

CHAPTER 825

ZONING ORDINANCE: ENVIRONMENTAL CONSTRAINTS OVERLAY ZONE

825-1. Purpose

The purpose of the Environmental Constraints Overlay Zone is to:

- (A) Protect and enhance the public health, safety and welfare by
 - (1) Preserving and enhancing the quality of the water supply for residential, industrial and public use;
 - (2) Recommending appropriate regulations for building sites, structures and land uses in the Monroe and Griffey Reservoir watersheds;
 - (3) Improving stormwater management in the watersheds;
 - (4) Preventing pollution, erosion, siltation and the loss of topsoil;
 - (5) Protecting the tax base from impairment due to unwise use of land; and
 - (6) Encouraging watershed mitigation areas.
- (B) Protect and enhance resources as recreational and tourist attractions by
 - (1) Protecting water quality for fish and other aquatic life;
 - (2) Preserving shore cover and the natural beauty of the lakes and streams; and
 - (3) Enhancing and protecting forests, wildlife areas, wetlands, parks and recreational facilities for beneficial water management.

825-2. Development Standards and Administration of the ECO Zone

- (A) Erosion and Drainage Control: in addition to the provisions in Chapter 816 of this Zoning Ordinance and any applicable State and Federal regulations, the following conditions shall apply to development in the ECO Zone:
 - (1) Site plans, subdivision plats, planned unit developments and plans for more than one single family dwelling unit shall be designed by a Professional Engineer registered in the State of Indiana.
 - (2) Construction projects shall minimize disturbance of tree concentrations to the maximum extent reasonable.
 - (3) Streets, parking areas and building pads shall be designed so as to conform closely to existing contours and minimize grading.
 - (4) All development proposals and permit applications shall require an erosion and drainage control plan. The plan shall include measures to minimize

erosion during and after construction and shall include measures to intercept any erosion before it leaves a site. Runoff mitigation measures shall include a redundancy against failure during any construction or development activity.

- (5) All development proposals requiring phasing of the project due to size or other considerations shall also incorporate a binding, recordable commitment or deed restriction for the ongoing maintenance of any stormwater management facilities located on the development site. Such commitment must also include:
- (a) Periodic third party inspection and report;
 - (b) Incorporated Owners Association with financing capability or provisions in the owner's deeds providing for periodic assessments to cover expected stormwater maintenance expenditures;
 - (c) County authorization to perform necessary maintenance and charge the owners or Owners Association for the work if the owner or Owners Association fails to maintain the stormwater facilities in accordance with good management practices after the County gives written notice and a reasonable opportunity to cure;
 - (d) County authorization to seek injunctive relief if the owners or Owners Association fail to maintain the stormwater facilities in accordance with good management practices after the County gives written notice and a reasonable opportunity to cure;
 - (e) Reports by a qualified consultant regarding stormwater detention, soil stabilization, erosion and siltation control, and stormwater runoff quality mitigation. Such reports shall note the presence or absence of hydric soils, karst features, geologic hazard features, existing vegetation, flood prone areas, slopes in excess of twelve (12) percent, perennial and intermittent streams, receiving water bodies for drainage, and the drainage distance to the Fee Take Line. These features shall be marked on a project site map and addressed in the erosion and sediment control and drainage plans.
- (6) All construction projects in the Lake Monroe and Lake Griffey watersheds which require a grading permit shall be inspected a minimum of every two weeks from ground breaking to stabilization, and within forty-eight (48) hours of any precipitation event exceeding a ten (10) year, 24-hour precipitation event. Inspections shall be carried out by the County erosion control inspectors, but may also be conducted by a licensed Professional Engineer under contract to the developer or construction contractor, subject to the submission of an Erosion Control Report after every inspection.
- (7) There shall be a pre-construction conference on the site of future development activity for all projects where more than one acre will be disturbed. This conference shall include the developer, contractor, job foreman, County erosion control inspector, and a representative from any other County or public agency as deemed necessary, based on review of the project plans by planning staff. A public record of the conference will be

kept in the file of the project construction permit file for the grading and improvement location permits.

