

HONEY BROOK TOWNSHIP
CHESTER COUNTY, PA

ORDINANCE #130 - 2007

AN ORDINANCE OF THE TOWNSHIP OF HONEY BROOK AMENDING THE HONEY BROOK TOWNSHIP ZONING ORDINANCE OF 2003, AS AMENDED, TO AMEND PART 4 TITLED "A-AGRICULTURAL DISTRICT" TO ADD PROVISIONS RELATED TO THE SUBDIVISION OF LAND FOR, AND DEVELOPMENT OF, MUNICIPAL USES; TO AMEND PART 13 TITLED "NATURAL FEATURES CONSERVATION STANDARDS" TO ADD NEW SECTION 1305 TITLED "WHP-WELLHEAD PROTECTION DISTRICT"; AND TO AMEND THE HONEY BROOK TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE OF 2004, AS AMENDED, SPECIFICALLY PART 6 TITLED "DESIGN STANDARDS", TO ADD NEW SECTION 630 TITLED "ADDITIONAL REQUIREMENTS FOR APPLICATIONS WITHIN THE WHP-WELLHEAD PROTECTION DISTRICT."

SECTION 1. Section 27-402.1.G. shall read as follows:

- G. Split-off of an agricultural-residential lot for single-family dwelling or municipal use purposes, when in accordance with the terms of §27-405.

SECTION 2. Section 27-405.5.G. shall read as follows.

G. Maximum impervious surface:

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|----------------------|---------------------|
| (1) Residential uses | 20% of the lot area |
| (2) Municipal uses | 60% of the lot area |

SECTION 3. Part 13 of Chapter 27, Zoning, of the Honey Brook Township Code shall be amended to add the following new Section 1305.

§27-1305. WHP – Wellhead Protection District.

1. *Statement of Intent.* The purpose of this Section is as follows:

A. To protect the public health, safety and welfare through the preservation of the groundwater resources of the public water supplies owned and operated by the Honey Brook Borough Authority, (hereinafter referred to as the "Authority"), a municipal authority duly established by the Borough of Honey Brook, Chester County (hereinafter referred to as the "Borough").

B. To ensure a future supply of safe, reliable, and healthful drinking water for the residents of the Township. The designation of the Wellhead Protection District and the regulation of activities within such Wellhead Protection District will reduce the potential for ground and surface water contamination and thereby preserve irreplaceable groundwater resources. The delineation of the Wellhead Protection District and the development of the provisions of this Section are based upon a professional study of the hydrogeology and other features of the Township and certain nearby municipalities.

C. Preserve the Township's natural features and groundwater aquifers.

2. *Establishment and Delineation of Wellhead Protection District and Wellhead Protection Zones.* The Wellhead Protection District shall be defined as that area within the corporate boundaries of the Township as is set forth on the map attached hereto, marked as Exhibit "A" and incorporated herein by reference thereto. Within the Wellhead Protection District, the following Wellhead Protection Zones are hereby established:

A. Zone 1 shall be that area marked on Exhibit "A" as Zone 1, which Zone 1 represents a protective zone immediately surrounding a community water supply well, which shall be a maximum radius of 400 feet.

B. Zone 2 shall be that area marked on Exhibit "A" as Zone 2, which Zone 2 represents an area determined by methods applicable to that hydrogeologic setting, as having a ten year time-of-travel of groundwater supply to public well sites.

C. Zone 3 shall be that area marked on Exhibit "A" as Zone 3, which Zone 3 represents the area that contributes surface and groundwater to Zone 2.

3. *Boundary Disputes.*

A. Where the boundary of any Zone divides any property, the entire property shall be considered to lie within the Zone offering the highest degree of protection to groundwater resources. Should any person challenge the boundary of Zones 1, 2 or 3, it shall be the responsibility of that person to retain a recognized professional with competence in the field to determine more accurately the precise boundary of the disputed area. The final boundary to be used will be determined by the Township Engineer with assistance from the Authority engineer and/or a professional hydrogeologist, as appropriate. The applicant shall bear the burden of proof and be responsible for all fees incurred as may be set forth by resolution.

4. *Relationship to Other Parts and Ordinances.* The provisions of the WHP – Wellhead Protection District creates an overlay district which is applicable within the zoning districts established by this Chapter and shown on the map in "Exhibit A". To the extent the provisions of this Section are applicable and more restrictive, they shall supersede conflicting provisions in any other part of this Chapter and all other Ordinances of the Township. However, all other provisions of this Chapter and all other Ordinances of the Township shall remain in full force and effect.

5. *Regulated Land Uses in the WHP – Wellhead Protection District.* Within the Wellhead Protection District, land uses shall be regulated as follows:

A. Lots and tracts of land located within the Wellhead Protection District, as delineated on Exhibit "A", shall be governed by the restrictions applicable to the Wellhead Protection Zone in which such lots and tracts of land are located.

