

Article 5: Conservation Overlay Districts

Section 501: Statement of Intent

- (A) The purpose and objective of the Conservation Overlay Districts is to implement the goals, objectives and policies of the Governor Mifflin Region Comprehensive Plan and the Berks County Conservation Zoning Incentive Program, which pertain to conservation management, environmental resource protection, natural resources, and open space preservation. In order to strategically implement these goals, objectives and policies, the following Conservation Overlay Districts are hereby established:

Floodplain Overlay District

Wetlands Overlay District

Steep Slope Overlay District

Woodland Protection and Management Overlay District

Riparian Buffer Overlay District

Carbonate Geology Overlay District

- (B) The Conservation Overlay Districts incorporated under this Article include provisions to supplement and enhance the existing underlying district regulations for certain land areas and water features. These supplemental regulations should not replace the existing underlying zoning district regulations. In cases where the Conservation Overlay Districts should overlap, the more restrictive standards and specifications shall apply.
- (C) The land and water areas encompassed by the Conservation Overlay Districts shall be subject to the interpretation of the Zoning Officer.
- (D) Should a dispute arise concerning the interpretation of the boundaries or limits of those land or water areas encompassed by the Conservation Overlay Districts, the person aggrieved by the interpretation may file an appeal with the Zoning Hearing Board. In all cases, the burden of proof and submission of technical evidence shall be the responsibility of the person appealing the interpretation of the Zoning Officer.

Section 502: Floodplain Overlay District

- (A) The Floodplain Overlay District shall be a conservation overlay to the underlying zoning districts of Cumru Township. The purpose and objective of the Floodplain Overlay District is outlined as follows:
- (1) To promote the general health, welfare and/or safety of the community.
 - (2) To encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
 - (3) To minimize danger to public health by protecting water supply and natural drainage.
 - (4) To reduce the financial burdens imposed on the community, governmental or municipal units, and its resident, by preventing excessive development in areas subject to flooding.
 - (5) To require all those uses, activities and development that do occur in flood-prone areas to be protected and or flood-proofed against flooding and flood damage.
 - (6) To comply with federal and state floodplain management requirements.
 - (7) To implement the recommendations concerning natural features, conservation management and land use, as endorsed by the Governor Mifflin Region Comprehensive Plan (2005).

- (B) The Floodplain Overlay District shall include the land or water areas, which are inundated or contained within such flood-prone features including: the Floodway Area (FW); the Floodway Fringe Area (FF); the General Floodplain Area (FA); and the 100-year floodplain. These flood-prone features are further defined and depicted as part of the Cumru Township Floodplain Ordinance that was adopted by the Cumru Township Board of Commissioners as part of Cumru Township Ordinance Number 552 on November 18, 1997.
- (C) Pursuant to the provisions of Cumru Township and the Federal Emergency Management Agency, the Cumru Township Floodplain Ordinance may be updated and amended from time to time.
- (D) The limits of the Floodplain Overlay District are identified in the most recent Flood Insurance Rate Study and Flood Insurance Rate Maps, as prepared and issued by the Federal Emergency Management Agency.
- (E) All proposed uses, site improvements and development requirements shall conform to the provisions specified within the Cumru Township Floodplain Ordinance. In addition to these provisions, the following requirements shall apply:
 - (1) The net lot area for any permitted use or development within Cumru Township shall not include land or water areas that are included within the Floodway Area (FW).
 - (2) No subdivision or land development plan activities shall be permitted that would cause any increase in the one hundred (100) year flood elevation.
 - (3) No new construction or land development activities shall be located within fifty (50) feet landward or upland from the top-of-bank of any perennial stream, unless a permitted by the local, state and/or federal agency having jurisdiction.
 - (4) All proposed site improvements and construction activities within the Floodplain Overlay District shall adhere to the policies, recommendations and requirements of the Schuylkill River Watershed Act 167 Stormwater Management Plan and the Cumru Township Stormwater Management Ordinance.
- (F) All other application procedures, administrative controls, technical provisions, permitted land uses, activities requiring special exceptions, existing or non-conforming provisions, variance procedures, and technical definitions involving the Floodplain Overlay District are specified within the Cumru Township Floodplain Ordinance.

Section 503: Wetlands Overlay District

- (A) The Wetlands Overlay District shall be a conservation overlay to the underlying zoning districts of Cumru Township. The purpose and objective of the Wetlands Overlay District Overlay District is outlined as follows:
 - (1) To direct growth, development and revitalization efforts by considering environmentally sensitive land areas and ecological habitats.
 - (2) To achieve and sustain a high quality natural resource system and to protect a natural diversity of ecosystems.
 - (3) To provide aquatic habitats, which are essential breeding, rearing and feeding grounds for many species of fish, plants and other wildlife.
 - (4) To develop a protective zone to serve as a natural filter in the removing of pollutants such as bacteria, acid and sediment from groundwater and surface water.
 - (5) To implement an effective hydrological and stormwater management program that adequately addresses surface drainage, groundwater recharge and soil erosion control measures
 - (6) To implement Best Management Practices.
 - (7) To implement the recommendations concerning natural features, conservation management and land use, as outlined within the Governor Mifflin Region Comprehensive Plan.
 - (8) To implement the goals and objectives of the Berks County Conservation Zoning Incentive Program.