- (8) All construction or development activities which are done in phases shall require stabilization of earth disturbance from each phase prior to the start of the next phase of the development. This requirement shall be enforced regardless of the size of the phase, development, or disturbance area.
- (B) Forestry Activities: forestry activities will be encouraged to employ Best Management Practices described in written form by the Indiana Department of Natural Resources.
- (C) Agriculture Activities, including Livestock Feeding: agricultural and livestock feeding activities should be carried out in conjunction with a soil and water conservation plan prepared in conjunction with the Natural Resources Conservation Service. Any area of the watersheds where land disturbance is prohibited shall also be restricted from any tillage or other earth disturbing activity. Confined livestock feeding operations shall not be permitted in the watersheds. Existing agricultural land uses shall be permitted in accordance with Chapter 803 of this Zoning Ordinance.

825-3. Specific Restrictions for Sensitive Lands

- (A) Setback Distance from Lake Bodies: the minimum setback, measured horizontally, from the normal pool elevation shall be 125 feet. The following restrictions shall pertain to this designated area:

 - (1) There shall be no land disturbance of any kind within this setback, including construction, removal of vegetation, agricultural activity, logging operation, or construction of infrastructure.
 - (2) No erosion control or mitigation activities shall be carried out on the lake shore, at the water's edge, or along the Fee Take Line without the appropriate permits obtained from the County or any other required agency.
 - (3) Restoration and mitigation activities intended to reduce erosion and improve water quality on public land shall be carried out only with the permission of appropriate agencies, including the Army Corps of Engineers and the Indiana Department of Natural Resources.
 - (4) The following activities may be permitted:

 - (a) The clearing of brush less than three (3) inches in diameter to create pedestrian access to the Fee Take Line, to be no more than six (6) feet in width, and to be surfaced with permeable material to prevent erosion.
 - (b) The removal of tree branches or tree trunks provided said trees present a clear and immediate danger to property or persons. Tree stumps shall remain in place.
- (B) Setback Distance from Tributaries and Streams: riparian buffer zones, measured from the stream/vegetation interface line, shall be established to a distance of 100 feet from each side of all intermittent and perennial streams as shown on the U.S. Geological Survey 7½ minute topographic maps. Agricultural uses existing prior to

the adoption of this Zoning Ordinance are not required to provide riparian buffer zones if they are legal, pre-existing nonconforming uses (also known as grandfathered uses). Agricultural uses will need to provide riparian buffer zones only when there is a change in use from non-agricultural activities to agricultural uses. The following restrictions shall pertain to land within riparian buffer zones:

- (1) No earth disturbance, removal of vegetation, logging operation, and agricultural and livestock feeding activities are permitted except for the following:

 - (a) Installation or construction of infrastructure crossings,
 - (b) Selective logging operations, as defined in the *Best Management Practices Handbook* from the Forest Practices Working Group of the Indiana Department of Natural Resources, subject to securing a logging permit from the County Planning Department, and
 - (c) Removal of snags and logjams.
- (2) Where infrastructure crossings are necessary, erosion and sediment control plans will be submitted to the reviewing bodies. Such plans shall include:

 - (a) Specifications for practices to be used in minimizing disturbance;
 - (b) Methods for revegetation;
 - (c) Documentation of any sensitive area which may be disturbed.
- (3) Removal of tree branches or tree trunks is permitted if said trees present a clear and immediate danger to property and persons. Tree stumps shall be left in place.
- (C) Floodplains and Floodways: areas designated as flood prone areas, including floodways, floodway fringe areas, and floodplains, are subject to development conditions found in Chapter 808 of this Zoning Ordinance.
- (D) Steep Slopes: there will be no earth moving or grading, large scale logging operations, or agricultural tilling on slopes designated as nondisturbable areas, and shall be referenced in the Monroe County Soil Survey.
- (E) Limited Soils: any areas designated by the Monroe County Soil Survey as “Severe” with respect to development or movement activities must be identified and included within the mitigation activities proposals of required erosion and sediment control plans.
- (F) Sensitive Karst and Other Geological Terrain: in any area in the watershed which contains sinkholes or other karst features where construction or significant earth disturbance is proposed, no construction or earth disturbance shall take place within fifty (50) feet of the outer rim of a sinkhole unless a geological and geophysical survey indicates that such construction or earth disturbance is appropriate. A twenty-five (25) foot vegetative buffer from the outer rim toward the center of a sinkhole is also required.

