shall be provided.
- 3) In all zoning permit applications, the HSPOD shall be shown on a drawing indicating the location and measurements of the district in accordance with the above standards.
- 4) All subdivision and land development plans shall comply with the provisions of this Ordinance and the York County Subdivision and Land Development Ordinance.

- e. Up to 1/4 of the land with slopes greater than 25%, may be removed or altered only when such slopes are isolated, small or otherwise occur as knolls which do not adversely affect the design of the plan, foundation stabilization or building activity.

Section 802 Flood Plain Protection Overlay District (FPPOD)

- a. Purpose: The purpose of this zone is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:
- 1) Regulating uses, activities, and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies.
 - 2) Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
 - 3) Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage.
 - 4) Protecting individuals from buying lands and structures that are unsuited for intended purposes because of flood hazards.
- b. Warning and Disclaimer of Liability: The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jam's and bridge openings restricted by debris. This ordinance does not imply that areas outside the flood plain zone, or land uses permitted within this zone will be free from flooding or flood damages.

This ordinance shall not create liability on the part of Felton Borough or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

c. Establishment of the Flood Plain Zone

- 1) Description of Zone: The identified Flood Plain Zone shall be any area of Felton Borough subject to the one hundred (100) year flood, which is identified as a Special Flood Hazard Area (Zone A and AE and AE) on the Flood Hazard Boundary Map (FHBM) as issued by the Federal Insurance Administration dated July 2, 1992.

2) Determination of the One Hundred (100) Year Flood Elevation: For the purposes of this Ordinance, the one hundred (100) year flood elevation shall be used as the basis for regulation. To determine the one hundred year flood elevation, the elevation at a given point on the boundary of the identified floodplain area which is nearest the construction site in question will be used. In helping to make this necessary elevation determination, other sources of data, where available, shall be used such as:

- Corps of Engineers - Flood Plain Information Reports.
- U.S. Geological Survey - Flood Prone Quadrangles.
- USDA, Soil Conservation Service - County Soil Surveys (Alluvial Soils) or P.L. 566 Flood Information.
- Pennsylvania Department of Environmental Protection - Flood Control Investigations.
- Known Highwater Marks from Past Floods.
- Other sources acceptable by the Borough Engineer.

In lieu of the above, the Borough may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or other of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Borough.

3) Overlay Concept: The aforementioned Flood Plain Zone shall be an overlay to the existing underlying zones as shown on the Official Zoning Map, and as such, the provisions for the Flood Plain Zone shall serve as a supplement to the underlying zone provisions.

Where there happens to be any conflict between the provisions or requirements of the Flood Plain Zone A and AEnd those of any underlying zone, the more restrictive provisions and/or those pertaining to the Zone Plain Zone shall apply.

In the event any provision concerning the Flood Plain Zone is declared inapplicable as a result of any legislative or administrative actions of judicial discretion, the basic underlying zone provisions shall remain applicable.

- 4) Inclusion in Zoning Map: The boundaries of the Flood Plain Zone A and AEre established as shown on the Flood Hazard Boundary Map, dated July 2, 1992, prepared by the Federal Insurance Administration. The said map is hereby incorporated into and made a part of the Official Zoning Map of Felton Borough. A copy of said map shall be kept on file at the Borough office and be available for inspection during regular office hours.
 - 5) Zone Boundary Changes: The delineation of the Flood Plain Zone may be revised by Borough Council where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, or other qualified agency or individual documents the advisability for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA) or its successor agency.
 - 6) Interpretation of Zone Boundaries: Initial interpretations of the boundaries of the Flood Plain Zone shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of the zone, the person questioning or contesting the location of the zone boundary shall be given a reasonable opportunity to present his case to the Borough Zoning Hearing Board and to submit his own technical evidence if he so desires. Should the person choose to seek a variance to the zoning regulations to accommodate his development, he must follow the procedures to present his case to the Zoning Hearing Board. Should the person choose to have the zone boundary changed to reflect more accurate flooding data, he must follow the procedures to present his case to Borough Council for a zoning amendment.
- d. Zone Provisions: All uses, activities, land filling and development occurring within the flood plain zone shall be undertaken only in strict compliance with the provisions of this ordinance and with all other applicable Borough codes and ordinances.

Under no circumstances shall any use, activity, land filling and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system. Prior to any proposed alteration or relocation of any stream, watercourse, etc. within the municipality, a permit shall be obtained from the Pennsylvania Department of Environmental Protection, Dams and Encroachment Division. Further, notification of the

proposal shall be given to all affected adjacent municipalities. Copies of such notifications shall be forwarded to both the Federal Insurance Administration or its successor agency and the Pennsylvania Department of Community and Economic Development.