- (B) The Wetlands Overlay District shall include the following land and water features:
- (1) All areas delineated as wetlands and/or seasonal pools on the most recent National Wetlands Inventory Maps as prepared by the United States Fish and Wildlife Service.
 - (2) All areas delineated as wetlands and/or seasonal pools by a qualified professional or soil scientist with experience in delineating wetlands.
 - (3) All areas delineated as wetlands and/or seasonal pools by the United States Army Corps of Engineers, as part of a Jurisdictional Determination.
 - (4) All areas containing hydric soils, as defined, described and mapped as part of the Soil Survey of Berks County.
- (C) All uses permitted within the underlying zoning districts shall be permitted as part of the Wetlands Overlay District, provided that the land area intended to facilitate the proposed use and related site improvements has not been delineated as a wetlands area by Cumru Township, the United States Army Corps of Engineers, the Pennsylvania Department of Environmental Protection, the Berks County Conservation District, or by a qualified professional or soil scientist with experience in delineating wetlands.
- (D) For all subdivision or land development applications involving areas with hydric soils and/or areas considered to be wetlands, a qualified professional or soil scientist with experience in delineating wetlands shall conduct a field investigation and delineate the limits of the wetlands on the parcel of land being subdivided or developed. As part of this requirement, a report containing the field investigation notes, wetland data sheets, summary, conclusions and resume of the person(s) responsible for the field investigation shall be issued to Cumru Township for review and consideration. Further, the subdivision plan or land development plan shall contain a certification note that has been endorsed by the qualified person(s) responsible for the field investigation and the wetlands delineation, as accurately depicted on the subdivision plan or land development plan.
- (E) The maximum disturbance area or encroachment area on lands that have been delineated as wetlands shall not exceed ten (10) percent of the total area delineated as wetlands, unless otherwise permitted by a United States Army Corps of Engineers, the Pennsylvania Department of Environmental Protection, or other agency with jurisdictional authority.
- (F) For all areas that have been delineated as a wetlands area, the following provisions and restrictions shall specifically apply:
- (1) No wetland encroachment or earth disturbance activities shall be permitted unless the appropriate permits or approvals have been obtained from the Pennsylvania Department of Environmental Protection and/or the United States Army Corps of Engineers.
 - (2) If a Jurisdictional Determination has been issued by the United States Army Corps of Engineers, a twenty-five (25) foot buffer zone shall be applied to all areas that have been delineated as wetlands, as measured from the perimeter of the wetlands area. Unless otherwise permitted by Cumru Township, no encroachment or earth disturbance activities shall be permitted within the required buffer zone.
 - (3) If a Jurisdictional Determination has not been issued by the United States Army Corps of Engineers, a fifty (50) foot buffer zone shall be applied to all areas that have been delineated as wetlands, as measured from the perimeter of the wetlands area. Unless otherwise permitted by Cumru Township, no encroachment or earth disturbance activities shall be permitted within the required buffer zone.
 - (4) Cumru Township may allow a reduction in the dimensions or limits of the required buffer zone provided that the applicant can sufficiently demonstrate that there will be no degradation or negative impacts to the wetlands as a result of the reduction of the buffer zone.
 - (5) All areas delineated as wetlands within Cumru Township are subject to the land use restrictions and controls, as specified by Cumru Township, the Pennsylvania Department of Environmental Protection and/or the United States Army Corps of Engineers. Where encroachments or earth disturbance activities

are proposed for any improvements, the required approvals or permits must be obtained by the applicant from the appropriate governing agency.

- (G) Unless otherwise required by Cumru Township, a wetlands delineation shall be conducted for all areas in which earth disturbance activities or improvements are proposed within the Wetlands Overlay District.

Section 504: Steep Slope Overlay District

- (A) The Steep Slope Overlay District shall be a conservation overlay to the underlying zoning districts of Cumru Township. The purpose and objective of the Steep Slope Overlay District is outlined as follows:

- (1) To protect certain land areas classified as “steep slopes” from inappropriate subdivision and land development activity, which could result in accelerated erosion, increased volume and velocity of stormwater, and degradation of surface waters.
- (2) To permit only those uses of steep slopes, which are compatible with the conservation of the natural conditions, habitats and environment by maintaining existing topographical conditions and minimizing earth disturbance activities.
- (3) To encourage the utilization of appropriate construction and land development practices.
- (4) To direct growth, development and revitalization efforts by considering environmentally sensitive land areas.
- (5) To implement the recommendations concerning natural features, conservation management and land use, as outlined within the Governor Mifflin Region Comprehensive Plan.
- (6) To implement the goals and objectives of the Berks County Conservation Zoning Incentive Program.

- (B) The Steep Slope Overlay District shall include the following three (3) slope categories:

Category 1 Slopes: All land areas in which the topographical conditions have a range of slope between 8 and 15 percent in slope in pre-development conditions, whereas the vertical elevation changes between 8 and 15 feet over a minimum horizontal distance of 100 feet, as measured in any given direction, over which steep slopes of this category or any greater category prevail.

Category 2 Slopes: All land areas in which the topographical conditions have a range of slope between 15 and 25 percent in slope in pre-development conditions, whereas the vertical elevation changes between 15 and 25 feet over a minimum horizontal distance of 100 feet, as measured in any given direction, over which steep slopes of this category or any greater category prevail.

Category 3 Slopes: All land areas in which the topographical conditions exceed a slope of 25 percent in pre-development conditions, whereas the vertical elevation changes exceeds 25 feet over a minimum horizontal distance of 100 feet, as measured in any given direction, over which steep slopes of this category prevail.

- (C) All uses permitted within the underlying zoning districts shall be permitted as part of the Steep Slope Overlay District, provided that the lot or parcel intended to facilitate the proposed use and related site improvements does not conflict with the provisions of the Steep Slope Overlay District.

- (D) The following subdivision and land development provisions shall apply to all lots or parcels, regardless of their size, whereas at least 10 percent of the lot or parcel includes Category 1 Slopes:

- (1) Where feasible, the principal building and use shall not be located on Category 1 Slopes. In situations where the entire lot consists of Category 1 Slopes or greater, the applicant shall develop a plan to mitigate excess grading and erosive conditions.
- (2) The maximum building coverage for the proposed use, as specified by the zoning district requirements, shall be reduced by 10 percent from the conventional standard.

Example: If the maximum building coverage for a residential lot is 20 percent and the lot contains Category 1 Slopes as the highest delineated slope category, than the 10 percent reduction would limit the maximum building coverage to 18 percent for that residential lot.

- (3) The maximum lot coverage for the proposed use, as specified by the zoning district requirements, shall be reduced by 10 percent from the conventional standard.

