

Adopted 2/9/2004

Effective 3/10/2004

Chapter 160
ESTABLISHMENT OF RIPARIAN SETBACKS

160.01: PUBLIC PURPOSE

- (a) The specific purpose and intent of this regulation is to regulate building and land use within riparian setback areas that would impair the ability of these areas to:
 - (1) Reduce flood impacts by absorbing peak flows, slowing the velocity of flood waters, and regulating base flow.
 - (2) Assist in stabilizing the banks of watercourses to reduce woody debris from fallen or damaged trees, stream bank erosion, and the downstream transport of sediments eroded from watercourse banks.
 - (3) Reduce pollutants in watercourses during periods of high flows by filtering, settling, and transforming pollutants already present in watercourses.
 - (4) Reduce pollutants in watercourses by filtering, settling, and transforming pollutants in runoff before they enter watercourses.
 - (5) Provide watercourse habitats with shade and food.
 - (6) Reduce the presence of aquatic nuisance species to maintain a diverse aquatic system.
 - (7) Provide riparian habitat to a wide array of wildlife by maintaining diverse and connected riparian vegetation.
- (b) This regulation has been enacted to protect these services of riparian areas by providing reasonable controls governing building and land use within a riparian setback along designated watercourses in Bainbridge.
- (c) This regulation has been enacted in compliance with Bainbridge Township Phase II Storm Water Management Program, adopted February 24, 2003, as required by 40 C.F.R. Parts 9, 122, 123, and 124.

160.02: APPLICABILITY

- (a) This regulation shall apply to all zoning districts in Bainbridge as defined in the most recent version of the Bainbridge Township Zoning Resolution.
- (b) This regulation shall apply to all lands that are within the jurisdiction of Bainbridge and that border designated watercourses as defined in this regulation.

160.03: DEFINITIONS

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

- (a) “Bainbridge” means Bainbridge Township, its designated representatives, boards, or commission.
- (b) “Damaged or Diseased Trees” means trees that have split trunks; broken tops; heart rot; insect or fungus problems that will lead to imminent death; undercut root systems that put the tree in imminent danger of falling; lean as a result of root failure that puts the tree in imminent danger of falling; or any other condition that puts the tree in imminent danger of being uprooted or falling into or along a watercourse or on to a structure.
- (c) “Designated Watercourse” means a watercourse that is contained within, flows through, or borders Bainbridge and meets the criteria set forth in Section 160.04 of this regulation.
- (d) “Federal Emergency Management Agency (FEMA)” means the agency with overall responsibility for administering the National Flood Insurance Program.
- (e) “100-Year Floodplain” means any land susceptible to being inundated by water from a base flood. The base flood is the flood that has a one percent or greater chance of being equaled or exceeded in any given year. The 100-Year Floodplain shall be defined by the Federal Emergency Management Agency maps for Bainbridge Township.
- (f) “Ohio Environmental Protection Agency” means the organization referred throughout this regulation as the "Ohio EPA."
- (g) “Ordinary High Water Mark” means the point of the bank to which the presence and action of surface water is so continuous as to leave an area marked by erosion, destruction, or prevention of woody terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. The ordinary high water mark defines the bed of a watercourse.
- (h) “Riparian Area” means naturally vegetated land adjacent to watercourses that, if appropriately sized, helps to stabilize streambanks, limit erosion, reduce flood size flows, and/or filter and settle out runoff pollutants, or performs other functions consistent with the purposes of this regulation.
- (i) “Riparian Setback” means those lands in Bainbridge that fall within the area defined by the criteria set forth in Section 160.04 of this regulation.

- (j) “Soil and Water Conservation District” means an entity organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employees.
- (k) “Soil Disturbing Activity” means clearing, grading, excavating, filling, dumping, grubbing, stripping, or other alteration of the earth’s surface where natural or human made ground cover is destroyed and which may result in, or contribute to, erosion and sediment pollution.
- (l) “Waste Water Treatment Plant (WWTP)” means a facility at the end of a sanitary collection system which processes the influent waste, and discharges water to a receiving system, treated to the standards of the Ohio Environmental Protection Agency (EPA).
- (m) “Watercourse” means any brook, channel, creek, river, or stream having banks, a defined bed, and definite direction of flow, either continuously or intermittently flowing.
- (n) “Wetland” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. (40 CFR 232, as amended).