- (1) A required geological and geophysical survey shall show the following:
 - (a) The identification of sinkholes, springs and caves on a site plan, drawn to scale;
 - (b) That the proposed earth disturbance or construction would not negatively and materially affect the water quality in the watershed;
 - (c) The structural integrity of any proposed structure with respect to the indicated karst feature(s).
- (2) Construction activity is prohibited in areas designated as the following, according to Special Report 47, "Geology for Environmental Planning in Monroe County, Indiana" (Indiana Department of Natural Resources):
 - (a) Limestone residuum over siltstone bedrock in the Ramp Creek Watershed, and
 - (b) New Providence Shale, the lowest formation in the Borden Group.

825-4. Overlay Area Regulations

In addition to the applicable regulations set forth in the Monroe County Zoning Ordinance, the following regulations shall apply to land use within the ECO Zone.

(A) Area 1 Regulations

- (1) The maximum land slope upon which any land disturbance involved in construction of buildings, driveways, roads, parking lots, and utilities can occur shall be twelve (12) percent. The percent slope shall be measured as a six (6) foot fall in any fifty (50) foot distance. The design should be suited to the lot to minimize the amount of cut and fill.
- (2) There shall be no disturbance of natural vegetation beyond the twelve (12) percent slope.
- (3) The maximum residential density that shall be allowed shall be one unit per five (5) acres.
- (4) Lots fronting on the lake require a minimum of 300 feet total lake frontage.
- (5) Each dwelling unit shall have at least one acre of total contiguous land which is equal to or less than twelve (12) percent slope.

(B) Area 2 Regulations

- (1) The maximum land slope upon which any land disturbance involved in construction of buildings, driveways, roads, parking lots, and utilities can occur shall be fifteen (15) percent. The percent slope shall be measured as a 7.5 foot fall in any fifty (50) foot distance. The design should be suited to the lot to minimize the amount of cut and fill.

- (2) There shall be no disturbance of natural vegetation beyond the fifteen (15) percent slope line, subject to the requirements of 825-3.
- (3) The maximum residential density that shall be allowed shall be one unit per 2.5 acres.
- (4) Each dwelling unit shall have at least one acre of total contiguous land which is equal to or less than fifteen (15) percent slope.

(C) Area 3 Regulations

- (1) The maximum land slope upon which any land disturbance involved in construction of buildings, driveways, roads, parking lots, and utilities can occur shall be eighteen (18) percent. The percent slope shall be measured as a nine (9) foot fall in any fifty (50) foot distance. The design should be suited to the lot to minimize the amount of cut and fill.
- (2) There shall be no disturbance of natural vegetation beyond the eighteen (18) percent slope line, subject to the requirements of 825-3.
- (3) The maximum residential density that shall be allowed shall be one unit per 2.5 acres.
- (4) Each dwelling unit shall have at least one acre of total contiguous land which is equal to or less than eighteen (18) percent slope.

(D) Area 4 Regulations

- (1) The area designated on the Environmental Constraints Overlay Zone as Area 4 shall be developed at Area 3 densities unless the following conditions occur or exist:
 - (a) Sanitary sewer systems are installed and operating in the areas designated;
 - (b) Water supply systems are installed and are able to pump water sufficient to meet the needs of increased density; and
 - (c) Roadway level of service will be maintained without significant investment of public resources for corrective measures.
- (2) Provided that criteria in (1) above are met, the following regulations shall apply to development in Area 4:
 - (a) The maximum land slope upon which any land disturbance may occur is eighteen (18) percent. The percent slope shall be measured as a nine (9) foot fall in any fifty (50) foot distance.
 - (b) The maximum residential density that shall be allowed shall be three (3) units per acre where sufficient sanitary sewer capacity exists.
 - (c) The maximum residential density that shall be allowed is 1 unit per 2.5 acres for septic sewer systems.

