

Township of Cheltenham

Montgomery County, Pennsylvania

Board of Commissioners

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MEMORANDUM

DATE: January 18, 2013
TO: Cheltenham Township Planning Commission
FROM: Bryan T. Havir
Township Manager 
RE: **Proposed Amendments to Zoning Code**

Please be advised that the Board of Commissioners will hold a Public Hearing on Wednesday, February 20, 2013 at 7:30 PM (prevailing time) at Curtis Hall, Church Road and Greenwood Avenue, Wyncote, to consider proposed amendments to the Cheltenham Township Code, Ordinance 1846-95, Chapter 295, entitled Zoning.

The Hearing will consider the following Ordinance:

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF CHELTENHAM, CHAPTER 295, THEREOF, ENTITLED "ZONING," CREATING AN ARTICLE XXXIV, ENTITLED "RIPARIAN CORRIDOR CONSERVATION DISTRICT"

Attached is a copy of the "Draft" Ordinance.

This matter will be listed on the agenda for the January 28, 2013 meeting of the Planning Commission. The Township requests your review and recommendations.

CHELTENHAM TOWNSHIP

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP
OF CHELTENHAM, CHAPTER 295, THEREOF, ENTITLED
“ZONING,” CREATING AN ARTICLE XXXIV, ENTITLED “RIPARIAN CORRIDOR
CONSERVATION DISTRICT”**

**SECTION 1. The Board of Commissioners hereby adopts the following as Chapter 295,
Zoning, Article XXXIV, Riparian Corridor Conservation District:**

§295-247. Legislative intent.

In expansion of the community development objectives contained in Article I, Section 295-1, of this chapter and in support of the goals and recommendations of the Cheltenham Township Comprehensive Plan, the Cheltenham Township Open Space Plan, and all other adopted plans relating to environmental and water resource management in Cheltenham Township, it is the intent of this article to provide reasonable controls governing the conservation, management, disturbance, and restoration of riparian corridors under authority of Article I, Section 27 of the Pennsylvania Constitution, Act 247, the Municipalities Planning Code, as amended, and other Commonwealth and Federal statutes. In addition, the specific intent and purposes of this article are to:

- A. Improve surface water quality by reducing the amount of nutrients, sediment, organic matter, pesticides, and other harmful substances that reach watercourses, wetlands, and water bodies by using scientifically- proven processes including filtration, deposition, absorption, adsorption, plant uptake, and denitrification, and by improving infiltration, encouraging sheet flow, and stabilizing concentrated flows.
- B. Improve and maintain the safety, reliability, and adequacy of the water supply for domestic, agricultural, commercial, industrial, and recreational uses along with sustaining diverse populations of aquatic flora and fauna.
- C. Preserve and protect areas that intercept surface water runoff from upland sources and function to remove or buffer the effects of associated nutrients, sediment, organic matter, pesticides, or other pollutants prior to entry into water bodies, as well as provide wildlife habitat, moderate water temperature in water bodies, and provide opportunities for passive recreation.
- D. Regulate the land use, siting, and engineering of all development to be consistent with the intent and objectives of this ordinance and accepted conservation practices, and to work within the carrying capacity of existing natural resources.

- E. Assist in the implementation of pertinent state laws concerning erosion and sediment control practices, specifically Erosion Control, of the Pennsylvania Clean Streams Law, Act 394, P.L. 1987, Chapter 102 of the Administrative Code (as amended October 10, 1980 Act 157 P.L.), Title 25, and any subsequent amendments thereto, as administered by the Pennsylvania Department of Environmental Protection and the Montgomery County Conservation District.
- F. Conserve the natural features important to land or water resources such as headwater areas, groundwater recharge zones, floodway, floodplain, springs, streams, wetlands, woodlands, prime wildlife habitats and other features that provide recreational value or contain natural amenities that exist on developed and undeveloped land.
- G. Work with floodplain, steep slopes, and other ordinances that regulate environmentally sensitive areas to minimize hazards to life, property, and riparian features.
- H. Support the goals and practices of Stormwater Management Plan for the Tookany/Tacony-Frankford Designated Watershed, as adopted by Cheltenham Township and as amended.
- I. Recognize that natural features contribute to the welfare and quality of life of the Cheltenham Township residents.
- J. Conserve natural, scenic, and recreation areas within and adjacent to riparian areas for the community's benefit.

§295-248. Applicability.

- A. The Riparian Corridor Conservation District is an overlay district that applies to lands adjacent to streams, including any adjacent wetlands, and/or water bodies draining into the identified stream, as specifically delineated in §295-249 herein.
- B. The Riparian Corridor Conservation District regulations shall apply when:
 - 1. A plan is submitted for Land Development and/or the Subdivision of Land.
 - 2. A Building Permit application is submitted for construction of a new structure and/or an expansion of an existing structure within 100' of a mapped stream.
- C. Lots containing legal structures in existence at the time of adoption of this Article shall not be subject to the requirements of this Article unless and until they are the subject of either B.1 or B.2 listed above. Existing non-conforming uses and structures shall be permitted to expand to the extent permitted by this Chapter.
- D. Any lands within one-hundred feet (100') of a stream that are wholly separated from that stream by a public or private street shall be considered outside the Riparian Corridor Conservation District and the regulations contained in this article shall not apply.