160.04: ESTABLISHMENT OF DESIGNATED WATERCOURSES AND RIPARIAN SETBACKS

- (a) Designated watercourses shall include those watercourses meeting any ONE of the following criteria:
 - (1) All watercourses draining an area greater than or equal to ½ square mile, OR
 - (2) All watercourses draining an area less than ½ square mile and having a defined bed and bank. In determining if watercourses have a defined bed and bank, the Zoning Inspector may consult with representatives of the Geauga SWCD or other technical experts.
- (b) Riparian setbacks on designated watercourses are established as follows:
 - (1) A minimum of 120 feet on each side of all watercourses draining an area greater than or equal to 20 square miles.
 - (2) A minimum of 75 feet on each side of all watercourses draining an area greater than or equal to ½ square mile and up to 20 square miles.
 - (3) A minimum of 25 feet on each side of all watercourses draining an area less than ½ square mile and having a defined bed and bank as determined in Section 160.04(a)(2) of this regulation.

- (c) Riparian Setback Map. The Township shall create a map identifying designated watercourses and their riparian setbacks. This map is attached with this regulation as Exhibit A. The following shall apply to the Riparian Setback Map:
 - (1) Nothing herein shall prevent the Township from making additions, amendments, revisions, or deletions from the Riparian Setback Map.
 - (2) If any discrepancy is found at the time of application of this regulation between the Riparian Setback Map and the criteria for designated watercourses or riparian setbacks as set forth in 160.04 (a) and (b) of this regulation, 160.04 (a) and (b) shall prevail.
- (d) The following shall apply in riparian setbacks:
 - (1) Riparian setbacks shall be measured in a horizontal direction outward from the ordinary high water mark of each designated watercourse.
 - (2) Except as otherwise provided in this regulation, riparian setbacks shall be preserved in their natural state.
 - (3) Where the 100-year floodplain is wider than a riparian setback on either or both sides of a designated watercourse, the riparian setback shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain shall be defined by FEMA.
 - (4) Where wetlands are identified within a riparian setback, the minimum riparian setback width shall be extended to the outer boundary of the wetland. Wetlands shall be delineated by a site survey prepared by a qualified wetlands professional using delineation protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation
- (e) The site owner shall be responsible for delineating riparian setbacks as required by these regulations and shall identify these setbacks on all site plans submitted to the Zoning Inspector. The site plan shall be drawn to scale and shall be based upon a survey of the affected lot. Two (2) copies of the site plan shall be submitted with the application for a zoning certificate as required by the resolution. In addition, the site plan shall be submitted in an electronic format, either in Arc View GIS or AutoCAD.
- (f) If soil disturbing activities, or construction related activities such as materials storage, will occur within 50 feet of the outer boundary of a riparian setback, the riparian setback shall be clearly delineated by the site owner on-site with construction fencing prior to any soil disturbing or construction related activities. Such delineation shall extend 50 feet

beyond the limits of soil disturbing or construction related activities and shall be maintained throughout soil disturbing or construction related activities.

- (g) The Zoning Inspector shall not issue approvals or permits prior to delineation of riparian setbacks by the applicant and in conformance with this regulation as detailed in Section 160.04(f).
- (h) The Zoning Inspector may consult with the Geauga SWCD, the Chagrin River Watershed Partners, Inc., or other such experts retained by the board of township trustees in reviewing any submittals associated with implementation of this regulation.

160.05: PERMITTED STRUCTURES AND USES WITHOUT ZONING CERTIFICATE

The following structures and uses are permitted in the riparian setback without a zoning certificate. No structure or use permitted under this regulation shall allow trespass on, or public access to, privately held lands.

- (a) Recreational Activity. Passive recreational uses, as permitted by Chapter 142 Passive Public Park District.
- (b) Removal of Damaged or Diseased Trees: Damaged or diseased trees may be removed.
- (c) Maintenance and Repairs: Maintenance and repair on roads, driveways, bridges, culverts, trails, walkways, paths, wastewater treatment plants and appurtenances, water wells, water treatment plants and appurtenances, storm sewers, and on-site sewage disposal systems, all existing at the time of passage of this resolution.
- (d) Maintenance and Cultivation of Lawns and Landscaping: The maintenance of existing, and the cultivation of new, lawns, landscaping, shrubbery, or trees.
- (e) Water Supply Wells: Water supply wells for the purpose of serving permitted structures or uses on lots of record shall be allowed.

160.06: PERMITTED STRUCTURES AND USES WITH ZONING CERTIFICATE

The following structures and uses may be permitted in a riparian setback, subject to the approval of an application for a zoning certificate by the Zoning Inspector and in accordance with the following regulations and such other applicable regulations contained in this zoning resolution.

