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5 CITY OF CUYAHOGA FALLS, OHIO

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7 ORDINANCE NO. 606 - 2012

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9 AN ORDINANCE AMENDING SECTION 1125.02 OF CHAPTER
10 1125, TITLE 2, PART 11 OF THE CODIFIED ORDINANCES OF
11 THE CITY OF CUYAHOGA FALLS (GENERAL DEVELOPMENT
12 CODE), RELATING TO STREAM CORRIDOR PROTECTION, AND
13 DECLARING AN EMERGENCY.
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15 WHEREAS, on May 15, 2012 the Cuyahoga Falls Planning Commission recommended
16 approval of regulatory text amendments to the Cuyahoga Falls General Development Code as
17 outlined in File P-10-12-RA, relating to stream corridor protection,
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19 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County
20 of Summit, and State of Ohio, that:
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22 Section 1. Section 1125.02, Chapter 1125, Title 2, Part 11 of the Codified Ordinances of
23 the City of Cuyahoga Falls (General Development Code) is hereby amended to read as follows (new
24 text double underlined; deleted text in ~~strikethrough~~):

25 **1125.02 Stream Corridor Protection**

26 A Applicability. The standards in this section shall apply to all planning areas in the City
27 through the site plan and division of land procedures described in this code and through
28 the Planning Division's zoning certificate process.

- 29 ~~1. All areas in the Northampton Planning Area; and~~
30 ~~2. The City Council with recommendation by the Planning Commission may designate~~
31 ~~other special stream protection overlay zones or measures in the Cuyahoga River~~
32 ~~(CRA), Bailey Munroe Falls Area (BMFA), and State Portage Trail Area (SPTA) through~~
33 ~~the site plan or division of land procedures described in this code.~~

34 B Intent. It is understood the standards in this section are intended to preserve natural
35 water corridors in order to perform various hydrological, biological, and aesthetic functions
36 that protect the health, safety, and welfare of adjacent property, downstream property, and
37 the community. The standards have the specific intent of:

- 38 1. Protecting adjacent and downstream property and persons from inundation from
39 flooding;
40 2. Protecting surface and groundwater supply from contamination by reducing or
41 eliminating pollution sources from the stream or by allowing natural filtration and
42 infiltration processes to occur;
43 3. Stabilizing stream banks and reducing channel erosion; maintaining stream
44 temperatures and habitat for wildlife in and along the stream corridor; and
45 4. Preserving aesthetic qualities and recreation or education opportunities presented by
46 natural stream corridors and enhance property values near stream corridors.
47 5. Preserve corridor ecosystems and ensure connected and functional stream corridors
48 by avoiding any gaps in stream corridor buffers, which will compromise the
49 effectiveness of the system.

50 C Standards.

- 51 1. Stream Types. The following stream types shall be used to define appropriate stream
52 buffers (See Table 1125-20).
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Table 1125-20: Stream Types

STREAM TYPES	
Type I	Drainage area of up to 32 acres
Type II	Drainage area of greater than 32 acres up to .5 square miles
Type III	Drainage area greater than .5 square miles up to 20 square

	miles
Type IV	Drainage area greater than 20 square miles up to 300 square miles
Type V	Drainage area greater than 300 square miles

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2. *Buffer Types and Allowed Activities.* The following buffer types shall be used to regulate activities in any stream corridor buffers. Any applicable buffer type boundaries shall be indicated on any plat or site plan filed which includes an applicable stream corridor (Table 1125-21).

Table 1125-21: Buffer Types

BUFFER TYPES	
BUFFER TYPE	BUFFER CHARACTERISTICS
Preserved Buffer	An area that protects the physical and ecological integrity of the stream ecosystem. It is the most sensitive area of the Stream Corridor and includes the stream channel and the required setback from the ordinary high water mark. In order to protect natural functions of the corridor, this area should contain undisturbed natural vegetation.
Managed Buffer	An area that protects key components of the stream and provides distance and transitions between upland development and the Preserved Buffer. Activities in this area impact the function of the Preserved Buffer, as well as the Stream Corridor, and it begins immediately adjacent to the Preserved Buffer. In order to protect natural functions of the corridor, this area should contain native vegetation and limited land disturbance.
Limited Development Buffer	An area that prevents encroachment into the stream corridor by more intense and conventional development. Activities in this area impact the function of the Stream Corridor, and it begins immediately adjacent to the Managed Buffer. Limited development activity is allowed in this area, provided it is accessory to a use in one of the other buffer areas or involves site design practices that eliminate, minimize or mitigate impacts of run-off into the stream corridor.

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3. *Required Buffer Area.* The required Buffer Area shall be according to the following table with required and allowed modifications based upon the following sections and Table 1125-22.

Table 1125-22: Required Buffer Areas

REQUIRED BUFFER AREAS				
BUFFER TYPE >	PRESERVED BUFFER	MANAGED BUFFER	LIMITED DEVELOPMENT BUFFER	TOTAL COMBINED BUFFER AREA
STREAM TYPE				
TYPE I	30'	N/A	N/A	30', both sides
TYPE II	30'	50'	N/A	50', both sides
TYPE III	30'	50'	75'	75', both sides
TYPE IV	30'	75'	100'	100' both sides
TYPE V	30'	100'	300'	300' both sides

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* Buffer distance requirements measured horizontally from the edge of the ordinary high water mark. All Preserved Buffers shall also include the stream channel in addition to the specified setback from the ordinary high water mark.