§295-249. Boundary definition, zone determination and interpretation.

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

Water Feature	Minimum Corridor Width
<p>1. Mapped Streams As mapped on the adopted “Cheltenham Township Riparian Corridor Conservation District Map,” (<i>Attachment A, as amended</i>) including any adjacent wetlands and/or water bodies draining into the identified stream.</p>	<p>Zone One: Minimum width of 25 feet from each defined edge of the stream at bank full flow, measured perpendicular to the edge of the stream.</p> <p>Zone Two: Minimum width of 75 feet from the outer edge of Zone One, measured perpendicular to the edge of Zone One, or equal to the extent of the 100-year floodplain¹, or 25 feet beyond the outer edge of a wetland along the stream, whichever is greater.</p>
<p>2. Unmapped Streams Any perennial stream², located on a site survey prepared by a design professional licensed in the Commonwealth of Pennsylvania, including any adjacent wetlands and/or water bodies draining into the identified stream.</p>	<p>Zone One: Minimum width of 25 feet from each defined edge of the stream at bank full flow, measured perpendicular to the edge of the stream.</p> <p>Zone Two: Minimum width of 75 feet from the outer edge of Zone One, measured perpendicular to the edge of Zone One, or equal to the extent of the 100-year floodplain¹, or 25 feet beyond the outer edge of a wetland along the stream, whichever is greater.</p>

¹100-year floodplain shall be defined according to the criteria of Zoning Code Article XXI, Floodplain Conservation District.

²A “perennial stream” shall mean any waterway that has continuous flow in parts of its bed all year round.

- B. Zone Designation Adjustment for Steep Slopes. Where steep slopes in excess of 15 percent are located within Zone Two (as defined in Section §295-249.A. above), Zone One shall be extended to include the steeply sloped area. Steep slopes shall be determined according to the criteria of Zoning Code Article XXII, Steep Slope Conservation District. Final determination of steep slope area shall be at the discretion of the Township Zoning Officer.
- C. Zone One and Zone Two boundary locations shall be measured from the defined edge of the stream channel at bank-full flow, or from the defined top of bank, whichever is greater. In cases where a stream is channeled using stone or concrete walls, or some other method, the inner edge of the top of the wall shall define the edge of the stream channel.

- D. When a submission, as identified in §295-248.B, is made to Cheltenham Township, it shall be the applicant's responsibility to identify and accurately locate all streams, wetlands, and water bodies on the applicant's site and within 100 feet of the applicant's property boundaries. All Zone One and Zone Two Riparian Corridor boundaries, as defined and adjusted in Sections §295-249.A and B and §295-250, shall also be identified by the applicant. Plans for Land Development and Subdivision of Land shall be prepared by a design professional licensed in the Commonwealth of Pennsylvania, and shall be reviewed by the Township Zoning Officer for correctness.
- E. Boundary Dispute. The Zoning Officer, Township Engineer and/or other such advisors selected by the Board of Commissioners, shall make all determinations related to the boundaries of the Riparian Corridor Conservation District. Any party that alleges there is an error in any such determination, or other decision or determination under this Article, may appeal to the Zoning Hearing Board as provided in Article XXVII.
- F. Terminology. Technical terminology used in this article shall be interpreted to have the meanings used and recognized by the Pennsylvania Department of Environmental Protection. Interpretation and final determination shall be made by the Township Zoning Officer.

§295-250. Boundary Adjustments

The boundaries of the Riparian Corridor Conservation District, as identified in §295-249, shall be adjusted in compliance with the following:

- A. All properties measuring less than one acre shall be permitted to reduce Zone One to ten feet (10'), and Zone Two to an additional twenty-five feet (25'), measured from the edge of Zone One, for a total buffer width of thirty-five feet (35').
- B. If any structure legally existing at the time of the passing of this article lies within one hundred feet (100') of the defined edge of a stream, in whole or in part, Zone Two requirements shall not apply. Zone One requirements shall apply as specified herein (10' for properties less than one acre; 25' for properties greater than one acre).
- C. If any parking lot or driveway legally existing at the time of the passing of this article lies within twenty-five feet of the defined edge of a stream (and/or within Zone One), and that parking area or driveway is proposed to be redeveloped or reconfigured as part of a Land Development application, the proposed paved area shall not encroach upon the stream buffer any more than the existing paved area already does. The proposed paved area shall be located a minimum of five feet (5') away from the defined edge of the stream, even if the existing paved area is closer to the stream, and the remaining five (or more) feet shall be vegetated. This requirement only applies when the paved area is the subject of a land development application; this does not apply to regular maintenance such as re-paving of an existing parking lot or driveway.

§295-251. Uses permitted in the Riparian Corridor Conservation District.

