

## ORDINANCE NO. 147

AN ORDINANCE OF THE TOWNSHIP OF MILFORD,  
BUCKS COUNTY, PENNSYLVANIA, AMENDING THE  
MILFORD TOWNSHIP PORTION OF THE QUAKERTOWN  
AREA ZONING ORDINANCE TO PERMIT, SUBJECT TO  
CONDITIONAL USE APPROVAL, REMOVAL OF INEXCESS  
OF 20% WOODLANDS IN THE PLAN COMMERCIAL, PC,  
AND PLANNED INDUSTRIAL, PI, ZONING DISTRICTS  
WHERE A TREE MITIGATION PLAN IS IMPLEMENTED IN  
ACCORDANCE WITH THIS ORDINANCE

### BACKGROUND

A. The Milford Township Board of Supervisors (“Board”), enacted the Milford Township portion of the Quakertown Area Zoning Ordinance, effective July 18, 1995, as amended (the “Zoning Ordinance”) pursuant to its statutory authority under the Pennsylvania Municipalities Planning Code (“MPC”), as amended, (53 P.S. Section 10101) et seq.

B. Milford Township finds that development has accelerated removal of trees. Land use policies direct growth into development districts to attain efficiency in use of infrastructure and to preserve open space in the surrounding reserve areas. Township policy also intends to preserve sensitive natural resources including woodlands. However, pure numerical woodland “protection” may, in fact, force non-residential growth outside of the development district to less appropriate land. Where flexibility currently exists through cluster subdivision to permit reasonable residential development, no equivalent provisions are available for non-residential development.

C. This ordinance is enacted to maintain and establish tree cover in the Township; to require preservation of significant woodlands; and to allow mitigation measures to compensate for removal of woodlands in non-residential zoning districts.

D. The Board of Supervisors of Milford Township finds that the hereafter adopted amendment to the Zoning Ordinance to be known as the Milford Township Non-Residential Woodlands Ordinance is in accordance with the Community Development Objectives as stated herein and in the Zoning Ordinance and that adoption of this Ordinance is in the interest of the Township.

E. On or about May 30, 2007, this Zoning Ordinance amendment was forwarded to the Bucks County Planning Commission and the Milford Township Planning Commission for review and comment pursuant to the MPC.

F. On or about July 3, 2007 and July 10, 2007, notice of the hearing for consideration and, if appropriate, adoption of this Zoning Ordinance Amendment at a hearing held on July 17, 2007 was duly advertised in the Intelligencer.

G. The Proposed Zoning Ordinance Amendment has been advertised, reviewed, and a hearing held all in accordance with the MPC, Section 609(53 P.S. Section 1069).

**NOW, THEREFORE**, be it **ENACTED and ORDAINED** and it is hereby enacted and ordained by the Board of Supervisors of Milford Township, Bucks County, Pennsylvania as follows:

**Section 01:** Section 504 *ENVIRONMENTAL PERFORMANCE STANDARDS, SUBSECTION d.* Woodlands, is revised and restated as follows:

d. Woodlands Except as hereafter provided, no more than twenty percent (20%) of such areas shall be altered, regraded, cleared or built upon. The remaining eighty percent (80%) shall be maintained as permanent woodland.

1. In order to allow flexibility for meeting woodlands protection standards ratio for woodlands, in the Planned Commercial, PC, and Planned Industrial, PI, Zoning Districts, the open space ratio for woodlands under Section 501 of the Zoning Ordinance may be reduced and the allowable woodlands removal under this Section 504 d of the Zoning Ordinance, may be increased, at the sole discretion of the Board of Supervisors upon Conditional Use approval in accordance with the provisions set forth herein and in Section 1108 of the Zoning Ordinance.

2. *Prohibited Woodlands Removal* – Trees within the Riparian Corridor Conservation District must comply with the provisions of Sections 650 – 657 of the Zoning Ordinance. No trees within the Riparian Corridor shall be considered for removal unless they are part of an approved enhancement plan that improves the riparian buffer. Landmark trees which are trees specifically designated by resolution of the Milford Township Board of Supervisors shall not be removed.

3. *Allowable Woodlands Removal* – At the sole discretion of the Milford Township Board of Supervisors, the woodlands open space ratio under Section 501 of the Zoning Ordinance may be reduced and subsequent allowable woodlands removal under Section 504 of the Zoning Ordinance may be increased at the sole discretion of the Board of Supervisors upon Conditional Use approval, provided that Woodland Mitigation Measures are undertaken.