Example: If the maximum lot coverage for a residential lot is 30 percent and the lot contains Category 1 Slopes as the highest delineated slope category, than the 10 percent reduction would limit the maximum lot coverage to 27 percent for that residential lot.

- (4) The maximum disturbance area of lands that have been exclusively identified as Category 1 Slopes shall be limited to 70 percent of the total area of the Category 1 Slopes on the lot or property being developed.

- (E) The following subdivision and land development provisions shall apply to all lots or parcels, regardless of their size, whereas at least 10 percent of the lot or parcel includes Category 2 Slopes:

- (1) The principal building and use may be located on Category 2 Slopes provided that a professional engineer, architect or surveyor, licensed within the Commonwealth of Pennsylvania, submits plans and supporting documentation to Cumru Township as part of the subdivision plan, land development plan and/or building permit to demonstrate that the proposed construction methods shall mitigate any adverse impacts associated with steep slopes, hydrology, landscaping, erosion and stabilization. All such plans, designs and supporting documentation shall be signed and sealed by the professional engineer, architect or surveyor, which shall be subject to the review and approval of Cumru Township.

- (2) Accessory buildings, uses and driveways may be located on or traverse through Category 2 Slopes.

- (3) The maximum building coverage for the proposed use, as specified by the zoning district requirements, shall be reduced by 15 percent from the conventional standard.

Example: If the maximum building coverage for a commercial lot is 40 percent and the lot contains Category 2 Slopes as the highest delineated slope category, than the 15 percent reduction would limit the maximum building coverage to 34 percent for that commercial lot.

- (4) The maximum lot coverage for the proposed use, as specified by the zoning district requirements, shall be reduced by 15 percent from the conventional standard.

Example: If the maximum lot coverage for a commercial lot is 60 percent and the lot contains Category 2 Slopes as the highest delineated slope category, than the 15 percent reduction would limit the maximum lot coverage to 51 percent for that commercial lot.

- (5) The maximum disturbance area of lands that have been exclusively identified as Category 2 Slopes shall be limited to 40 percent of the total area of the Category 2 Slopes on the lot or property being developed.

- (6) Municipal, utility and conservation uses shall be permitted on Category 2 Slopes.

- (F) The following subdivision and land development provisions shall apply to all lots or parcels, regardless of their size, whereas at least 10 percent of the lot or parcel includes Category 3 Slopes:

- (1) The principal building and use shall not be located on Category 3 Slopes.

- (2) All accessory buildings, uses and driveways may be located on or traverse through Category 3 Slopes.

- (3) The maximum building coverage for the proposed use, as specified by the zoning district requirements, shall be reduced by 20 percent from the conventional standard.

Example: If the maximum building coverage for a residential lot is 20 percent and the lot contains Category 3 Slopes as the highest delineated slope category, then the 20 percent reduction would limit the maximum building coverage to 16 percent for that residential lot.

- (4) The maximum lot coverage for the proposed use, as specified by the zoning district requirements, shall be reduced by 20 percent from the conventional standard.

Example: If the maximum lot coverage for a residential lot is 30 percent and the lot contains Category 3 Slopes as the highest delineated slope category, then the 20 percent reduction would limit the maximum lot coverage to 24 percent for that residential lot

- (5) The maximum disturbance area of lands that have been exclusively identified as Category 3 Slopes shall be limited to 10 percent of the total area of the Category 3 Slopes on the lot or property being developed.

- (6) Municipal, utility and conservation uses shall be permitted on Category 3 Slopes.

- (G) Applications involving a subdivision and/or land development plan shall include a topographical analysis, which includes a depiction of the slope categories drawn to scale. The Cumru Township Engineer and/or Zoning Officer shall review the accuracy of the topographical analysis. Where necessary, field verification shall be conducted by the applicant to verify the accuracy of the topographical analysis.

- (H) If required by Cumru Township, applications involving a zoning permit or building permit shall include a topographical analysis, which depicts the slope categories drawn to scale.

Section 505: Woodland Protection and Management Overlay District

- (A) The Woodland Protection and Management Overlay District shall be a conservation overlay to the underlying zoning districts of Cumru Township. The purpose and objective of the Woodland Protection and Management Overlay District is outlined as follows:

- (1) To protect areas classified as woodlands from inappropriate subdivision, land development and conservation management activities.
- (2) To acknowledge that woodlands are a vital resource and provide a number of community benefits including: minimizing erosion on areas of steep slopes and stream banks; improving groundwater quality and quantity by filtering out pollution and sediment; providing wildlife habitats for plants and animals; providing effective stormwater management and erosion control; providing shade from direct sunlight and reduces temperatures; stabilizing adverse climate conditions by providing buffer and wind breaks; providing active and passive recreation opportunities; enhancing the scenic characteristics; and reducing air pollution by absorbing airborne pollutants.
- (3) To establish forestry and timber regulations that will effectively promote good forest stewardship, protect the rights of adjoining property owners, and minimize the potential of adverse environmental impacts created by inappropriate timber harvesting.
- (4) To minimize the clear cutting of woodlands and other earth disturbance activities, which may create adverse environmental and ecological impacts.
- (5) To permit the sale of forestry products as an economic value and to appreciate that forestry is a leading industry within the Commonwealth of Pennsylvania.
- (6) To implement the recommendations concerning natural features, conservation management and land use, as outlined within the Governor Mifflin Region Comprehensive Plan.
- (7) To implement the goals and objectives of the Berks County Conservation Zoning Incentive Program.