B. Certain land uses within the Wellhead Protection District will be regulated (hereinafter "Regulated Land Uses") according to the listing of uses provided in this Section. Certain particular Regulated Land Uses will be prohibited, or permitted only by a Special Permit, within Zone 1, Zone 2, or Zone 3, as applicable.

6. *Uses Permitted by Right in the WHP – Wellhead Protection District.* The following uses are permitted by right in the WHP – Wellhead Protection District (all zones).

A. *Transit:* the transportation of any hazardous or governmentally regulated substance through the Wellhead Protection District shall be exempt from provisions of this Ordinance, provided that the transporting vehicle is in transit through the Wellhead Protection District and further provided that such transportation is conducted in compliance with all applicable federal and state law and regulations;

B. *Residential:* to the extent otherwise permitted or regulated by federal, state and/or county statutes and regulations, the owners and/or occupiers of lots and tracts of land which are primarily utilized for the purpose of single or multi-family residential dwellings are permitted to utilize and store fuels, hazardous chemicals, pesticides, fertilizers, inflammable liquids and gases, and toxic and regulated substances in such quantities and in such manner as is associated with normal consumer, household use, and such limited utilization shall not be deemed a Regulated Land Use for the purposes of this Ordinance.

7. *Uses Specifically Prohibited in the WHP – Wellhead Protection District.*

A. Zone 1. The following Regulated Land Uses are specifically prohibited in Zone 1:

(1) Bulk Storage of Regulated Substances (i.e. meaning any substances regulated under federal, state or county environmental; pollution control, hazardous substance and drinking water laws and regulations)

(2) Dry Cleaning establishments; Coin or Commercial Laundries.

(3) Garage Service Station

(4) Heavy Manufacturing Uses

(5) Junk Yards

(6) Land Application of Wastewater and Sludges

(7) Livestock Animals in Excess of 25 Animal Equivalent Units per Acre in Yarding Areas.

(8) Metal Plating establishments

(9) Open burning sites (not including the open burning of common household waste as permitted by State law & DEP regulations) and Dumps

(10) Quarries and Mining Operations

(11) Road Salt Stockpiles

(12) Fuel Sales

(13) Fuel Storage

(14) Sanitary Landfill

(15) Sewage Treatment Facilities with Onsite Disposal of Primary or Secondary Treated Effluent in Excess of 5,000 GPD

(16) Storage and Mixing of Regulated Substances

(17) Use which involves as a principal activity the manufacture, storage, use, transportation, or disposal of Regulated Substances

(18) Use which involves use or storage of Regulated Substances in quantities greater than those associated with normal household use

(19) Used Motor Vehicle Sales Area

B. Zone 2. The following regulated land uses are specifically prohibited in Zone 2:

(1) All regulated land uses mentioned in §27-1305.7.A.1-19 above.

C. Zone 3. The following regulated land uses are specifically prohibited in Zone 3:

(1) Open burning sites (not including the open burning of common household waste as permitted by State law & DEP regulations) and Dumps.

8. *Uses Permitted by Special Permit Issuance in the WHP – Wellhead Protection District.* The following regulated land uses are permitted by issuance of a special permit within Zone 3 only:

A. All regulated land uses mentioned in §27-1705.7.A.1-8 & 10-19, above.

9. *Reporting Requirements for New Uses.* As to each lot or tract of land located within the Wellhead Protection District, upon which there is conducted a Regulated Land Use, the record owner

thereof shall submit, or cause to be submitted, to the Township Engineer the following reports and information in the manner prescribed:

A. Copies of all federal, state and county operational approvals, certificates, permits and applications, on-going environmental reports and monitoring results, relating to environmental, pollution control, hazardous substance and drinking water laws and regulations pertaining to such lot or tract of land, as and when required to be submitted to federal, state and county governmental authorities.

B. In the event that any contaminants and/or substances regulated under federal, state or county environmental, pollution control, hazardous substance and drinking water laws and regulations are released on or from any lot or tract of land within the Wellhead Protection District, copies of any and all notices, reports and documents which such owner filed, or caused to be filed, with any federal, state and/or county governmental authorities which provide notice of or relate to such release, as and when such notices, reports and documents are required to be filed with such governmental authorities; and

C. Copies of all notices, orders, rules, decisions, recommendations, enforcement actions and similar documentation, as and when received by or on behalf of such record owner or the occupant of any such lot or tract of land from any federal, state or county governmental authority in connection with the enforcement of environmental, pollution control, hazardous substance and drinking water laws and regulations.