The following uses are permitted in the Riparian Corridor Conservation District in compliance with the requirements of this article, provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other code or chapter:

A. Uses permitted within both Zone One and Zone Two:

1. Open space uses that are primarily passive in character, including wildlife sanctuaries, nature preserves, forest preserves, fishing areas, and passive areas of public and private parklands.
2. Walking paths and recreational trails, constructed in compliance with Chapter 102, Title 25, of the Pennsylvania Administrative Code, entitled “Erosion and Sediment Control.” Trails shall be located a minimum of five feet (5’) away from of the defined edge of a stream, except that periodic look-out points shall be permitted to allow users access to the stream.
3. Maintenance of vegetation and plant materials, including gardening, landscaping, tree and shrub pruning, and lawn mowing and edging.
4. Streambank stabilization and channel restoration activities as approved and/or conducted by the Township of Cheltenham.
5. Corridor crossings, by special exception only, for driveways, roadways, paved trails, railroads, and utilities, provided the stream crossing design standards and mitigation requirements of §295-254 are satisfied.

B. Uses permitted within Zone Two only (not permitted within Zone One):

1. New /proposed accessory structures having an area equal to or less than 400 square feet and otherwise meeting the dimensional requirements of the underlying zoning district. New/proposed accessory structures shall not be located within Zone One, except as allowed in §295-250 herein, including but not limited to sheds, and garages.
2. Required yard areas proposed as part of a Subdivision or Land Development shall be permitted in Zone Two but shall not include any lands located in Zone One. Required yard areas shall be measured from the edge of Zone One where it is closest to the proposed structure and/or building envelope.
3. Active recreation areas such as ball fields, playgrounds, golf courses, swimming pools, and sports courts, provided these uses are designed in a manner that will not permit accelerated erosion as defined and regulated Chapter 290 of the Township Code – Watershed Stormwater Management.
4. Centralized sewer and/or water lines and public utility transmission lines. When proposed as part of a subdivision or land development, the mitigation requirements of §295-254 shall be satisfied. In all cases, utility lines shall be located at least thirty-five

feet (35') from Zone One, or a minimum of sixty feet (60') from the top of the stream bank, whichever is greater.

§295-252. Uses specifically prohibited in the Riparian Corridor Conservation District.

Any use or activity not authorized in §295-251 shall be prohibited within the Riparian Corridor Conservation District, and the following uses and activities are specifically prohibited:

- A. Roads and driveways, except where permitted as corridor crossings in compliance with §295-254.
- B. Parking lots, except as permitted in compliance with §295-250.
- C. Subsurface sewage disposal areas.
- D. Storm water detention basins.

§295-253. Inspections of the Riparian Corridor Conservation District

Cheltenham Township shall have the right to inspect lands within or adjacent to an identified Riparian Corridor Conservation District when:

- A. A plan is submitted for Land Development or Subdivision of Land.
- B. A Building Permit application is submitted for construction of a new structure and/or an expansion of an existing structure within one hundred feet (100') of a mapped stream.
- C. The Riparian Corridor Conservation District may also be inspected periodically by Cheltenham Township for compliance with an approved restoration plan, excessive or potentially excessive erosion, or at any time when the presence of an unauthorized activity or structure is brought to the attention of the Township.

§295-254. Corridor Crossing Standards

All corridor crossings permitted under §295-251, herein, shall incorporate, as required, the following design standards:

- A. The width of the proposed right-of way shall not be greater than the minimum right-of-way width required by the Subdivision and Land Development Ordinance.
- B. Crossings shall be designed to cross the riparian corridor at direct right angles (+/- 10 degrees) in order to minimize disturbance of the corridor.
- C. Crossings shall be separated by a minimum of 1,000 feet of buffer length.

- D. Bridges shall be used when crossings would require a 72-inch or greater diameter pipe. When culverts are installed they shall consist of slab, arch, or box culverts and not corrugated metal pipe. Culverts shall be designed to retain the natural channel bottom to ensure the passage of water during low flow or dry weather periods.
- E. Mitigation Measures. Corridor crossings permitted in §295-251 shall be mitigated by increasing the width of the corridor as replacement for the area lost due to the encroachment, so that the total corridor area (land area within Zone One and Zone Two) for each applicable side of the stream or water body is equal to that required by §295-248.

SECTION 2. Nothing in this Ordinance or in the Code of the Township of Cheltenham shall be construed to effect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued or any cause or causes of action existing under the said Code prior to the adoption of this amendment.

SECTION 3. In all other respects, the Code of the Township of Cheltenham, Chapter 295, entitled “Zoning,” is hereby ratified and reaffirmed except where the same is inconsistent with the provisions contained in this Ordinance.

SECTION 4. The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision thereof shall be held illegal, invalid or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Cheltenham Township Board of Commissioners that this Ordinance would have been adopted if such legal, invalid or unconstitutional section, sentence, clause, part or provisions had not been included herein.

SECTION 5. This Ordinance shall take effect and be in force from and after it is approved as required by law.

ENACTED into an ORDINANCE this _____ day of _____, 2012.

**TOWNSHIP OF CHELTENHAM
BOARD OF COMMISSIONERS**

BY: _____
Art Haywood, President

ATTEST: _____
Bryan T. Havir, Secretary