- (B) The Woodland Protection and Management Overlay District shall include the following activities:

- (1) Forestry, timber harvesting, tree harvesting and logging regulations, which apply to all operations involved with the cutting down of trees and removal of logs from woodlands or forests for the primary purpose of sale and commercial processing into wood products, shall be subject to Section 505.1 of this Zoning Ordinance.
- (2) Woodland extraction, which applies to all earth disturbance activities including all subdivision and land development activities, shall be subject to Section 505.2 of this Zoning Ordinance.
- (3) Tree protection and replacement regulations, which apply to all earth disturbance activities including subdivision and land development activities, shall be subject to Section 505.3 of this Zoning Ordinance

Section 505.1: Forestry, Timber Harvesting, Tree Harvesting and Logging

- (A) Forestry, timber harvesting, tree harvesting and/or logging shall be permitted within all underlying zoning districts, provided it is conducted in accordance with the provisions of this Zoning Ordinance.
- (B) A permit shall be required from Cumru Township for any forestry, logging, timber harvesting and/or tree harvesting activities, whereas ten (10) or more healthy mature trees (12 inches or more in diameter at breast height) per acre are removed from any lot or parcels per year. It shall be unlawful for any person to engage in any forestry, timber harvesting, tree harvesting and/or logging on any lot or parcel of land within Cumru Township without first submitting a forest management plan and securing the proper permits. Unless otherwise required by Cumru Township, the following permit application procedures and requirements shall apply:
 - (1) A complete application and filing fee shall be submitted by the applicant or person engaged with the proposed forestry, timber harvesting, tree harvesting or logging activities, as imposed by resolution by the Cumru Township Board of Commissioners.
 - (2) A forest stewardship plan of the property where the proposed forestry, timber harvesting, tree harvesting or logging activities shall be prepared considering the guidelines established by the Pennsylvania Department of Conservation and Natural Resources, Bureau of Forestry, and the Penn State Cooperative Extension. At a minimum, the following information shall be required:
 - (a) An identification of the concerned property; the legal owners of the property; the mailing address(s) and phone number(s) of the legal property owners, operators, and applicant, at which they can be reached during normal business hours.
 - (b) A plan drawn to scale depicting the property boundaries, the areas of the site on which the work is to be performed, the topographic features, soils, existing vegetation, watercourses, man-made features, the affected watersheds and other natural features. The use of tax maps, topographic maps, aerial photography and soils maps may be utilized to prepare the plan.
 - (c) A description of the planned forestry, timber harvesting, tree harvesting or logging operation as well as a description of the planned replanting of the lot, as prepared and submitted by a forester or qualified person. Where no replanting is planned, a statement shall be provided describing the reasons why, in his opinion, the characteristics of the lot and vegetation situate thereon make natural regeneration appropriate or why such replanting is not otherwise necessary.
 - (d) An estimated starting and completion date for the timber harvesting, tree harvesting or logging activities.
 - (e) The location of the proposed temporary off-street parking and loading spaces, which shall be located outside the street right-of-way, constructed as a mud-free condition, and provide at least one (1) space per vehicle on the site of the timber harvesting activities.
 - (f) Other information that may be required to develop a complete forest stewardship plan, as determined appropriate by the Cumru Township Environmental Advisory Council.

- (3) A soil erosion and sediment control plan of the property where the proposed forestry, timber harvesting, tree harvesting or logging activity shall be submitted in accordance with the provisions of the Commonwealth of Pennsylvania.
 - (4) A complete copy of any other permits or licenses, as may be required by federal or state laws.
 - (5) Tree farms shall be considered exempt from these requirements.
- (C) Where applicable, a separate application shall be required for each permit. Three (3) copies of all permit and plan documents, as referred to in this section shall be submitted with each application, one (1) of which, at the discretion of the Cumru Township Environmental Advisory Council, Engineer or Zoning Officer shall be submitted to the Berks County Conservation District for review and comment.
- (D) The following specific regulations shall apply to all forestry, timber harvesting, tree harvesting and logging operations within Cumru Township:
- (1) Felling or skidding on or across any public road is prohibited without the express written consent of Cumru Township or the Pennsylvania Department of Transportation, whichever is responsible for maintenance of the public road.
 - (2) No tops or slash shall be left within twenty-five (25) feet of any public road right-of-way.
 - (3) All tops and slash, between twenty-five (25) and fifty (50) feet from a public road right-of-way or private road providing access to adjoining residential property or within fifty (50) feet of adjoining residential property, shall be lopped to a maximum height of four (4) feet above the surface of the ground.
 - (4) No tops or slash shall be left on or across the boundary of any property adjoining the operation.
 - (5) Trash, litter and other unnatural materials resulting from the forestry, timber harvesting, tree harvesting or logging operation shall be removed from the property at least once every seven (7) days.
 - (6) All holes created in the course of any tree harvesting operation shall be filled and/or graded.
 - (7) No timber harvesting, tree harvesting or logging operation shall occur within one hundred (100) feet of any perennial watercourse, wetlands area or seasonal pools.
 - (8) All land areas and properties, which are used for timber harvesting, tree harvesting or a logging operation, shall be reseeded in compliance with the forest management plan and erosion and sediment control plan.
 - (9) Tree farms shall be considered exempt from these requirements.
- (E) The following provisions for inspections, permit fees, and permit approval shall apply to all forestry, timber harvesting, tree harvesting and logging operations within Cumru Township:
- (1) The Board of Commissioners shall by resolution, establish a schedule of fees for all permit applications required this Zoning Ordinance. The required fee shall be submitted with the application, which shall not be considered for approval until the application fee is paid.
 - (2) The Cumru Township Environmental Advisory Council in conjunction with the Cumru Township Engineer and/or Zoning Officer shall review the applicant's permit application, together with all plans, surveys, schedules, design criteria and other documents submitted or required to be submitted as part of the permit application procedure, together with any and all amendments thereto, and shall prepare a report of his findings and recommendations with respect to the same, as he shall determine necessary prior to the issuance of any permit or permits. The applicant shall pay an application fee to cover the cost of the plan reviews and site inspections.
 - (3) To ensure payment of all review and inspection fees, at the time of application, the applicant shall deposit with Cumru Township, a sum sufficient to cover the costs of such plan review, together with the cost of any inspections by the Cumru Township Environmental Advisory Council, Engineer and/or Zoning Officer.