Special Flood Hazard Zone: In the Special Flood Hazard Area Zone no development, use or activity (including fill, grading and/or substantial improvements to structures, etc.) permitted in the underlying zone shall be permitted unless the applicant of the proposed development, use or activity has demonstrated that the proposed undertaking when combined with all other existing and anticipated development, uses and activities, will not increase the water surface elevation of the one hundred (100) year flood more than one (1) foot at any point. Increases in flood heights shall be calculated by means of current, generally accepted engineering methods.

e. Development Which May Endanger Human Life

1) In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volumes or any amount of radioactive substances) of any of the following dangerous materials or substances on the premises, shall be subject to the provisions of this section, in addition to all other application provisions:

- Acetone
- Ammonia
- Benzene
- Calcium carbide
- Celluloid
- Hydrochloric acid
- Hydrocyanic acid
- Magnesium

- Nitric acid and oxides of nitrogen
 - Petroleum products (gasoline, fuel, oil, etc.)
 - Phosphorus
 - Potassium
 - Sodium
 - Sulfur and sulfur products
 - Pesticides (including insecticides, fungicides, and rodenticides)
 - Radioactive substances, insofar as such substances are not otherwise regulated
- 2) Where permitted within any Special Flood Hazard Area (Zone A and AE) any new or substantially improved structure of the kind described in Subsection 1) above shall be:
- a) elevated or designed and constructed to remain completely dry up to at least one and one-half (1 1/2) feet above the one hundred (100) year flood and,
 - b) designed to prevent pollution from the structure or activity during the course of a one hundred (100) year flood.

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry flood-proofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

- 3) Within any Special Flood Hazard Area (Zone A and AE), any structure of the kind described in Subsection 1) above shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

f. Special Requirements for Mobile Homes

- 1) Where permitted within any Special Flood Hazard Area (Zone A and AE), all mobile homes and any additions thereto shall be:
 - a) Anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the American National Standards as specified in the Standard for the Installation of Mobile Homes Including Mobile Home Park Requirements (NFPA No. 501A-1974 (ANSI A119.3-1975)) as amended for Mobile Homes in Hurricane Zones or other appropriate standards such as the following
 - over-the-top ties shall be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations for units fifty (50) feet or more in length, and one (1) additional tie per side for units less than fifty (50) feet in length.
 - frame ties shall be provided at each corner of the mobile home, with five (5) additional ties per side at intermediate locations for units fifty (50) feet or more in length, and four (4) additional ties per side for units less than fifty (50) feet in length.
 - all components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4800) pounds.
 - b) Elevated in accordance with the following requirements:
 - the strands or lots shall be elevated on compacted fill, or on pilings so that the lowest floor of the mobile home will be one and one-half (1 1/2) feet or more above the elevation of the one hundred (100) year flood.
 - adequate surface drainage is provided.
 - adequate access for a hauler is provided.
 - where pilings are used for elevation, the lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than ten (10) feet apart; reinforcement shall be provided for pilings that will extend for six (6) feet or more above the ground level.

- 2) Within any Special Flood Hazard Area (Zone A and AE), mobile homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

g. Prohibited Uses and Activities

The following uses and activities are prohibited if located completely or partially within any of the areas identified as being subject to the one hundred (100) year flood

- 1) The commencement of any of the following activities, or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
 - Hospitals
 - Nursing homes
 - Jails or prisons
- 2) The commencement of, or any construction of, a new mobile home park or mobile home subdivision, or substantial improvement to an existing mobile home park or mobile home subdivision.

h. Special Exceptions and Variances - Factors to be Considered: In passing upon applications for Special Exceptions and Variances the Zoning Hearing Board shall consider all relevant factors and procedures specified in other sections of the Zoning Ordinance and:

- 1) The danger of life and property due to increase flood heights or velocities caused by encroachments. No special exception or variance shall be granted for any proposed use, development, or activity that will cause any increase in flood levels during the one hundred (100) year flood.
- 2) The danger that materials may be swept onto other lands or downstream to the injury of others.
- 3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- 4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

- 5) The importance or the service provided by the proposed facility to the community.
- 6) The requirements of the facility for a waterfront location.
- 7) The availability of alternative locations not subject to flooding for the proposed use.
- 8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- 9) The relationship of the proposed use to the county comprehensive plan and flood plain management program for the area.
- 10) The safety of access of the property in times of flood of ordinary and emergency vehicles.
- 11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwater expected at the site.
- 12) Such other factors which are relevant to the purposes of this ordinance.

The Zoning Hearing Board with approval of Borough Council may refer any application and accompanying documentation pertaining to any request for a special exception or variance to any engineer or other qualified person or agency for technical assistance in evaluating the project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.

Special exceptions and/or variances shall only be issued after the Zoning Hearing Board has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extra-ordinary public expense, (d) the creation of nuisance, (e) any fraud or victimization of the public, or (f) any conflict with local laws or ordinances.

- i. Existing Structures in the Flood Plain Zone: A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions may be continued subject to the following conditions:

- 1) Existing structures and/or uses located in the Flood Plain Zone shall not be expanded or enlarged unless such expansion or enlargement meets the requirements of all applicable Borough ordinances and the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.
- 2) Any modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any flood plain zone to an extent or amount of less than fifty (50) percent or its market value, shall be elevated and/or incorporated flood-proofing measures regardless of its location in the Flood Plain Zone. However, minor repairs shall be exempt from this provision provided that no structural changes or modifications are involved. Minor repairs shall include the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep; but shall not include any addition, change or modification in construction, exit facilities, and permanent fixtures or equipment.
- 3) The modifications, alternation, repair reconstruction, or improvement of any kind to a structure and/or use located in a flood plain zone to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provisions of this any other applicable ordinance.