

1157.01 RIPARIAN AREAS AND RIPARIAN SETBACKS.

(a) Purpose. The purpose of this Section [1157.01](#) and related Sections of this Chapter is to protect and promote the public health, safety and welfare by regulating the use of riparian areas, that is, those areas abutting rivers, streams, and other natural watercourses upon which the impacts of stormwater runoff, water pollution, erosion, siltation, and other development impacts may become concentrated and which areas are necessary to preserve the ecological health and natural functions of watercourses for the common good. It is intended that these regulations, administered in concert with other regulations affecting development practices throughout the City, will benefit the properties which are within, or which contain parts of, riparian areas, benefit the City as a whole, and benefit areas outside of and downstream of the City which are affected by impacts on the City's riparian areas. More specifically, these regulations are intended to:

- (1) Reduce flood impacts and downstream flood hazard risks by absorbing peak flows, slowing velocity of flood waters and regulating base flow.
- (2) Stabilize the banks of watercourses to reduce 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 high quality watercourse habitats with shade and food.
- (6) Reduce the presence of aquatic nuisance species to maintain a diverse aquatic system.
- (7) Provide habitat to a wide array of wildlife by maintaining diverse and connected riparian vegetation.
- (8) Benefit the City economically by minimizing encroachment on watercourse channels and the need for costly engineering solutions such as dams, retention basins and rip rap to protect structures and reduce property damage and threats to the safety of watershed residents; and by contributing to the scenic beauty and environment of the City, and thereby preserving the character of the City, the quality of life of the residents of the City, and corresponding property values.
- (9) Permit use of land within the riparian areas in a manner consistent with these regulations.

(10) Reduce or prevent construction of buildings and other construction in riparian areas which are characterized by conditions such as high groundwater, flooding, erosion, and soil limitations, which prohibit normal construction practices and require special protective measures for construction and long-term maintenance. Also, reduce or prevent such construction which now, or in the future, may be damaged by flooding resulting from increased runoff due to upstream impacts.

(11) Minimize the creation of lots which are in whole or part difficult or impractical for the establishment of permitted uses within the respective districts due to the presence of riparian areas.

(12) Enable the City to more effectively execute its responsibilities in administration and enforcement of applicable federal and state regulations.

(13) Establish local regulations which are compatible with and supportive of the regulations enacted in other communities within the same watersheds, in the interest of protecting and enhancing the characteristics of the shared natural resources.

(b) Applicability. The provisions of this Section [1157.01](#) and related Sections of this Chapter shall apply to all lands designated as riparian setbacks in Section [1157.01](#)(c) below.

(c) Establishment of Riparian Areas and Riparian Setbacks. The following areas are riparian areas and riparian setbacks:

(1) Riparian areas generally. Any area abutting the ordinary high water marks of a watercourse, also known as the stream channel, and which may be indicated by changes in vegetation, slope, or bank materials, evidence of scouring, and stain lines, shall be riparian areas. The location and extent of a riparian area shall be determined and documented as approved by the City.

(2) Riparian setbacks generally. Any area described by the following subsections shall be a riparian setback. The location and extent of a riparian setback shall be determined and documented as approved by the City.

A. Minimum Riparian Setback. Any area of land which abuts a watercourse, extending outward in a horizontal direction from the ordinary high water mark of a watercourse a distance of not less than twenty-five (25) feet or a greater distance as specified in subsection (c)(3) hereof.

B. Floodplain. Where the 100-year floodplain is wider than the minimum riparian setback from a watercourse, then the riparian setback shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain shall be defined by Federal Emergency Management Agency (FEMA) or a site-specific floodplain delineation in conformance with standard engineering practices and approved by the Director of Planning and Zoning.

