

**FRANKLIN TOWNSHIP
YORK COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2018-3

**AN ORDINANCE AMENDING THE FRANKLIN TOWNSHIP
ZONING ORDINANCE (ORDINANCE NO. 2006-1, AS AMENDED)
TO REPLACE SECTION 205, PERTAINING TO STEEP SLOPES, TO ELIMINATE
THE STEEP SLOPE CONSERVATION OVERLAY AND REPLACE IT WITH SITE-
SPECIFIC REGULATIONS, TO PROVIDE A DEFINITION OF SLOPE AND STEEP
SLOPE, TO AMEND CROSS REFERENCES IN ANY ZONING DISTRICT TO STEEP
SLOPE, AND TO AMEND THE ZONING MAP TO ELIMINATE THE STEEP SLOPE
CONSERVATION OVERLAY**

BE IT ENACTED AND ORDAINED by the Board of Supervisors in and for the Township of Franklin, York County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

SECTION 1: Section 107, subsection A.6 (Steep Slope Conservation Overlay (SCO) is hereby deleted and removed from the Franklin Township Zoning Ordinance (Ordinance No. 2006-1, as amended) (hereafter “Zoning Ordinance”).

SECTION 2: Section 108 (Zoning Map) is hereby amended to state in its entirety: “The areas within Franklin Township, as assigned to each zone and the location of the Conservation Overlay District and the Zones established by this Ordinance, are shown upon the Zoning Map, as amended, which together with all explanatory matter thereon, is attached to and is declared to be a part of this Ordinance.”

SECTION 3: Section 111 (Definitions) of the Zoning Ordinance is hereby amended to include the following definition where it would appear alphabetically in the list of other definitions:

SLOPE – An incline; any ground whose surface makes an angle with the plane of the horizon. Note that “steep slope” is defined separately in this Section.

STEEP SLOPE – Unless specifically stated otherwise, any reference to “steep slope” in this Ordinance shall utilize the definition of “steep slope” in Section 205.B of this Ordinance.

SECTION 4: Section 205 of the Zoning Ordinance is hereby deleted in its entirety and replaced with the following:

205. Steep Slope

A. Specific Legislative Intent

It is the specific intent of this Section of this Ordinance to benefit the public health, safety, and welfare by conserving and protecting areas of steep slopes from excessive grading and / or inappropriate development, in conformance with the goals of the Township and the following objectives:

1. Guard against property damage and personal injury, and minimize the potential for erosion, soil failure, stream siltation, and contamination of surface waters caused by misuse of steep slope areas.
2. Provide for land uses that are compatible with protection of steep slope areas, and encourage the use of excessive steep slope areas for open space and conservation uses.
3. Establish a balance between the citizens’ individual property rights and the ability of the natural systems to support development.
4. Establish that the Township’s resource protection standards are uniformly and consistently administered.
5. Reduce the potential for landslides and the effect of stormwater on neighboring properties by use of state of the art stormwater management techniques, state of the art engineering techniques, best management practices and **state of the art materials** to ensure such.
6. Be consistent with other municipal jurisdictions and the state of the art science regarding steep slope management. Taking into account the unique geology throughout the township, including the South Mountain area, this Section requires **site specific** evaluations, which may require differing levels of **site design and engineering** management.
7. Protect adjoining properties from harmful consequences of development permitted under relief from the provisions of these requirements.