- (4) The Cumru Township Environmental Advisory Council in conjunction with the Cumru Township Engineer or Zoning Officer shall approve and issue all permits and no work shall commence without the issuance of such permit approval.
 - (5) Where necessary, the Cumru Township Environmental Advisory Council, Engineer and/or Zoning Officer may consult with a qualified professional to review the forestry, timber harvesting, tree harvesting and logging operations.
- (F) Any permit issued under this section may be revoked or suspended by the Cumru Township after notice to the permit holder for:
- (1) Violation of any provision of this Zoning Ordinance or any other applicable law, ordinance, rule or regulation relating to the forestry, timber harvesting, tree harvesting or logging operations.
 - (2) Any conditions or activities conducted on the property, which constitutes or creates a nuisance, hazard or endangers human life or the property of others.
- (G) The landowner and the operator shall be responsible for repairing any excess damage to public or private roads caused by traffic associated with a timber harvesting, tree harvesting or logging operation. Pursuant to Title 67 Pennsylvania Code, Chapter 189, the landowner or operator shall furnish a bond in an amount determined by the Cumru Township Engineer or Zoning Officer to guarantee the repair of such damages.
- (H) The landowner and/or operator shall clean any mud or debris that is tracked onto public roads and shall be responsible for repairing berms, shoulders, swales and/or stormwater management facilities on public roads, which may be damaged due to the timber harvesting, tree harvesting or logging operation. All soil and debris washed or carried onto public streets during timber harvesting, tree harvesting or logging operations shall be cleaned immediately after the occurrence.
- (I) The Cumru Township Environmental Advisory Council, Engineer and/or Zoning Officer may inspect the property where any forestry, timber harvesting, tree harvesting or logging operation is occurring to determine if the requirements of this section and of the permit, including conditions thereof, or to the plans and specifications submitted with the permit application, including modifications thereof, or to the approved runoff and erosion control plan are being followed.
- (J) If Cumru Township determines that the landowner IS not complying with permit application, supporting plans, or other provisions established within this Zoning Ordinance, Cumru Township shall send a written notice to the landowner, which notice shall set forth the nature of corrections required and the time within which corrections shall be made. If the landowner fails to comply with the notice in the time specified, the landowner shall be considered in violation of this Zoning Ordinance, in which case Cumru Township may seek all appropriate remedies by law, including the penalty provisions established by Cumru Township.

Section 505.2: Woodland Extraction for Subdivision and Land Development

- (A) Woodland extraction shall be permitted within all underlying zoning districts, provided it is conducted in a manner to facilitate all necessary site improvements, as identified on an approved subdivision plan, land development plan, erosion and sedimentation control plan, and/or building permit. For the purposes of this Zoning Ordinance, “woodland extraction” is hereby defined as the clear cutting or removal of healthy mature trees (12 inches or more in diameter at breast height), to provide sufficient area for site improvements on an individual lot or parcel of land, as the mature trees exist in pre-development conditions.
- (B) Unless otherwise specified by this Zoning Ordinance, all proposed subdivision and land development activity shall comply with the following criteria for woodland extraction:
- (1) Woodland extraction may be permitted in order to facilitate municipal site improvements including: areas within the street right-of-way; areas for stormwater management facilities; areas for public utilities; areas for active park and recreation uses; and other areas that may be required to complete the municipal site improvements in accordance with the approved subdivision or land development plan.

- (2) Woodland extraction shall be limited to 125 percent of the total area designated as the building envelope, which shall be identified on the approved subdivision or land development plan in order to facilitate internal lot improvements including: the area of the building(s); the area for the driveway; the area for the sanitary sewage facilities, water supply facilities and other public utilities; areas for stormwater management facilities; and other areas considered necessary by the landowner, provided that the total cumulative area does not exceed 125 percent of the designated building envelope.
 - (3) If additional trees (other than those designated on the approved subdivision or land development plan) are removed or extracted for the purposes of grading or municipal improvements during the construction sequence, the applicant shall replace all such trees at a ratio of three (3) replacement trees (3 inches or more in diameter from the ground surface) for each healthy mature tree (12 inches or more in diameter at breast height) that has been incidentally timbered and/or cleared. The type and location of all such replacement trees shall be subject to the approval of the Cumru Township Board of Commissioners.
- (C) The approved subdivision and land development plan shall be utilized to regulate and control woodland extraction during the following phases: the initial construction activities required for the municipal site improvements; the building permit; and all other future site improvements that may be initiated by the prospective landowner. If a violation of the woodland extraction requirements should occur during any phase, the developer and/or landowner may be subject to fines, penalties and/or other enforcement remedies.
- (D) Compliance with the provisions for woodland extraction does not relieve the applicant representing a subdivision or land development plan of the requirements specified for landscaping and tree replacement, which are specified under Section 505.3(D) and 914 of this Zoning Ordinance as well as Sections 520 and 521 of the Subdivision and Land Development Ordinance.

Section 505.3: Tree Protection and Replacement

- (A) The purpose of this section is to provide specific standards for tree protection and replacement, which should complement and not replace other provisions of the Cumru Township Zoning Ordinance.
- (B) Unless otherwise required by Cumru Township, the following provisions shall be included on a landscape plan:
- (1) The location of existing tree canopy within the parcel boundaries.
 - (2) The location of individual trees with a diameter of more than twelve (12) inches, as identified by size and species within the area of development or limits of disturbance.
 - (3) The location of individual trees and their respective drip lines noted for preservation within the area of development or limits of disturbance. A ten (10) foot buffer shall be maintained from the drip line and the area designated for site improvements.
 - (4) The location of all required replacement trees, buffer yards and other landscaping requirements.
 - (5) The identification of the area(s) intended for tree and vegetation removal.
 - (6) Tree protection materials along with the appropriate details and limit of disturbance line.
 - (7) All other pertinent information and requirements specified by Cumru Township.
- (C) Unless otherwise required by Cumru Township, the following provisions shall apply to the construction phase of subdivision or land development plans:
- (1) Tree protection measures and the limit of disturbance line shown on the landscaping plan shall be provided at the lot or site being developed with snow fencing or other durable material. The location of the limits of disturbance shall be verified by the Cumru Township.
 - (2) Protective barriers shall not be supported by the plants they are protecting, but shall be self-supporting barriers, which shall be a minimum of four (4) feet high and shall last until construction is complete.