- (a) Crossings: Crossings of designated watercourses through riparian setbacks with roads, driveways, easements, bridges, culverts, utility service lines, or other means shall be allowed, subject to other requirements of the Bainbridge Township Zoning Resolution, the Geauga SWCD, and the Geauga County Engineer. If work will occur below the ordinary high water mark of the designated watercourse, proof of compliance with the

applicable conditions of a US Army Corps of Engineers Section 404 Permit (either a Nationwide Permit, including the Ohio State Certification Special Conditions and Limitations, or an Individual Permit, including Ohio 401 water quality certification), shall also be provided to the Zoning Inspector. Proof of compliance shall be the following:

- (1) A site plan showing that any proposed crossing conforms to the general and specific conditions of the applicable Nationwide Permit, or
 - (2) A copy of the authorization letter from the U.S. Army Corps of Engineers approving activities under the applicable Nationwide Permit, or
 - (3) A copy of the authorization letter from the U.S. Army Corps of Engineers approving activities under an Individual Permit.
- (b) Streambank Stabilization Projects. Streambank stabilization projects along designated watercourses shall be allowed, subject to other requirements of the Bainbridge Township Zoning Resolution and the Geauga SWCD. If streambank stabilization work is proposed below the ordinary high water mark of the designated watercourse, proof of compliance with the applicable conditions of a US Army Corps of Engineers Section 404 Permit (either a Nationwide Permit 13, including the Ohio State Certification Special Conditions and Limitations, or an Individual Permit, including Ohio 401 water quality certification) shall be provided to the Zoning Inspector. Proof of compliance shall be the following:
- (1) A site plan showing that any proposed crossing conforms to the general and specific conditions of Nationwide Permit 13, or
 - (2) A copy of the authorization letter from the U.S. Army Corps of Engineers approving activities under Nationwide Permit 13, or,
 - (3) A copy of the authorization letter from the U.S. Army Corps of Engineers approving activities under an Individual Permit.
- (c) Storm Water Retention and Detention Facilities: Storm water retention and detention facilities may be constructed in the riparian setback, provided:
- (1) Storm water quality treatment consistent with current Ohio EPA and Geauga County SWCD regulations is incorporated into the basin.
 - (2) Storm water retention and detention facilities are located at least 50 feet from the ordinary high water mark of the designated watercourse.

160.07: CONDITIONAL STRUCTURES AND USES IN RIPARIAN SETBACKS

The following conditional structures and uses may be allowed in riparian setbacks, subject to the approval of an application for a conditional zoning certificate by the board of zoning appeals in accordance with the conditions herein and such other applicable regulations set forth in this zoning resolution.

- (a) Waste Water Treatment Plants and Appurtenances. Waste water treatment plants and appurtenances may be constructed in the riparian setback. Proof of compliance with the applicable regulations of the Ohio EPA and the Geauga County Water Resources Department shall be provided.
- (b) Signs: Signs in accordance with this zoning resolution may be erected in the riparian setback.

160.08: STRUCTURES AND USES PROHIBITED IN RIPARIAN SETBACKS

Any structure or use not permitted under this regulation shall be prohibited in riparian setbacks. The following structures or uses are specifically prohibited:

- (a) Construction. There shall be no structures, as defined in Chapter 105 of the Bainbridge Township Zoning Resolution, of any kind except as permitted under this regulation.
- (b) Dredging or Dumping. There shall be no drilling, filling, dredging, or dumping of soil, spoils, liquids, yard wastes, or solid materials, except for noncommercial composting of uncontaminated natural materials and except as permitted under this regulation.
- (c) Fences and Walls: There shall be no fences or walls constructed in the riparian setback except as permitted under this regulation.
- (d) Parking Spaces or Lots and Loading/Unloading Spaces for Vehicles: There shall be no parking spaces, lots, or loading/unloading spaces, except as permitted under this regulation.
- (e) Roads or Driveways. There shall be no roads or driveways, except as permitted under this regulation.

160.09: INSPECTION OF RIPARIAN SETBACKS

The delineation of riparian setbacks shall be inspected by the Zoning Inspector:

- (a) Prior to soil disturbing activities authorized by the Zoning Inspector under a subdivision, land development plan, and/or zoning permit. The applicant shall provide the Zoning

Inspector with at least two (2) working days notice prior to starting such soil disturbing activities.

- (b) Prior to activities authorized by the Zoning Inspector under 160.06 of this regulation. The applicant shall provide the Zoning Inspector with at least two (2) working days notice prior to starting such activities.