B. Definition and Establishment

1. The restrictions in this Section shall apply to a proposed area of development that (1) contains or is within a steep slope, (2) contains or is within a part of a steep slope, or (3) creates a steep slope that is not corrected upon timely completion of the development; (4) additionally, the restrictions in this Section shall also apply to regulated plateaus, as defined at number 7, below. Applications and plans shall be referred to the Township Engineer for the initial determination as to whether a proposed area of development meets one or more of these four criteria. Where one or more of these four criteria is found to be met by the Township Engineer, the use(s) anticipated in the application or plan shall be considered a use involving the disturbance of steep slopes. The review by the Township Engineer, as well as any further review under this Section, and any necessary site visits, shall be conducted at the applicant's expense, and the burden of providing satisfactory evidence falls upon the applicant in the event that the Township Engineer is unable to obtain information sufficient to make a determination.
2. For purposes of this Section, a steep slope is a slope fifteen percent (15%) or greater, as measured and calculated pursuant to this Section.
3. For purposes of this Section, slope is calculated as a percentage as follows: vertical rise is divided by horizontal run, and then the resulting decimal is multiplied by 100. For purposes of this Section, run is defined as the shortest horizontal distance between the first and third of three consecutive two foot (2') vertical contour intervals (unless a different representation that is equally effective is approved by the Township Engineer). It is not necessary that the run be contained entirely on the property of the applicant or developer if the steep slope at issue extends onto an adjacent property.
4. Where required to be documented, soils and contours shall be documented using one of the following sources of authority:
 - a. York County Soil Survey, U.S. Soil Conservation Service, USDA Natural Resources Conservation Service (Soil Surveys).
 - b. Topographical survey prepared by the United States Geodetic Survey, contour maps prepared by aerial photography or LIDAR.
 - c. On site survey prepared by registered professional engineer or surveyor.
5. All uses involving the disturbance of steep slopes will require a conditional use hearing, subject to the remaining provisions of this Section and any other provisions applying to conditional use determinations elsewhere in the Ordinance. Such conditional use hearing shall be required even where the use would not otherwise require a conditional use hearing in that district. Any plan or application involving the disturbance of steep slope shall include a topographical survey documenting soils and contours with minimum vertical contour intervals of two feet (2') (unless a different representation that is equally effective is approved by the Township Engineer). If the disturbance of steep slope is not determined until after submission of the initial plan or application, then such topographical survey shall be submitted to supplement the same but no later than the application for the conditional use hearing.
6. **No development shall be permitted on slopes above twenty-five percent (25%), with slope being calculated as set forth herein. This prohibition includes the creation of slopes above twenty-five percent (25%) that is not corrected upon timely completion of the development.**

7. A proposed area of development may itself be on a plateau surrounded on one or more sides by steep slope, as measured and calculated herein, such that if the surrounding steep slope were the proposed area of development, it would meet one of the first three criteria in number 1, above. Therefore, where a proposed use involves the creation of impervious area of one hundred (100) square feet or more within thirty (30) feet of steep slope (as measured and calculated herein), the proposed use shall be considered a regulated plateau and the proposed use shall be considered a use involving the disturbance of steep slopes, subject to the restrictions in this Section.

C. Conditional Uses

Subject to subsection D, below, the following uses shall be permitted on steep slopes of twenty-five percent (25%) or less when authorized by the Board of Supervisors as conditional uses:

1. Structures, roads, driveways, parking areas, construction or other development.
2. Disturbing soil or grading, including the addition of fill.
3. Public water supply, wells, sanitary sewers with approval of PA DEP.
4. Stormwater **management facilities and storm sewers** with the approval of the township engineer **and/or PA DEP**.
5. On-lot sewage disposal systems, when approved by the Franklin Township SEO and/or PA DEP.
6. Utility transmission lines and above ground utility line structure. (However, the same shall be considered a use permitted by right in the event the Pennsylvania Public Utility Commission, upon petition of a public utility corporation, after a public hearing, decides that the present or proposed situation of the lines of structures in question is reasonably necessary for the convenience or welfare of the public.)
7. Extractive uses in accordance with the recognized conservation practices and regulations of the DEP.

D. Prohibited Uses

The following uses are specifically prohibited on steep slopes fifteen percent (15%) or greater:

1. Removal of topsoil except when related to an approved conditional use.
2. Solid waste disposal, recycling uses, junkyards, or other such outdoor storage uses.

E. Conditional Use Application

For any use authorized by conditional use in this Section, applications to the Township for the conditional use shall include:

1. A plan by a registered professional engineer or surveyor which accurately locates the proposed use with respect to the steep slope boundaries and existing development within two hundred

feet (200') of the proposed use, together with all pertinent information describing the proposal, and a topographical survey with contours.