4. *Woodland Mitigation Measures* – Additional woodlands removal beyond 20% allowed under this ordinance shall require measures that should include on-site mitigation, off-site mitigation and/or the payment of fees-in-lieu of other specific mitigation measures.

a. *On-site mitigation*, when permitted by Conditional Use approval, shall require planting of trees on a 1 to1 ratio (measured by area) for replacement of disturbed woodlands in excess of the allowed 20%. A plan must be submitted that provides replacement at an equivalent rate of 100 trees of a three inch (3") diameter at breast height per acre.

b. *Off-site mitigation*, when permitted by Conditional Use

approval, shall require the fee simple dedication of land in a ratio of five (5) acres of permanently preserved woodlands for each acre (or portion thereof) of disturbed woodlands in excess of the allowed 20%. Where less than 1 acre of woodlands exceeding the 20% limitation are proposed to be disturbed, five (5) acres of off site mitigation of permanently preserved woodlands shall be required.

c. Disturbance of fractions of an acre should be rounded up to a full acre, i. e. 1.2 acres of woodlands disturbance, for the purpose of mitigation, should be considered 2 acres.

d. A fee-in-lieu of some or all of the mitigation measures provided above is allowed when permitted by Conditional Use Approval. The amount of the fee should be an amount equivalent to the value of 100 trees of a three inch (3") diameter at breast height per acre of disturbed woodlands in excess of the allowed 20% disturbance. All fees collected under this ordinance shall be deposited in a Tree Mitigation Fund restricted for use only to purchase and plant trees and shrubs and to purchase land.

**Section 02:** *Section 1108 d, Specific Requirements and Standards*, is hereby amended to add a new subsection as follows:

(6) Standards for Grant of Conditional Use approval for additional woodlands disturbance in the Planned Commercial, PC, and Planned Industrial, PI, Zoning Districts. The Board of Supervisors shall determine, based upon the nature and character of the woodlands specific to the property under consideration, the extent to which the woodlands identified pursuant to Section 501 of the Zoning Ordinance may be disturbed above the twenty percent (20%) woodlands disturbance standard established at Section 504 of the Zoning Ordinance. In determining whether, and to what extent, to grant Conditional Use approval, the Board shall consider the following standards and guidelines:

a. Woodland Mitigation Measures required under Section 504 d. of the Zoning Ordinance and as outlined in a specific Woodland Mitigation Plan submitted with the Conditional Use Application will result in establishing overall higher quality woodlands either on site or at other locations in the Township.

b. The extent to which the Woodland Mitigation Measures required under Section 504 d. of the Zoning Ordinance and as outlined in a specific Woodland Mitigation Plan submitted with the Conditional Use Application will enhance the protection riparian corridors either on the property subject to the Conditional Use Application or at other sites within Milford Township.

c. The extent to which a contribution to the Milford Township Tree Mitigation Fund will enhance woodland and/or riparian corridor areas in other parts of the Township for the benefit of all of the citizens of Milford Township.

d. The benefits accruing by the Woodland Mitigation Measures proposed by the Applicant shall be weighed with the impacts of the specific woodlands

proposed to be removed above the twenty percent (20%) disturbance permitted under Section 504 for the purpose of determining whether Woodland Mitigation Measures should be approved as an alternative to prohibiting more than twenty percent (20%) of woodlands on the Applicant's site to be disturbed.

5. The Board of Supervisors may impose such conditions upon the approval of woodland disturbance beyond the twenty percent (20%) allowed under Section 504 d. of this Ordinance as the Board, in its sole discretion, deems appropriate to assure that a viable and effective means of woodlands protection and enhancement will result from the Conditional Use approval.

**Section 03: Repealer.** All provisions of the Milford Township Portion of the Quakertown Area Municipal Zoning Ordinance of 1995, as amended, unaffected by this Ordinance are declared to be in full force and effect. The provisions of the Milford Township Portion of the Quakertown Area Municipal Zoning Ordinance of 1995, as amended, inconsistent with the provisions of this Ordinance are hereby repealed to the extent of the inconsistency.

**Section 04: Severability.** The provisions of this Ordinance are declared to be severable. If any provision of this Ordinance is determined by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance or on the provisions of the Milford Township Portion of the Quakertown Area Municipal Zoning Ordinance of 1995, as amended.

**Section 05: Effective Date.** This Ordinance shall become effective five (5) days after its adoption.

ENACTED and ORDAINED this 17th day of July 2007.

ATTEST:

-S-  
Jeffrey A. Vey, Manager

Excused  
Robert B. Mansfield, Chairman

-S-  
Charles Strunk

-S-  
Timothy Damiani