

VILLAGE OF RIDGEWOOD

ORDINANCE NO. 3225

AN ORDINANCE AMENDING THE CODE OF THE VILLAGE OF RIDGEWOOD AT CHAPTER 190, *LAND USE AND DEVELOPMENT*, BY REVISING SECTION 190-120, *ENVIRONMENTAL PROVISIONS*, TO ADD PROVISIONS REGULATING DEVELOPMENT OF STEEP SLOPE AREAS AND RIPARIAN ZONES, AND AMENDING THE PROVISIONS REGULATING NOISE

Section 1. Section 190-120, *Environmental provisions*, is hereby amended by revising Subsection E to read as follows:

E. Steep slopes. The purpose of this subsection is to regulate the intensity of use in areas of steeply sloping terrain in order to limit soil loss, erosion, excessive stormwater runoff, the degradation of surface water and to maintain the natural topography and drainage patterns of land. Disturbance of steep slopes results in accelerated erosion processes from stormwater runoff and the subsequent sedimentation of water bodies with the associated degradation of water quality and loss of aquatic life support. Related effects include soil loss, changes in natural topography and drainage patterns, increased flooding potential, further fragmentation of forest and habitat areas, and compromised aesthetic values. The following requirements shall apply:

(1) Disturbance of steep slopes prohibited. In accordance with the State of New Jersey's Water Quality Management Planning Rules at N.J.A.C. 7:15, no disturbance of steep slopes shall be permitted, except as permitted herein. The following provisions shall apply:

(a) Definitions. For the purposes of interpreting and administering the disturbance restrictions in this subsection E, the following definitions shall apply:

DISTURBANCE - the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

IMPERVIOUS SURFACE - any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

REDEVELOPMENT - the construction of structures or improvements on areas which previously contained structures or other improvements.

I HEREBY CERTIFY THAT THIS IS A TRUE COPY
OF AN ORDINANCE PASSED BY THE COUNCIL

ON November 9, 2009

Deborah A. Maulander

Village Clerk

STEEP SLOPES - any slope equal to or greater than 20 percent as measured over any minimum run of 10 feet. Steep slopes are determined based on contour intervals of two feet or less. The percent of slope (rise in feet per horizontal distance in feet) shall be established by measurement of distance perpendicular to the contour of the slope. The percent of slope shall be calculated for each two-foot contour interval. For example, any location on the site where there is a one-foot rise over a 10-foot horizontal run constitutes a 10 percent slope; a 1.5 foot rise over a 10-foot horizontal run constitutes a 15 percent slope; a two foot rise over a 10-foot horizontal run constitutes a 20 percent slope.

- (b) Exceptions. The disturbance of steep slopes shall only be permitted for the following activities. Determination of the following exceptions shall be made by the reviewing agency, with the applicant having the burden of proof.
 - [1] Redevelopment within the limits of impervious surfaces existing on the effective date of Ordinance ____ (amending this Subsection E);
 - [2] New disturbance necessary to protect the public health, safety or welfare, such as but not limited to necessary linear development for access or utilities when no feasible alternative exists to such disturbance;
 - [3] New disturbance necessary to provide an environmental benefit, such as but not limited to remediation of a contaminated site;
 - [4] New disturbance necessary to prevent extraordinary hardship on the property owner peculiar to the property; or
 - [5] New disturbance necessary to prevent extraordinary hardship, provided the hardship was not created by the property owner. For purposes of interpreting and administering this provision, "extraordinary hardship" shall be construed to mean that the steep slope disturbance is necessary to provide a minimal economically viable use of the property based upon reasonable investment.
- (2) Usable area limitations. The amount of steep slopes located within the usable area of a lot, as defined by this chapter, shall be limited as follows:
 - (a) No more than 50% of the usable area of a lot, as defined by this chapter, shall have 10% slopes or greater.
 - (b) No more than 35% of the usable area of a lot, as defined by this chapter, shall have 15% slopes or greater.
 - (c) No more than 20% of the usable area of a lot, as defined by this chapter, shall have 25% slopes or greater.

Section 2. Section 190-120, *Environmental provisions*, is hereby amended by revising Paragraph (5) in Subsection G to read as follows:

- (5) Noise. All uses shall comply with the applicable provisions of the State of New Jersey's Noise Control Regulations at N.J.A.C. 7:29.