2. A suitable erosion and sediment control plan, in accordance with the Franklin Township Stormwater Management Ordinance, regardless of whether the Stormwater Management Ordinance would ordinarily apply to a project the size of the proposed use.
3. A stormwater management plan and supporting evidence for the site shall be provided.
4. A plan of proposed development or use of the site, with contours shown at two-foot vertical intervals, throughout the areas proposed for development or use. Contours shall be provided as required under subsection B, above.
5. Documentation showing proposed modifications to existing topography and vegetative cover, as well as the means of accommodating stormwater run-off.
6. Documentation of any additional engineering and/or conservation techniques designed to alleviate environmental problems created by the proposed activities, in compliance with the Township's sedimentation and erosion control regulations.
7. Typical tract cross sections at a scale of one inch equals 50' or larger, and/or typical tract cross sections at a vertical and horizontal scale deemed appropriate by the Township's Engineer.
8. Specifications of building materials and construction including filling, grading, materials storage, water supply and erosion control and stormwater conveyance.
9. Approval from the Township's Sewage Enforcement Officer (SEO) of any proposed sewage facilities.

F. Noticing Requirements for Conditional Use Hearing Pursuant to this Section

In addition to observing the notice requirements set forth in Section 908(1) of the Municipalities Planning Code and as may be set forth elsewhere in this Ordinance, the Township shall send by United States certified mail a written notice to all property owners of record for properties adjacent to the property subject of the application, and such notice shall at a minimum include the same language set forth in the public notice published in a newspaper as required by law. Such certified mail shall be sent not more than thirty (30) days nor less than seven (7) days prior to the date of the first scheduled hearing on the application and shall not be required for any continuance of the first scheduled hearing or any subsequent hearing on the same application. Such certified mail shall be addressed to the property owner of record for the adjacent property and mailed to the adjacent property address unless the property owner has listed a preferred mailing address with the tax assessment office or otherwise provided notice of a preferred mailing address to the Township.

G. Conditional Use Standards and Criteria

In considering a conditional use application, the Board of Supervisors shall consider the following:

1. That the use is one which is otherwise permissible in the underlying Zoning District as either a permitted use, conditional use, or special exception use, and that, in the case of a conditional use or special exception use, the applicant has applied or will apply for the same and obtain the necessary approval.
2. The erosion and sediment control plan submitted with the application.

3. That the abutting property shall not be adversely affected by run-off or erosion from the proposed use and measured by existing conditions including rate, quality, volume, and dissipation of water.
4. The requirement for a woodland management plan on wooded areas.
5. Road width of flagpole lots shall be adequate to manage stormwater and comply with the requirements of Township ordinances and driveway construction shall follow the natural topography to the maximum extent practicable, demonstrating that no other routing is feasible. Cuts and fills shall be minimized.
6. Any disturbance of steep slopes shall be undertaken in workable units in which the disturbance shall be completed and permanently stabilized within one construction season. At all times the site is to be stabilized in accordance with the erosion and sedimentation plan.
7. Retaining walls as defined in the zoning ordinance shall have engineer plans signed and sealed by a registered professional engineer and shall have a minimum 10' step between retaining walls.
8. All other permit requirements apply where applicable, including but not limited to those for stormwater management and subdivision and land development plans. Wherever any conflicting requirements arise, the strictest guidelines shall apply.
9. Any designed measures for sedimentation and erosion control must be maintained by property owner in accordance with an operation and maintenance agreement that shall specify the following: If the measures fail to maintain their designed intent, it is the property owner's responsibility to fix the issue within thirty (30) days. If the property owner fails to correct the issue within thirty (30) days, the Township may make the repair and bill the property owner. Failure to pay for the repair will result in a lien being placed on the property.
10. Evidence that:
 - a. Proposed buildings or structures are of sound engineering design and that footings are designed to extend to stable soil and/or bedrock, and that the proposal will be sound from architectural, engineering, and environmental perspectives.
 - b. Proposed roads, driveways and parking areas are designed so that the land clearing and/or grading will not cause accelerated erosion, measured as described in subsection G.3, above. Both vertical and horizontal alignment for such facilities shall be so designed that hazardous conditions are not created.
 - c. Proposed on-lot sewage disposal facilities are properly designed and constructed in conformity with applicable health regulations.
 - d. Proposed non-agricultural displacement of soil is for purposes consistent with the intent of this article and will be executed in a manner that will not cause erosion or other unstable conditions. The applicant shall provide an erosion and sediment control plan and supporting evidence.
 - e. Surface run-off of water will not create unstable conditions, including erosion and appropriate stormwater and sediment management facilities will be constructed as required under the Township's ordinances.