10. *Administration*

A. The Township Engineer is hereby designated as the Township official responsible for the administration and enforcement of this Section. The Zoning Hearing Board of the Township shall hear appeals from the written determinations and orders of the Township Engineer regarding applications, enforcement notices, cease and desist orders and other matters, and shall also hear substantive and procedural challenges to the validity of this Ordinance.

B. Uses of lots or tracts of land in existence on the date of enactment of this Ordinance which are regulated Land Uses shall be deemed to be "non-conforming uses" of land under the terms of this Ordinance. Such non-conforming uses of land may be continued by the present or any subsequent owner so long as:

(1) such use is and remains otherwise lawful and in compliance with all federal, state, and county environmental, pollution control, hazardous substance and drinking water laws and regulations;

(2) such non-conforming use has not been and is not discontinued for a period of twelve (12) consecutive months;

(3) such non-conforming use is not, after the date of enactment of this Ordinance, materially altered, changed or expanded;

(4) the record owner of the lot or tract of land on which such non-conforming use is located is in compliance with the Section of this Ordinance regarding reporting requirements; and

(5) such non-conforming use is not an actual known source of groundwater contamination.

C. A Regulated Land Use shall be deemed to be new or materially altered, changed or expanded if:

(1) the land use which constitutes the Regulated Land Use was not previously present and conducted upon the lot or tract of land in question;

(2) the production and/or storage capacity of the Regulated Land Use is increased;

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- (3) the types of substances which give rise to the Regulated Land Use are changed;
 - (4) the number of types of any substances which give rise to the Regulated Land Use is increased; and/or
 - (5) the quantity of any substances which give rise to the Regulated Land Use is materially increased.

D. Following the date of enactment of this Ordinance, Regulated Land Uses which are new or which constitute material changes, alterations or expansions of non-conforming Regulated Land Uses will be prohibited in accordance with the terms of this Section thereby prohibiting such Regulated Land Uses or permitting such Regulated Land Uses only upon the granting of a Special Permit. Any Regulated Land Use which is permitted to be conducted within the Wellhead Protection District as a result of the granting of a Special Permit in accordance with the terms of this Ordinance and other Township regulations shall not be deemed to be a nonconforming use of the land under the terms of this Ordinance, but shall without further action be considered a land use which is in conformity with the terms of this Ordinance.

E. As to any new Regulated Land Use or any proposed material change, alteration or expansion of a Regulated Land Use which is a nonconforming Regulated Land Use and as to which such Regulated Land Use is permitted to be conducted within the applicable Wellhead Protection Zone upon the granting of a Special Permit, such Special Permit shall only be granted upon the following conditions:

- (1) such Regulated Land Use is one which is specifically authorized as a Special Permit use in the Wellhead Protection Zone in question, as set forth in this Section;

- (2) such Regulated Land Use will not, during construction or thereafter, cause the degradation of the groundwater quality upon or beneath the lot or tract of land in question, or upon or beneath adjacent lots or tracts of land, the degree and extent of which degradation is or would be violative of safe drinking water standards promulgated by federal, state or county governmental authorities;

- (3) satisfactory evidence has been provided to the Township's Engineer, or Zoning Hearing Board, as applicable, that the proposed Regulated Land Use is in compliance with all federal, state and county laws and regulations applicable to such Regulated Land Use and the record owner or occupant has received all necessary approvals of federal, state and county governmental authorities for the conduct of such Regulated Land Use.

F. Application for a Special Permit shall be made to the Township Engineer in writing on such form as may be prescribed by the Township Engineer and approved by Resolution of the Supervisors and such application shall include, at a minimum, a detailed description of each of the activities to be conducted upon the lot or tract of land in question which constitute a Regulated Land Use, including a listing of all substances which are to be stored, handled, used or produced in connection with each Regulated Land Use being proposed and which substances are subject to regulation by federal, state and/or county governmental authorities.

G. The Township Engineer shall issue a written determination approving or disapproving the application for a Special Permit, or conditioning the granting of the Special Permit upon adherence to any or all of the following requirements by the applicant for the Special Permit, where the Township Engineer has found that such adherence is reasonably necessary to fulfill the groundwater protection purposes of this Ordinance.

- (1) the installation of adequate containment facilities and systems so as to prevent the contamination of groundwater by substances regulated by federal, state and/or county governmental authorities;

(2) the preparation, filing (with the Township Engineer) and periodic revision of an emergency plan addressing the means by which any potential contamination of groundwater will be controlled, collected and remediated, including emergency contacts and identification of potential contaminants;

(3) regular inspection and/or monitoring, by the owner, occupant, the Township Engineer and/or third parties (including the Authority), of the Regulated Land Use; and

(4) compliance by the applicant with the provisions of the Township Subdivision and Land Development Ordinance then in effect pertaining to sanitary sewage disposal, water supply, storm water management, utilities and easements and subsurface carbonate areas.