Section 3. Section 190-120, *Environmental provisions*, is hereby amended by adding and inserting a new Subsection H, to read as follows:

H. Riparian zones. In accordance with the State of New Jersey's Water Quality Management Planning Rules at N.J.A.C. 7:15, this subsection designates riparian zones and regulates land use and development within such zones. The following provisions shall apply:

- (1) Purposes. The specific purposes and intent of this Subsection are to:
- (a) Restore and maintain the chemical, physical, and biological integrity of the water resources of the Village of Ridgewood;
 - (b) Prevent excessive nutrients, sediment, and organic matter, as well as biocides and other pollutants, from reaching surface waters by optimizing opportunities for filtration, deposition, absorption, adsorption, plant uptake, biodegradation, and denitrification, which occur when stormwater runoff is conveyed through vegetated buffers as stable, distributed flow prior to reaching receiving waters;
 - (c) Provide for shading of the aquatic environment so as to moderate temperatures, retain more dissolved oxygen, and support a healthy assemblage of aquatic flora and fauna;
 - (d) Provide for the availability of natural organic matter (leaves and twigs) and large woody debris (trees and limbs) that provide food and habitat for aquatic organisms (insects, amphibians, crustaceans, and small fish), which are essential to maintain the food chain;
 - (e) Increase stream bank stability and maintain natural fluvial geomorphology of the stream system, thereby reducing stream bank erosion and sedimentation and protecting habitat for aquatic organisms;
 - (f) Maintain base flows in streams and moisture in wetlands;
 - (g) Control downstream flooding; and
 - (h) Conserve the natural features important to land and water resources, e.g., headwater areas, ground water recharge zones, floodways, floodplains, springs, streams, wetlands, woodlands, and prime wildlife habitats.

- (2) Definitions. For the purposes of interpreting and administering the riparian zone provisions in this subsection H, the following definitions shall apply:

ACID PRODUCING SOILS - Soils that contain geologic deposits of iron sulfide minerals (pyrite and marcasite) which, when exposed to oxygen from the air or from surface waters, oxidize to produce sulfuric acid. Acid producing soils, upon excavation, generally have a pH of 4.0 or lower. After exposure to oxygen, these soils generally have a pH of 3.0 or lower. Information regarding the location of acid producing soils in New Jersey can be obtained from local Soil Conservation District offices.

CATEGORY ONE WATER(s) - Waters designated as "C1 waters" in the Surface Water Quality Standards, N.J.A.C. 7:9B.

DISTURBANCE - the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

HUC 14 WATERSHED - An area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

IMPERVIOUS SURFACE - Any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

REDEVELOPMENT - The construction of structures or improvements on areas which previously contained structures or other improvements.

RIPARIAN ZONE - The land and vegetation within and directly adjacent to all surface waters including, but not limited to, lakes, ponds, reservoirs, perennial and intermittent streams, up to and including their point of origin, such as seeps and springs, as shown the New Jersey Department of Environmental Protection's GIS hydrography coverages.

STEEP SLOPES - any slope equal to or greater than 20 percent as measured over any minimum run of 10 feet.

THREATENED OR ENDANGERED SPECIES - Species designated as "threatened" or "endangered" on the list defining the status of indigenous nongame wildlife species of New Jersey, promulgated pursuant to the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq., at N.J.A.C. 7:25 - 4.17. "Endangered species" also include any species or subspecies of wildlife appearing on any Federal endangered species list pursuant to the Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq.

TROUT MAINTENANCE WATER - A section of water designated as trout maintenance in the New Jersey Department of Environmental Protection's Surface Water Quality Standards at N.J.A.C. 7:9B.

TROUT PRODUCTION WATER - A section of water identified as trout production in the New Jersey Department of Environmental Protection's Surface Water Quality Standards at N.J.A.C. 7:9B.

- (3) Delineation of riparian buffer zones. The riparian zones and their widths within the Village of Ridgewood shall be as follows:
- (a) The riparian zone is 300 feet wide along both sides of any Category One water, and all upstream tributaries situated within the same HUC 14 watershed;
 - (b) The riparian zone is 150 feet wide along both sides of the following waters not identified in (3)(a) above:
 - (a) Any trout production water and all upstream waters (including tributaries);
 - (b) Any trout maintenance water and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water;
 - (c) Any segment of a water flowing through an area that contains documented habitat for a threatened or endangered species of plant or animal, which is critically dependent on the regulated water for survival, and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water; and
 - (d) Any segment of a water flowing through an area that contains acid producing soils; and
 - (c) The riparian zone is 50 feet wide along both sides of all waters not subject to (3)(a) or (b) above.
 - (d) The portion of the riparian zone that lies outside of a surface water is measured landward from the top of bank. If a discernible bank is not present along a surface water, the portion of the riparian zone outside the surface water is measured landward as follows:
 - [1] Along a linear fluvial water, such as a stream or swale, the riparian zone is measured landward of the feature's centerline;
 - [2] Along a non-linear fluvial water, such as a lake or pond, the riparian zone is measured landward of the normal water surface limit;