C. Wetlands. Where wetlands are identified within or abutting the minimum riparian setback, the riparian setback shall be extended to include the full extent of the wetland plus a wetland setback extending beyond the boundary of these wetlands as provided in [1157.02](#)

(3) Specified riparian areas and riparian setbacks. The following specified areas, in addition to any others described in subsections (c)(2) and (3) hereof, shall be riparian areas and riparian setbacks subject to the provisions of this Chapter:

A. Aurora Branch of the Chagrin River. The watercourse known as the Aurora Branch of the Chagrin River shall have a minimum riparian setback of not less than seventy-five feet (75') on either side, extending outward in a horizontal direction from the ordinary high water marks of the watercourse.

B. For any watercourse draining a watershed area of between one half (0.5) a square mile and twenty (20) square miles, the minimum riparian setback shall be seventy-five (75) feet.

C. (Reserved)

(Ord. 2001-050. Passed 3-12-01.)

1157.02 WETLAND SETBACKS.

(a) Purpose. The purpose of this Section [1157.02](#) and related Sections of this Chapter is to establish controls to protect and promote the public health, safety and welfare by regulating the use of the areas surrounding wetlands. It is anticipated that these regulations, administered in concert with other regulations affecting development practices throughout the City, will benefit properties which are within, or which contain parts of, wetlands, will benefit the City as a whole, and will benefit areas outside of the City which are affected by impacts on the City's wetlands. More specifically, these regulations are intended to:

- (1) Preserve the flood control, water quality, and runoff stabilization functions of wetlands;
- (2) Preserve the wildlife habitat and plant association functions of wetlands;
- (3) Permit use of land surrounding wetlands in a manner consistent with these regulations.
- (4) Reduce or prevent construction of buildings and other improvements in wetland setbacks which are characterized by conditions such as high groundwater, flooding, erosion, and soil limitations, which prohibit normal construction practices and require special protective measures for construction and long-term maintenance.

- (5) Minimize the creation of lots which are in whole or part difficult or impractical for the establishment of permitted uses within the respective districts due to the presence of wetlands.
 - (6) Enable the City to more effectively execute its responsibilities in administration and enforcement of applicable federal and state regulations.
 - (7) Protect surface water and groundwater quality by filtering pollutants from stormwater runoff.
 - (8) Promote the recharge of natural groundwater resources.
- (b) Applicability. The provisions of this Section [1157.02](#) and related Sections of this Chapter shall apply to all lands designated as wetland setbacks in subsection (c) hereof.
- (c) Establishment of Wetland Areas and Wetland Setbacks.
- (1) The following areas are wetland areas:
 - A. All Category 2 Wetlands.
 - B. All Category 3 Wetlands.
 - (2) The following are wetland setbacks, except as modified in subsection (c)(3) hereof:
 - A. Areas located within seventy-five (75) feet of a Category 2 Wetlands.
 - B. Areas located within one hundred twenty (120) feet of a Category 3 Wetlands.
 - (3) The wetland setbacks defined in subsection (c)(2) hereof may be modified, by approval of the Planning Commission, to vary the width of the wetland setbacks in a manner which meets the intent of this Chapter and which results in averaged wetland setback widths which are equal in impact to the wetland and the area of the wetland setback if not modified. Modification shall not reduce the width of any wetland setback to less than twenty-five (25) feet. Such modifications shall only be approved subsequent to receipt of a study of the wetlands and wetland setbacks and recommendations from a qualified wetlands professional engaged by the City at cost to the applicant. The City may utilize the services of other agencies, as listed in this Chapter, to assist in reviewing the study and determining what modifications to the wetland setbacks, if any, should be approved.

(Ord. 2001-050. Passed 3-12-01.)

1157.03 DELINEATIONS REQUIRED.

The following procedures and standards shall apply to the delineation of riparian areas, riparian setbacks, wetland areas, and wetland setbacks:

(a) Upon receipt of an application for:

- (1) Minor subdivision;
- (2) Major subdivision;
- (3) Site plan for any use or structure; or
- (4) Application for a building permit;

the Director of Planning and Zoning and the Director of Engineering, Utilities and Inspections, hereafter the City Engineer shall determine if there is potential that the property which is the subject of the application includes part of a riparian area, riparian setback, wetland area, or wetland setback. The determination shall be made based upon available information regarding the location, extent, and characteristics of riparian areas, riparian setbacks, wetland, or wetland setbacks in proximity to the subject property.