- (3) If required by Cumru Township, a chain link fence shall be required as the barrier for tree protection.
- (4) The barrier utilized or tree protection shall be firmly secured along a minimum of ten (10) feet from the drip line, as measured outward from the tree or cluster of trees it is protecting.
- (5) The topography or the grade of the land located within the drip line shall not be raised or lowered, unless the change of topography or grade has been reviewed by a landscape architect and that the developer has guaranteed tree replacements in the event the tree(s) do not survive.
- (6) No soil stockpiling or storage of building materials, construction equipment or vehicles shall be permitted within ten (10) feet of the drip line of the tree(s) that are to be protected.
- (7) Any earth disturbance activities within the drip line, shall be completed by hand-operated equipment.
- (8) Where a tree designated for preservation is severely damaged and unable to survive, tree replacement provisions shall be required.

(D) Unless otherwise required by Cumru Township, the following provisions shall apply to tree replacement:

- (1) Replacement tree(s) shall be of nursery grade quality, balled and burlapped. Where replacement trees are required but not suitable for the particular site prescribed due to the size of the site or other special limitations, the trees shall be utilized for planting on lands designated by Cumru Township.
- (2) The type of replacement tree(s) should be compatible to the species removed from the site. The use of invasive species shall not be permitted for tree replacement efforts.
- (3) All replacement trees shall be nursery grown within the same USDA hardiness zone as the lot or tract of land being developed.
- (4) Species of replacement plantings shall reflect careful site evaluation, which shall include the existing and proposed site conditions and their suitability for the tree species, based on topography, geology, hydrology, soil, and microclimate.
- (5) The planting of all replacement trees shall be done by or supervised by a person with horticultural training in tree care and planting methods.

(E) Compliance with the provisions for tree protection does not relieve the applicant for a subdivision or land development plan of the requirements for landscaping and tree replacement, which are specified under Section 914 of this Zoning Ordinance as well as Section 520 and 521 of the Subdivision and Land Development Ordinance.

Section 506: Riparian Buffer Overlay District

- (A) The Riparian Buffer Overlay District shall be a conservation overlay to the underlying zoning districts of Cumru Township. The purpose and objective of the Riparian Buffer Overlay District is outlined as follows:
- (1) To achieve and sustain a high quality natural resource system and to protect a natural diversity of ecosystems.
 - (2) To provide biodiversity corridors enabling wildlife habitats to prosper, migrate, breed and feed within close proximity to surface water features.
 - (3) To develop a protective zone to serve as a natural filter in the removing of pollutants such as bacteria, acid and sediment from surface water.
 - (4) To implement an effective hydrological and stormwater management program that adequately addresses surface drainage, groundwater recharge and soil erosion control measures
 - (5) To implement Best Management Practices.
 - (6) To implement the recommendations concerning natural features, conservation management and land use, as outlined within the Governor Mifflin Region Comprehensive Plan.
 - (7) To implement the goals and objectives of the Berks County Conservation Zoning Incentive Program.
- (B) The Riparian Buffer Overlay District shall apply to all perennial stream corridors within Cumru Township. The following provisions shall apply:
- (1) The limits of the Riparian Buffer Overlay District shall be recognized as a conservation overlay as part of the Cumru Township Zoning Ordinance. The design standards and specifications for the Riparian Buffer Overlay District shall be contained within the Cumru Township Subdivision and Land Development Ordinance.
 - (2) Properties located along or adjacent to a perennial stream corridor, which are not subject to subdivision and land development activity shall be subject to a education and volunteer effort, whereas, the landowner may implement the design standards contained within the Cumru Township Subdivision and Land Development Ordinance. All such efforts may be coordinated with local, county, state or federal agencies, provided that such efforts enhances, restores, stabilizes and/or maintains the integrity woodland and vegetation within the of the Riparian Buffer Overlay.
 - (3) Properties located along or adjacent to a perennial stream corridor, which are subject to subdivision and land development activity shall be subject to a mandatory effort, whereas, the landowner or developer shall be required to implement the design standards contained within the Cumru Township Subdivision and Land Development Ordinance. All such efforts may be coordinated with local, county, state or federal agencies, provided that such efforts enhances, restores, stabilizes and/or maintains the integrity woodland and vegetation within the of the Riparian Buffer Overlay.
 - (4) All land uses and site improvements should be located, designed and conducted in a manner that meets the design standards contained within the Cumru Township Subdivision and Land Development Ordinance. Where appropriate, Cumru Township may consider design waivers or modifications in accordance with the provisions of the Cumru Township Subdivision and Land Development Ordinance.
 - (5) Volunteer and mandatory efforts should be reviewed by the Berks County Conservation District to determine if the selected landscape materials will implement the overall purpose and objective of the Riparian Buffer Overlay District.