- [3] Along an amorphously-shaped feature, such as a wetland complex, through which a water flows but which lacks a definable channel, the riparian zone is measured landward of the feature's centerline.
- (e) For areas adjacent to surface water bodies for which the floodway has been delineated per the Flood Hazard Area Control Act rules at N.J.A.C. 7:13-3 or the State's adopted floodway delineations, the riparian zone shall cover the entire floodway area, or the area described in Paragraphs (3)(a) or (b) above, whichever area has the greatest extent.
 - (f) The applicant shall be responsible for the initial determination of the presence and extent of a riparian zone on a site, and for identifying the area on any plan submitted to the Village of Ridgewood. The applicant's initial determination shall be subject to review and approval by the Village Engineer, Construction Official, Planning Board, Board of Adjustment or Village Council, as applicable, or their appointed representatives, and, where required, by the New Jersey Department of Environmental Protection.
- (4) **Applicability.** A riparian zone is an overlay to the existing zoning districts. The provisions of the underlying district shall remain in full force except where the provisions of the riparian zone differ from the provisions of the underlying district, in which case the provision that is more restrictive shall apply. These provisions apply to land disturbances resulting from or related to any activity or use requiring a construction permit, zoning permit, soil movement permit, retaining wall permit, site plan, subdivision or variance or to any disturbance within or adjacent to a riparian zone. Compliance with the requirements of this Subsection shall not relieve any person from the requirement to obtain any and all other approvals that may be required from other governmental agencies, including but not limited to the Department of Environmental Protection.
- (5) **Regulated activities.** No new construction, development, use, activity, encroachment, or structure shall take place in a riparian zone and riparian zones shall be protected from avoidable disturbance, except as otherwise permitted below or as may be excepted in Paragraph (6) below., except as specifically authorized in this Section.
- (a) **Uses permitted in riparian zones.** Riparian zone areas shall remain in a natural condition or, if in a disturbed condition, including agricultural activities, at the time of adoption of these riparian zone regulations may be restored to a natural condition. There shall be no clearing or cutting of trees and brush, except for removal of dead vegetation and pruning for reasons of public safety or for the replacement of invasive species with indigenous species. There shall be no altering of watercourses, dumping of trash, soil, dirt, fill, vegetative or other debris, regrading or construction. The following uses are permitted either by right or after review and approval by the Village and/or other governmental

entities in riparian zones, as set forth elsewhere in this chapter or as otherwise required by law:

- [1] Open space uses that are primarily passive in character shall be permitted by right to extend into a riparian zone, provided near stream vegetation is preserved. Such uses include wildlife sanctuaries, nature preserves, forest preserves and similar uses operated for the protection and propagation of wildlife, but excluding structures. Such uses also include passive recreation areas of public and private parklands, including unpaved hiking, bicycle and bridle trails, provided that said trail have been stabilized with pervious materials.
 - [2] Fences, for which a permit has been issued by the Construction Code Official, to the extent required by applicable law, rule or regulation.
 - [3] Crossings by recreational trails, roads, railroads, storm water lines, sanitary sewer lines, water lines and public utility transmission lines, provided that the land disturbance is the minimum required to accomplish the permitted use, subject to approval by the Zoning Officer, Planning Board or Board of Adjustment, as applicable, Village Council and/or other governmental agency having jurisdiction, provided that any applicable State permits are acquired, and provided that the area of the crossing is stabilized against significant erosion due to its use as a crossing.
 - [4] Stream bank stabilization or riparian reforestation or wetlands mitigation projects that have been approved by the New Jersey Department of Environmental Protection.
- (b) Performance standards for riparian zones. The following conditions shall apply:
- [1] All development shall be designed to provide sufficient areas outside of the riparian zone to accommodate primary structures, any normal accessory uses appurtenant thereto, as well as all planned lawn areas.
 - [2] All stormwater shall be discharged outside of but may flow through a riparian zone and shall comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey", established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. (see N.J.A.C. 2:90-1.3.) If stormwater discharged outside of and flowing through a riparian zone cannot comply with the Standard for Off-Site Stability, then the proposed stabilization measures must meet the requirements of the Flood Hazard Area Control Act rules at N.J.A.C. 7:13-10.2 et seq., and have an approved flood hazard area permit.
 - [3] When disturbance is permitted within a riparian zone, such disturbance shall be restored with the planting of vegetation. The restoration plantings

shall be comprised of native and non-invasive tree and plant species to the maximum extent practicable.