(b) The Director of Planning and Zoning and the City Engineer may waive the requirement for delineation if they determine:

- (1) That it is unlikely that the property includes part of a riparian area, riparian setback, wetland area, or wetland setback; or
- (2) That the proposed construction is unlikely to be located in or have any impact upon any riparian area, riparian setbacks, wetland area, or wetland setbacks; or
- (3) That the potential for impact of the proposed construction upon any riparian area, riparian setback, wetland area, or wetland setback has already been reviewed and approved by the Planning Commission in a subdivision plan, site plan, or other approval by the City.

(c) If the Director of Planning and Zoning and the City Engineer determine that there is potential that the subject property includes part of a riparian area, riparian setback, wetland area, or wetland setback, and that the delineation requirement should not be waived, then they shall direct the applicant to prepare and submit a delineation of such areas according to the provisions of this Chapter.

(d) The applicant shall be responsible for engaging the services of a qualified professional to delineate the riparian areas, riparian setbacks, wetland areas, or wetland setbacks consistent with the provisions of this Chapter, and shall identify the areas on plats or site plans for any proposed minor subdivision, major subdivision, site development, or other construction subject to a building permit. This delineation shall be conducted prior to any further action by the City in

review or approval of any plats or site plans for any proposed minor subdivision, major subdivision, site development, or other construction subject to a building permit . This delineation shall be done through a metes and bounds survey and shall be subject to review and approval by the Director of Planning and Zoning and by the City Engineer. As the result of this review, the Director of Planning and Zoning may require further studies from the developer, applicant or designated representative.

Wetlands shall be delineated by a site survey approved by the City Engineer using delineation protocols accepted by the U.S. Army Corps of Engineers. All wetland delineations shall also include the current version of the Ohio Rapid Assessment Method for wetland evaluation.

(e) Prior to any land clearing, grading or grubbing, the applicant shall mark the site (by means of stakes, posts, or other methods approved by the Director of Planning and Zoning) to indicate the boundaries of the riparian setback, wetland area, or wetland setback. The markings shall be maintained throughout construction.

(f) No approvals or permits for uses, subdivisions, building construction, or other site improvements shall be issued by the Director of Planning and Zoning or by the Building Department or by the City Engineer prior to delineation and prior to determination that such approval or permits comply with these regulations.

(g) All watercourses, riparian setbacks, wetland areas, and wetland setbacks shall be drawn on the recorded plat of any approved subdivision of land and shall be protected by a conservation easement, deed restriction, or other legal means as required by the Planning Commission. The watercourses, riparian setbacks, wetland, and wetland setbacks shall be shown on any approved site plan.

(Ord. 2001-050. Passed 3-12-01.)

1157.04 USES IN RIPARIAN AREAS AND SETBACKS.

(a) Except as otherwise provided in this Code, riparian setbacks, and wetland setbacks shall be preserved in their natural state. The uses stated in Table [1157.04](#) (and as further described and regulated in Sections [1157.04b](#) through [1157.04i](#)) shall be permitted or conditionally permitted in riparian setbacks, and wetland setbacks provided that they are permitted or conditionally permitted in the zoning district in which they are located and are not otherwise prohibited. No use permitted under this ordinance shall be construed as allowing or encouraging trespass on privately held lands.

| Table 1157.04 Permitted Uses in Riparian Setbacks, and Wetland Setback | | |
|--|------------------|-----------------|
| P = Permitted | | |
| | Riparian Setback | Wetland Setback |
| A. Recreational Activity | P | P |
| B. Removal of Damaged or Diseased Trees | P | P |
| C. Revegetation and/or Reforestation | P | P |
| D. Other Uses Similar to A, B, or C above | P | P |
| E. Streambank Stabilization, Erosion Control Measures | C | C |
| F. Crossings | C | C |