H. Development Regulations

The following regulations shall apply to all uses regulated under this Section:

1. No building lot shall be created unless it contains at least 5,000 square feet of buildable area not containing slopes greater than twenty-five percent (25%).
2. Compliance with this Section shall not relieve a party from compliance with the remainder of this Ordinance, including all setback requirements for the underlying zoning district.
3. Additionally, no change in existing topography which results in a slope greater than the predevelopment condition may be located within twenty-five (25') of a neighboring property.

I. Other Restrictions

In the event another Section, or part thereof, of this Ordinance conflicts with this Section or a part hereof, the more restrictive of the provisions shall control; however, this measure shall apply only to that specific Section or part thereof—whichever creates the lesser conflict—and any non-conflicting part of the same shall continue to be observed. Any provision determined to be duplicative shall nevertheless continue to be observed.

J. Limit of Municipal Liability

The granting of a use and occupancy permit or building permit, or the approval of a subdivision or land development plan, for a use involving the disturbance of steep slope shall not constitute a representation, guarantee or warranty of any kind by the Township or any official or employee thereof regarding the practicability or safety of the proposed use and shall create no liability upon the Township, its officials, or its employees.

Protections provided by this Section, and this Ordinance as a whole, are for regulatory purposes and based on minimum engineering studies. This Section, and this Ordinance as a whole, does not imply that areas outside the use involving the disturbance of steep slope are free from adverse effects of erosion and sedimentation.

SECTION 5: Section 406, subsection B.2, currently reads “Steep slopes (>15%).” Section 406, subsection B.2 is hereby amended to read “Steep slopes (>15%) (see Section 205).”

SECTION 6: Section 413, subsection D.2, currently reads “Steep slopes [greater than fifteen percent (15%).]” Section 413, subsection D.2 is hereby amended to read “Steep slopes (>15%) (see Section 205).”

SECTION 7: The Franklin Township Zoning Map, adopted as part of Ordinance No. 2006-1, and dated November 21, 2006, is hereby amended to remove from the Legend the Steep Slopes (>15%) Conservation Overlay and from the map any depiction of the same, consistent with this Ordinance. The Zoning Map is further amended to remove from the Legend the Floodplain Conservation Overlay and from the map any depiction of the same, as Ordinance No. 2015-4 (amending the Floodplain Conservation Overlay) included the adoption of a certain Flood Insurance Study (FIS) and accompanying Flood Insurance Rate Maps (FIRMs) (including any subsequent revisions and amendments thereto).

The Franklin Township Zoning Map, so revised, is made a part of the Zoning Ordinance, consistent with Section 2 (amending Section 108 of the Zoning Ordinance), above.

SECTION 8: If any sentence, clause, phrase or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, phrases, sections or parts of this Ordinance. It is hereby declared as the intention of the Board of Supervisors of this Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, phrase, section or part thereof not been included therein.

SECTION 9: Any other Ordinance or parts thereof inconsistent with this Ordinance be and are hereby expressly repealed.

SECTION 10: This Ordinance shall take effect in accordance with the law.

ENACTED AND ORDAINED this _____ day of _____, 2018.

ATTEST:

**FRANKLIN TOWNSHIP
BOARD OF SUPERVISORS**

Teresa Adams, Secretary

By: _____
Kevin Cummings, Chairman

By: _____
David Sprigg, Vice Chairman

By: _____
Naomi Decker

By: _____
Michael Ryan

By: _____
Eric Stonesifer