Section 507: Carbonate Geology Overlay District

- (A) The Carbonate Geology Overlay District shall be a conservation overlay to the underlying zoning districts of Cumru Township. The purpose and objective of the Carbonate Geology Overlay District is outlined as follows:
- (1) To identify and protect certain land and water areas in which the underlying geological formations contain limitations for subdivision and land development activity.
 - (2) To develop safeguards for land and water areas, which have the potential for sinkhole development, subsidence, bedrock pinnacles, and groundwater infiltration and groundwater contamination.
 - (3) To protect the water resources associated with carbonate geologic formations from land use and development patterns, which would threaten their quality and quantity as a result of pollution and the alteration of natural drainage patterns.
 - (4) To protect the health, safety and general welfare of the residents, property owners, and business owners.
 - (5) To encourage the utilization of appropriate construction and land development practices.
 - (6) To implement the recommendations concerning natural features, conservation management and land use, as outlined within the Governor Mifflin Region Comprehensive Plan.
- (B) The Carbonate Geology Overlay District shall include limestone and dolomite formations, which are described within the Engineering Characteristics of the Rock of Pennsylvania and depicted on the Geological Map of Pennsylvania. These carbonate geological formations are commonly known as the Buffalo Springs Formation (Cbs), Millbach Formation (Cm), Richland Formation (Cr), Limestone Fanglomerate (Trfl) and Leithsville Formation (Clv), which are principally located in the northern lowland areas of Cumru Township.
- (C) In reviewing all applications involving subdivision, land development, building and construction, Cumru Township shall make its review on the basis of carbonate geological formation boundaries, as depicted on the Geological Map of Pennsylvania and/or any other reliable geological resource.
- (D) Within the Carbonate Geology Overlay District, alteration and/or development of land may be hazardous with respect to foundation stability, water seepage into basements, the safety of structures, the creation of unstable land as a result of changes in drainage, and the contamination of ground and surface waters. Based upon the information available at the time of review of certain applications, Cumru Township will attempt to make reasonable judgments as to the compliance with the standards and specifications established for the Carbonate Geology Overlay District. However, under no circumstances shall the approval of any subdivision or land development plan, or its approval of any building permit create, any liability on the part of Cumru Township for any damage that may result from an applicant's or any interested party's reliance upon the regulations specified in this Zoning Ordinance or any decisions made by Cumru Township in the administration of such regulations.
- (E) Except for those uses, structures and development exempted from this section, no structure, land or water shall be used or developed, and no structure shall be located, extended, converted or structurally altered without full compliance with the procedures and standards established for the Carbonate Geology Overlay District. The following activities are exempted from these standards and procedures:
- (1) The construction and/or alternation of a single family detached dwelling, or structure accessory thereto, on a lot held in single and separate ownership on the effective date of this chapter and a permitted on-lot sanitary sewer system to serve such dwelling.
 - (2) One below ground tank for the storage of not more than 1,000 gallons of home heating oil intended to serve a single family dwelling.
 - (3) Subdivisions of land containing two (2) or fewer lots, whereas the proposed use is limited to one (1) single-family detached dwelling per approved lot.
- (F) Where interpretation is needed as to the exact location of the boundaries of the carbonate geological formations, the following procedures and requirements shall be applied:

- (1) Unless other reliable geological documentation, maps or studies are submitted to Cumru Township, the geological formations, as described within the Engineering Characteristics of the Rock of Pennsylvania and depicted on the Geological Map of Pennsylvania shall apply.
 - (2) Where there appears to be a conflict between a mapped boundary and actual field conditions, an initial determination of the exact boundary of the carbonate geological formations shall be made by the Cumru Township Engineer or Zoning Officer, based upon the information submitted by an applicant seeking subdivision or land development approval. Any applicant or person seeking such determination shall submit a geological study of the area in question or other pertinent documentation for consideration. The Cumru Township Engineer or Zoning Officer shall make a written report of the results of his determination within thirty (30) days of such submission.
 - (3) Any party aggrieved by any such determination of the Cumru Township Engineer or Zoning Officer may appeal to the Zoning Hearing Board. The applicant or person contesting the location of the carbonate geological formations district boundary shall have the burden of proof in case of any such appeal.
- (G) Unless otherwise exempted from the carbonate geological requirements of this Code, all persons or applicants seeking building, construction, subdivision and/or land development approval shall submit an Environmental Impact Assessment (EIA) Report to Cumru Township for review and consideration. At a minimum, the EIA Report shall be prepared in accordance with the following provisions:
- (1) Unless otherwise directed by Cumru Township, the format and contents of the EIA Report should be as follows:
 - (a) Statement of purpose: This section shall indicate the design standards specified by this section of the Code have been addressed and whether the applicant is attempting to demonstrate compliance or justify noncompliance with those design standards.
 - (b) Description of existing conditions: This section shall present a description of existing characteristics of the property, including geology, topography, ground and surface water hydrology, soils, vegetation and existing improvements and uses.
 - (c) Description of the proposed action: This section shall describe the proposed action, including types, locations and phasing of proposed site disturbances and construction, together with proposed future ownership and maintenance of the property and the proposed improvements. A description of the proposed action must either be included within or accompany the environmental assessment report.
 - (d) Proposed mitigation measures: This section shall describe all measures proposed by the applicant to control potential and adverse environmental impacts, which may occur as a result of the proposed action and as identified by the Cumru Township Engineer in his report on the application.
 - (e) List of professional and qualifications: The names, addresses, telephone numbers, resumes and qualifications of the persons directly responsible for preparing the EIA Report shall be provided.
 - (f) Appendixes. Any additional information, which the applicant wishes to provide may be included in one or more appendixes to the report.
 - (2) The EIA Report shall include a map of the size and scale specified by the Cumru Township Subdivision and Land Development Ordinance. The map should accurately depict the location of the property and the plan showing all proposed improvements thereon and their geographic relationship to the Carbonate Geology Overlay District. Unless otherwise approved by Cumru Township, the applicant shall utilize the carbonate geological boundaries depicted on the Geological Map of Pennsylvania.
 - (3) For areas proposed for grading and/or the construction of buildings, structures and/or other improvements of any kind, the EIA Report shall identify and map all known or reasonably determinable data for such areas, gathered and prepared by a professional geologist or soils scientist, indicating the presence of any carbonate geological features including, but not limited to: depressions; fissures, lineaments, faults or

fracture traces; "ghost lakes" occurring after rainfall events; outcrops of bedrock; seasonal high-water tables; sinkholes; lineaments; soil types and soil mottling; and springs and/or surface drainage entering the ground. All such data shall be based on field surveys and/or published data, but in either case shall be supported by an explanation of its source, including the qualifications of the individuals directly responsible for preparing such data.