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- a. The minimum Preserved Buffer area shall be increased subject to the following:
 - (1) An additional one foot for every 1% of slope over 10%;
 - (2) An additional foot for every foot of existing impervious surface in the Buffer area; and
 - (3) Other wetlands and slopes over 25% shall not be credited to the Preserved Buffer area requirement and shall require remainder of the required Preserved Buffer area to be designated outside of these sensitive areas.
 - b. In all cases where the Preserved Buffer is increased, the Managed Buffer and Limited Development Buffer shall increase an equal additional amount.
 - c. Alternative Buffers. Alternatives to the proposed standards may be introduced by the City or landowner proposing development in a stream corridor if based on scientific studies of the specific site and surrounding impacted areas, taking into account the following factors:
 - (1) Slope;
 - (2) Groundwater and surface water flow;
 - (3) Rainfall;
 - (4) Soil infiltration rate and conditions;
 - (5) Floodplain width;
 - (6) Catchment size;
 - (7) Existing and proposed land uses;
 - (8) Impervious surfaces; ~~and~~
 - (9) Wetlands; and
 - (10) Surrounding vegetation characteristics.
4. *Allowed Uses and Limitations.* In addition to all standards and regulations of the base zoning district, the following additional limitations shall apply in the buffer areas:
- a. Preserved Buffer – The preserved buffer shall only allow uses that leave the soil and vegetation in an undisturbed state.
 - (1) Prohibited Activities. Mowing and clearing of vegetation, excavation, or any land disturbance is prohibited in this area unless it is conducted in association with restoration of natural stream conditions or occurs at a designated stream crossing.
 - (2) Allowed Uses. Unpaved recreation trails, wildlife sanctuaries, fishing and hunting, natural education and research activities are allowed in this area.
 - b. Managed Buffer – Conservation uses such as wildlife sanctuaries, fishing and hunting areas, passive park lands or Natural Open Space, unpaved recreation facilities, natural education and research activities, limited harvesting of trees and natural vegetation, sustainable agriculture practices involving only crops, camping and picnic areas.
 - c. Limited Development Buffer – Accessory buildings to other buffer uses, principal buildings to uses allowed by zoning district provided green building practices, associated site elements provided low-impact design such as porous paving etc. is used to the greatest extent practicable.
5. *Additional Limitations.*
- a. Water Pollution Hazards. In addition to the protections of the buffer areas and the underlying zoning ordinance, all streams protected by the stream

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corridor protection standards shall have the setback standards identified in Table 1125-23 for water pollution hazards:

Table 1125-23: Water pollution Hazard Setbacks

WATER POLLUTION HAZARD SETBACKS	
HAZARD	SETBACK
Storage or use of hazardous substances	150 feet
Aboveground or underground petroleum storage facilities or use of petroleum-based products	150 feet
Drain-fields from onsite sewage disposal and treatment systems (i.e., septic systems)	100 feet
Raised septic systems	250 feet
Solid waste landfills, recycling facilities, or junkyards	300 feet
Agricultural activities involving animal feed operations, grazing, or storage	250 feet
Mining of natural resources	250 feet

b. Stream Crossings. Crossings of streams protected by these standards, by roads, driveways, storm sewers, sewer lines, water lines and utility lines shall be limited by the following:

- (1) One crossing area limited to no wider than 25 feet for each tax parcel existing at the time of adoption of these regulations and which borders both sides of the stream.
- (2) One roadway crossing area, and associated utility crossing, limited to no wider than 50 feet for every 660 linear feet.
- (3) All crossings shall be perpendicular to the stream and shall be designed to minimize and mitigate any disturbance in any Buffer area.

D. Modifications and Exceptions. In addition to the standard procedures for variances provided in Title 1, adjustments to the buffer distances may be made to the standards of this section through the site plan procedures subject to the following:

1. The buffer widths may be reduced at some points as long as the average width of the buffer meets the minimum requirement.
2. Averaging of the buffers may be allow where existing structures or other site conditions, do not compromise the function of any buffer.
3. No impacts or disturbances on the Preserved Buffer base requirement shall be allowed, except in the Cuyahoga River Planning Area where trails, docks and observation areas may be constructed using green building practices and low-impact design such as porous paving and natural materials etc. and with approval the Planning Commission and City Council.
4. No new structures shall be allowed in the Preserved or Managed Buffer, except in the Cuyahoga River Planning Area where new construction may take place in the Managed Buffer provided green building practices and low-impact design such as porous paving and natural materials etc. is used to the greatest extent practicable and with approval the Planning Commission and City Council.

Section 2. Existing section 1125.02 of Chapter 1125, Title 2, Part 11 of the Codified Ordinances of the City of Cuyahoga Falls, as enacted by Ord. 62-2009, is hereby repealed.

Section 3. Any other ordinances or resolutions or portions of ordinances and resolutions inconsistent herewith are hereby repealed, but any ordinances and resolutions not inconsistent herewith and which have not previously been repealed are hereby ratified and confirmed.

Section 4. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including, to the extent applicable, Chapter 107 of the Codified Ordinances.

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Section 5. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga Falls and the inhabitants thereof, for the reason that it is immediately necessary to permit timely and appropriate development of this property, and provided it receives the affirmative vote of two thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest period allowed by law.

Passed: 7-23-12



President of Council



Clerk of Council

Approved: 7/24/12



Mayor

5/29/12
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