

BEAR CREEK WATERSHED PROTECTION OVERLAY DISTRICT

SECTION 18.01. PURPOSE. The purpose of this chapter is to establish regulations to preserve and enhance the integrity of Bear Creek, Armstrong Creek, Stout Creek and associated tributaries which make up the Bear Creek Watershed. These creeks and streams are a valuable natural resource of Cannon Township as they contribute to the Township's rural character, provide scenic views and serve as a habitat for fish and wildlife. The regulations are designed to prevent soil erosion along creek banks, prevent sedimentation from entering the creeks, preserve and enhance vegetation along the creeks, and ensure adequate setbacks for buildings, structures and septic systems.

This is an overlay district and is intended to supplement the regulations of any underlying zone.

SECTION 18.02. APPLICABLE REQUIREMENTS AND DISTRICT BOUNDARIES.

(a) The requirements of this chapter are in addition to and shall supplement those imposed on the same lands by any underlying zoning provisions of this ordinance or other ordinances of Cannon Township. These regulations supersede all conflicting regulations of the underlying zoning districts to the extent of any such conflict.

(b) The boundaries of the Bear Creek Watershed Protection Zone shall include all lands which are within 100 feet beyond the ordinary high water mark on each side of those creeks and tributaries shown on the Official Cannon Township Zoning Map and as described below:

- (1) Bear Creek
- (2) Stout Creek
- (3) Armstrong Creek
- (4) Flowing tributaries (even if intermittently flowing) of any of the creeks described in (1), (2) and (3) above.

SECTION 18.03. DISTRICT REGULATIONS.

(c) Natural Vegetation Strip.

(1) To minimize erosion, stabilize the creek bank, protect water quality, keep nutrients out of the water, maintain water temperature at natural levels, preserve fish and wildlife habitat, screen manmade structures, and also to preserve aesthetic values of the creek area, there shall be a natural vegetation strip on all banks within 25 feet of the ordinary high water mark; provided, however, that artificially maintained vegetation strips along creek banks within 25 feet of the ordinary high water mark that are in existence at the time of adoption of this ordinance may continue, but if such artificially maintained vegetation strips thereafter return to a natural state, then they shall not again be artificially maintained.

(2) Natural ground cover shall be preserved to the fullest extent feasible and where removed it shall be replaced with vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.

(3) Within the natural vegetation strip, trees and shrubs may be selectively pruned or removed for harvest of merchantable timber, so as to achieve a filtered view of the creek from the principal structure and for reasonable private access to the creek. These pruning and removal activities shall insure that a live root system stays intact to provide for streambank stabilization and erosion control and to insure that any path to the creek or tributary is no greater than 10 feet in width, and that it will meander down to the ordinary high water mark in a manner which protects the soil and vegetation from erosion. Clear cutting within the natural vegetation strip is prohibited.

(4) Dead, diseased, unsafe or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac and poison oak, and other plants regarded as a common nuisance under Section 2, Public Act 359 of 1941, as amended, may be removed.

(5) Planting of perennial native species in the natural vegetation strip is encouraged, especially where exposed soil and steep slopes exist and in reforestation efforts.

(d) Minimum Setback from Creek.

(1) A principal building shall be set back at least 100 feet from the ordinary high water mark of any of the creeks or tributaries regulated by this Chapter except as permitted below:

(i) A principal building to be erected on a vacant legal non-conforming lot of record may be closer than 100 feet to the ordinary high water mark if it is demonstrated to the Zoning Administrator that compliance with this setback requirement would prohibit the construction of the principal structure. The reduction in the setback shall be the minimum necessary to construct the principal structure. The Zoning Administrator may refer such decision to the Planning Commission.

(ii) For lots which have a steep bank abutting the creek, a principal building may be set back a minimum of 50 feet from the top of the bank. For purposes of this chapter a steep bank shall be defined as being at least 10 feet high (measured vertically from the ordinary high water mark to the top of the bank) with a slope of at least 33 percent (determined by dividing the vertical height of the slope by the horizontal distance of the slope).

(e) Septic disposal fields and tanks shall be at least 100 feet away from the ordinary high water mark and shall be in conformance with the standards of the Kent County Health Department.

SECTION 18.04. EXISTING USES AND STRUCTURES. Those land uses, buildings and structures which existed before the effective date of this Chapter and which do not conform to the requirements of this Chapter shall be non-conforming and subject to the applicable non-conforming use provisions of this Ordinance. If a natural vegetation strip as regulated herein exists on a lot as of the effective date of this Ordinance, it shall be subject to the regulations of

this Chapter, but any regulations which are more restrictive than these shall prevail over this Chapter.