- (4) As part of the EIA Report, the applicant shall furnish a detailed plan prepared in accordance with the requirements of Chapter 128 indicating existing and proposed drainage conditions, the locations of existing private and public wells on adjoining properties, as well as the location and extent of all proposed uses and improvements applicable to the design standards established under this section of the Zoning Ordinance.
 - (5) Where required as a result of the condition of the property, the EIA Report should provide additional information, which is sufficient to demonstrate: that the applicant can comply with all design standards established within this section; that one or more of such standards is not applicable because of the conditions of the property or existing uses thereon; and/or that because the applicant's proposed action poses no discernible threat to land, buildings, structures and other improvements existing or proposed from any condition arising from their location in the Carbonate Geology Overlay District.
 - (6) The Cumru Township Engineer and/or Zoning Officer shall review the EIA Report and other submitted materials as part of the application, and shall make a site inspection of the property.
 - (7) Following such site inspection, the Cumru Township Engineer and/or Zoning Officer shall submit a written report to the Planning Commission and Board of Commissioners presenting his findings with respect to the applicant's compliance with the procedures and standards established as part of the Carbonate Geology Overlay District.
- (H) No structure, land area or water body shall be used or developed, and no structure shall be located, extended, converted or structurally altered, within the Carbonate Geology Overlay District unless it conforms with the following standards and regulations:
- (1) The below-ground storage of heating oil, gasoline, chemical solutions or other substances, which, if released, would constitute pollutants to ground or surface waters, is prohibited. The applicant may be authorized to place a tank underground in a concrete vault, install other impervious liners and/or install monitoring devices if the Cumru Township Engineer and/or Zoning Officer determine that there exists no probability of leakage. This limitation shall be in addition to demonstrated compliance by the applicant with all applicable laws and the regulations of the Pennsylvania Department of Environmental Protection (PADEP) governing such facilities.
 - (2) The use of fill containing any material, which would represent a potential contamination hazard to ground or surface water are prohibited. Such prohibited materials shall include, but not necessarily be limited to, wastes identified as "hazardous" by state and federal laws and by regulations promulgated by the PADEP and the Environmental Protection Agency.
 - (3) Above-ground storage, handling, processing or disposal of toxic materials, liquid fuels or other hazardous liquids or any other substance with the potential to contaminate ground and surface waters shall be prohibited unless contained within an area having impermeable surfaces such as concrete or other impervious material under the storage and handling areas to confine and prevent groundwater contamination. Additionally, aboveground storage tanks shall comply with the requirements of any and all regulations promulgated for the Pennsylvania Storage Tank and Spill Prevention Act (PA Act No. 32) as may be amended or any other state or federal laws. Underground storage tanks shall comply with all applicable federal and state laws.
 - (4) Land grading or construction of structures or other site improvements, which would directly or indirectly diminish the flow of natural springs, surface waters or naturally existing underground drainage channels is prohibited. In determining the potential adverse affect of any proposed grading, site disturbance or construction activities, the applicant shall provide the Township Engineer and/or Zoning Officer with geology and water table data from observation wells, test borings and other accepted sources, as deemed necessary by the Cumru Township Engineer and/or Zoning Officer using accepted engineering practice.

- (5) The installation of individual water supply wells which would directly or indirectly affect water supply, water volume, the water table or underground aquifers, groundwater or the watershed ("natural water supplies") is permitted, subject to the applicant's submission of a groundwater study sufficient to conclude that the installation of any such well shall not create an adverse impact on any of the foregoing natural water supplies and shall not result in ground subsidence or damage to any existing or proposed structures or improvements. Any water supply involving water supplied from a community well shall be prohibited within the Carbonate Geology Overlay District.
 - (6) No stormwater management basin or other associated facilities shall be placed in or over the following features: sinkholes, closed depression, fracture traces, lineament, ghost lake, springs or disappearing streams (places where surface drainage enters the ground). Where necessitated by proximity to such features, basins may be required to be lined or otherwise constructed to preclude the opening of sinkholes and depressions arising as a consequence of water infiltration into carbonate formations.
 - (7) Buildings and structures proposed to be constructed within the influence of a sinkhole, closed depression, lineament, fracture trace, spring, ghost lake or disappearing stream shall be designed so as to provide adequate control and dispersal of water in order to reduce the hazard of building damage due to collapse or subsidence. All measures proposed to be used by the applicant to control adverse impacts shall be described to the satisfaction of the Cumru Township Engineer and/or Zoning Officer.
 - (8) All underground sewer and water utilities, roadbeds, curbs, sidewalks and culverts proposed to be constructed and installed in areas evidencing carbonate formations shall be adequately protected from collapse, leakage and other hazards that contribute to or arise from collapse or subsidence, as required by the Cumru Township Engineer and/or Zoning Officer.
- (I) Should Cumru Township find that an applicant may create a significant risk to the public's health or safety, in spite of taking all reasonable actions to minimize such risk, or should Cumru Township determine that the applicant has not taken all reasonable actions to minimize such risk, Cumru Township may deny the application in accordance with the provisions established by this Zoning Ordinance or impose reasonable conditions deemed appropriate by the Cumru Township Engineer and/or Zoning Officer to mitigate such risks.
 - (J) Following receipt of the report from the Cumru Township Engineer and/or Zoning Officer shall either approve the building permit application, approve it with conditions, or reject it, and shall do so within forty-five (45) days of submission of the permit application, unless a request to extend the time period is requested or agreed upon, in writing, by the applicant.
 - (K) Where compliance with this section of the Zoning Ordinance is required as part of an application for subdivision or land development plan approval, the decision on whether compliance has been achieved shall be made at the time of the decision on the subdivision or land development plan application.
 - (L) Where the application is a part of a request for a zoning permit, the Zoning Officer shall issue no such permit until the requirements of this section of the Zoning ordinance and any conditions imposed upon the use of the property at the time of subdivision or land development approval are satisfied.