- (c) Nonconforming structures and uses in riparian zones. Nonconforming structures and uses of land within the riparian zone are subject to the following requirements:

- [1] Legally existing nonconforming structures or uses may be continued, unless such uses or structures have been abandoned.
- [2] Encroachment within the riparian zone shall only be allowed where previous development or disturbance has occurred and shall be in conformance with the Stormwater Management rules, N.J.A.C. 7:8, and the Flood Hazard Area Control Act rules, N.J.A.C. 7:13.
- [3] Existing impervious cover shall not be increased within the riparian zone as a result of encroachments where previous development or disturbances have occurred.

- (d) Uses prohibited in riparian zones. Any use or activity not specifically authorized by this Subsection H shall be prohibited within the riparian zone. By way of example, the following activities and facilities are prohibited:

- [1] Removal or clear-cutting of trees and other vegetation or soil disturbance such as grading, except for selective vegetation removal for the purpose of stream or riparian area stabilization or restoration projects that require vegetation removal or grading prior to implementation.
- [2] Storage of any hazardous or noxious materials.
- [3] Use of fertilizers, pesticides, herbicides, and/or other chemicals not in compliance with Chapter 187 of the Village Code, in excess of prescribed industry standards or contrary to the recommendations of the Soil Conservation District.
- [4] Roads or driveways, except where permitted in compliance with this Subsection H.
- [5] Motor or wheeled vehicle traffic in any area, except as permitted by this Subsection H.
- [6] Parking lots.
- [7] Any type of permanent structure, except structures needed for a use permitted by this Subsection H.

[8] New subsurface sewage disposal system areas. The expansion and replacement of existing subsurface sewage disposal system areas for existing uses is permitted.

[9] Residential grounds or lawns, except as otherwise permitted pursuant to this Subsection H.

(6) Exceptions. The disturbance of riparian buffer zones shall only be permitted for the following activities. Determination of the following exceptions shall be made by the reviewing agency, with the applicant having the burden of proof.

- (a) Redevelopment within the limits of impervious surfaces existing on the effective date of Ordinance ____ (adopting this Subsection H);
- (b) New disturbance necessary to protect the public health, safety or welfare, such as but not limited to necessary linear development for access or utilities when no feasible alternative exists to such disturbance;
- (c) New disturbance necessary to provide an environmental benefit, such as but not limited to remediation of a contaminated site;
- (d) New disturbance necessary to prevent extraordinary hardship on the property owner peculiar to the property; or
- (e) New disturbance necessary to prevent extraordinary hardship, provided the hardship was not created by the property owner. For purposes of interpreting and administering this provision, "extraordinary hardship" shall be construed to mean that the steep slope disturbance is necessary to provide a minimal economically viable use of the property based upon reasonable investment.

Section 4. This Ordinance shall be so construed as not to conflict with any provision of New Jersey or Federal law. All ordinances of the Village of Ridgewood, parts of ordinances, or other local requirements that are inconsistent or in conflict with this ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this ordinance apply.

Section 5. Notwithstanding that any provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the Ordinance shall continue to be of full force and effect.

Section 6. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

Section 7. This Ordinance shall take effect upon final adoption and publication in accordance with the law.

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VILLAGE OF RIDGEWOOD
ORDINANCE NO. 3225

FOR AFFIRMANCE: Councilmembers: Aronsohn, Killion, Mancuso, Zusy
and Mayor Pfund

NAYS: None

ABSENT: None

ABSTAIN: None

Introduction Date: October 14, 2009

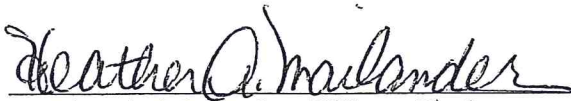
Adoption Date: November 9, 2009

Effective Date: November 29, 2009



David T. Pfund, Mayor

ATTEST:



Heather A. Mailander, Village Clerk