- (b) Recreational Activity. Passive recreational uses, as permitted by federal, state and local laws, such as hiking, picnicking and related uses.
- (c) Removal of Damaged or Diseased Trees. Damaged or diseased trees may be removed. Due to the potential for felled logs and branches to damage downstream properties and/or block ditches or otherwise exacerbate flooding, logs and branches resulting from the removal of damaged or diseased trees that are greater than 6 inches in diameter at the cut end shall be cut into sections no longer than 6 feet, anchored to the shore or removed from the 100- year floodplain.
- (d) Revegetation and/or Reforestation. The revegetation and/or reforestation of the riparian setback and the wetland setback shall be allowed without approval of the Director of Planning and Zoning.
- (e) Other uses similar to those listed in subsections (a), (b) and (c) hereof, as approved by the Planning Commission.
- (f) Streambank Stabilization/Erosion Control Measures. Streambank stabilization/erosion control measures may be allowed provided that such measures are ecologically compatible and substantially utilize natural materials and native plant species where practical and available.

Such streambank stabilization/erosion control measures shall only be undertaken upon approval of an Erosion Control Plan by the Director of Planning and Zoning and the City Engineer.

(g) Crossings. Crossings of designated watercourses through riparian setbacks or wetland setbacks by bridges, culverts or other construction for pedestrians or vehicles, publicly owned sewer and/or water lines, and public utility transmission lines may only be allowed upon approval of a Crossing Plan by the Director of Planning and Zoning and the City Engineer. Such crossings shall minimize disturbance to the area and shall mitigate any necessary disturbances.

(h) Prohibited Uses. Any use not authorized by Table 1157.04 shall be prohibited in the respective riparian setback and wetland setback. By way of example, the following uses are specifically prohibited, however, prohibited uses are not limited to those examples listed here:

- (1) Construction. No structures shall be constructed.
- (2) Dredging or dumping. Except as otherwise provided in this Chapter, there shall be no drilling, filling, dredging or dumping of soil, spoils, liquid or solid materials, except for noncommercial composting of uncontaminated natural materials.
- (3) Motorized vehicles. There shall be no use of motorized vehicles of any kind, except as approved in the conduct of a permitted use.
- (4) Disturbance of natural vegetation. There shall be no disturbance of the natural vegetation, except for such conservation maintenance that the landowner deems necessary to control noxious weeds; for such plantings as are consistent with uses permitted by this Chapter; and for the passive enjoyment, access and maintenance of landscaping or lawns existing at the time of passage of this ordinance. Nothing in this section shall be construed as requiring a landowner to plant or undertake any other activities in the riparian buffer area provided the landowner allows for natural succession.
- (5) Parking lots. There shall be no parking lots or other human-made impervious surfaces, except as permitted under Crossings, above.
- (6) New surface and/or subsurface sewage disposal or treatment areas. The riparian setback and the wetland setback shall not be used for the disposal or treatment of sewage except in accordance with Portage District Board of Health regulations at the time of application of this ordinance.

(Ord. 2001-050. Passed 3-12-01.)

1157.05 REVIEW OF PLANS.

In reviewing plans required by this Chapter, the Director of Planning and Zoning and the City Engineer may consult with representatives of the Ohio Department of Natural Resources, Division of Forestry; Ohio Department of Natural Resources, Division of Natural Areas and Preserves; Ohio Environmental Protection Agency, Division of Surface Water, Portage Soil and Water Conservation District; or other technical experts as necessary. (Ord. 2001-050. Passed 3-12-01.)

1157.06 INSPECTIONS.

The riparian setback, wetland, or wetland setback shall be inspected by the Director of Planning and Zoning when:

- (a) A preliminary subdivision plat or site plan is submitted to the City.
- (b) A building permit is requested.
- (c) Prior to any land clearing or grading to inspect the delineation of the riparian setback, wetland, or wetland setback.

(Ord. 2001-050. Passed 3-12-01.)