- (d) There shall be no disturbance of natural vegetation beyond the eighteen (18) percent slope and subject to the requirements in 825-3.
- (e) All approvals for density provisions under this section are conditional pending the submission and approval of a mitigation plan for managing problem sites within the Monroe Reservoir watershed, as detailed by the Environmental Constraints Overlay Committee Report, which was adopted by the County Commission on July 5, 1996.

(E) Detention Basin Location Waiver

- (1) Detention basins may be located beyond the slope restriction limits specified in this chapter if a waiver is approved by the Monroe County Drainage Board through a majority decision of the voting members present.
- (2) The Drainage Board may approve a waiver under this section only upon a determination in writing that:
 - (a) the amount of land disturbing activity will be reduced by granting the waiver;
 - (b) construction of the detention basin will not occur between October 1 and March 31;
 - (c) an erosion control plan that meets the requirements of Chapter 816 has been submitted for the access road and detention basin;
 - (d) granting the waiver will decrease erosion and increase the stability of the channel downstream; and
 - (e) approving the waiver will not have a significant adverse impact on the purpose of the Environmental Constraints Overlay Zone as described in section 825-1.
- (3) The Drainage Board has the authority to attach any conditions of approval it determines necessary to further the purposes of this chapter.

825-5.

Exceptions

For existing parcels of record for which there are no sites for the construction of a building, associated driveway and utilities that meet the requirements of this Chapter, the following exceptions shall apply with regard to the construction of a single family residential unit:

- (A) Exception from provisions of Chapter 825-4 (A1). Land disturbances (including disturbance of natural vegetation), involved in the construction of buildings, driveways, parking lots, and utilities, may occur on land slopes of twelve (12%) percent or greater only to the extent necessary to construct the same. The design shall be suited to the lot to minimize the amount of land disturbance.
- (B) Exception from provisions of Chapter 825-4 (A3). The provisions of 825-4 (A3) shall not apply.

- (C)** Exception from provisions of Chapter 825-4 (A4). The provisions of 825-4 (A4) shall not apply.
- (D)** Exception from provisions of Chapter 825-4 (A5). The provisions of 825-4 (A5) shall not apply.
- (E)** Exception from provisions of Chapter 825-4 (B1). Land disturbances (including disturbance of natural vegetation), involved in the construction of buildings, driveways, parking lots, and utilities, may occur on land slopes of fifteen (15%) percent or greater only to the extent necessary to construct the same. The design shall be suited to the lot to minimize the amount of land disturbance.
- (F)** Exception from provisions of Chapter 825-4 (B3). The provisions of 825-4 (B3) shall not apply.
- (G)** Exception from provisions of Chapter 825-4 (B4). The provisions of 825-4 (B4) shall not apply.
- (H)** Exception from provisions of Chapter 825-4 (C1). Land disturbances (including disturbance of natural vegetation), involved in the construction of buildings, driveways, parking lots, and utilities, may occur on land slopes of eighteen (18%) percent or greater only to the extent necessary to construct the same. The design shall be suited to the lot to minimize the amount of land disturbance.
- (I)** Exception from provisions of Chapter 825-4 (C3). The provisions of 825-4 (C3) shall not apply.
- (J)** Exception from provisions of Chapter 825-4 (C4). The provisions of 825-4 (C4) shall not apply.

All other provisions of Chapter 825 shall apply unless granted a variance or waiver in accordance with the provisions of this Ordinance. If there exists more than one site for the construction of a home, associated driveway and utilities or development of a land use activity other than one single family residence is proposed, development of the site shall be subject to the provisions of Chapter 825 unless otherwise granted a variance or waiver in accordance with the provisions of this Ordinance.