H. Applications to the Township Engineer for a Special Permit under this Section, as well as written determinations of the Township Engineer and appeals from the written determinations of the Township Engineer to the Township Zoning Hearing Board and appeals to the courts of the Commonwealth of Pennsylvania, shall be subject to the same procedural (but not substantive) rules as are applicable to applications for special exceptions under the terms of the underlying Zoning Ordinance of the Township in effect at the time the application is filed.

11. *Fees.*

A. The Township Supervisors shall, from time to time, establish by resolution a schedule of fees, charges and expenses and collection procedures for Special Permits, costs of review and inspection, appeals and other matters pertaining to this Section. The schedule of fees shall be available for inspection in the Township Office. An application will not be considered to be complete until all applicable fees, charges and expenses have been paid in full.

SECTION 4. Part 6 of Chapter 22, Subdivision and Land Development, of the Honey Brook Township Code shall be amended to add the following new Section 630.

§22-630. Additional Requirements for Applications within the WHP – Wellhead Protection District.

1. The following requirements pertain only to those subdivision or land development applications located within the Township's WHP – Wellhead Protection District overlay identified in §27-1305 of the Township Zoning Ordinance.

A. It shall be the responsibility of the Township Planning Commission to recommend approval, disapproval or approval with conditions or modifications, of the proposed subdivision or development plan, so as to assure compliance with the provisions of this Section.

B. Subdivisions and land developments within Zones 1, 2 or 3 for which storm water management controls are required pursuant to §22-627 of the Township Subdivision and Land Development Ordinance shall be designed consistent with the following:

(1) Storm water retention basins shall be discouraged, unless it can be demonstrated to be the primary means of stormwater management control for the development;

(2) Storm water detention basins shall be designed with an impermeable liner to prohibit the infiltration of impounded water to the subsurface, unless it is determined by the DEP and/or Township to be the only source of infiltration available for the development.

C. Subdivisions and land developments within Zones 1, 2 or 3 which are proposed for onlot sewage disposal shall provide a tested and suitable primary absorption area and a tested and suitable secondary absorption area on each lot.

D. Subdivisions and land developments within Zones 1, 2 or 3 shall have the following Preliminary Plan requirements in addition to those requirements listed in §22-502 of the Township Subdivision and Land Development Ordinance:

(1) A recognized professional with competence in the field shall review aerial photographs, soils, geologic and other available related data as the data relates to the subject property. The professional shall also conduct a site inspection of the property.

(2) Based on the work required above, the professional shall prepare a map of the site showing all topographic, geologic and other pertinent physical features. The mapping shall indicate, but shall not be limited to, the following:

- (a) closed depressions
- (b) seasonal high water table indicators
- (c) outcrops of bedrock
- (d) surface drainage into ground
- (e) lineaments and faults
- (f) quarries and mines
- (g) oil and gas wells
- (h) geologic contacts

(3) Based upon the work performed above, the professional shall determine what further testing should be done by the applicant to ensure compliance with this Ordinance. Testing methodology shall be reasonable under the circumstances, including (1) the scale of the proposed development, and (2) the hazards revealed by examination of available data and site inspection.

(4) The applicant shall cause the additional testing established above to be completed. A study report shall be submitted and referred to the Township Engineer and the Honey Brook Borough Authority (HBBA). This study shall include a map of the area, all test results and a recommendation on the mitigation measures to be taken.

(5) The Township Engineer shall consider the HBBA's comments, if any, and report to the Planning Commission, with a copy to the landowner, his or her opinion as to the adequacy of the study and as to the capability of the site to support the proposed development in a manner in which the risks attendant to the development in carbonate areas are either eliminated or minimized. Recommendations for site development including building location may be included. Additional studies or testing as deemed necessary by the Township Engineer in order to produce an adequate study given the scale of the proposed development and the hazards revealed may be required of the applicant.

SECTION 5, SEVERABILITY. If any sentence, clause, section or part 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, sections or parts hereof. It is hereby declared as the intent of the Board of Supervisors of Honey Brook Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 6, REPEALER. All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

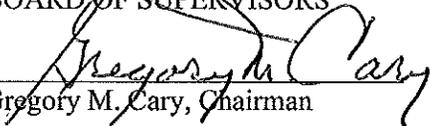
SECTION 7, EFFECTIVE DATE. This Ordinance shall become effective five days after enactment as provided by law.

SO IT IS ENACTED AND ORDAINED this 10 day of October, 2007.

ATTEST:


Secretary

HONEY BROOK TOWNSHIP
BOARD OF SUPERVISORS


Gregory M. Cary, Chairman


Donald E. Johnson, Vice-Chairman

D. Weston Darby, Member