

TOWNSHIP OF VERONA

ORDINANCE #3-16

AN ORDINANCE TO REGULATE STEEP SLOPES IN THE TOWNSHIP OF VERONA

The following Article XXI titled “Regulation of Steep Slopes” is added to Chapter 150 of the Code of the Township of Verona as follows:

150-21.1 PURPOSE The purpose of this article is to regulate the degree of disturbance of 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.

150-21.2 BACKGROUND Disturbance of steep slopes results in accelerated erosion processes from stormwater runoff, soil loss, changes in natural topography and drainage patterns, increased flooding potential, further fragmentation of forest and habitat areas, and compromised aesthetic values. The Township Council desires to regulate the disturbance of steep slopes to ensure against the adverse consequences of such disturbances.

150-21.3 APPLICABILITY The governing body of the Township of Verona recognizes that the Township is almost fully developed and that most of the lots in the higher density residential zones are developed and that the impact of disturbance of steep slopes on or otherwise developing and redeveloping such lots, whether currently developed or not, will not have the same adverse consequences as disturbance of previously undeveloped larger lots or of redevelopment of larger lots. As such, all properties in the following zones are exempt from the provisions of this Article XXI::

R-40 (Very High Density Single Family); R-50 High Density Single Family); R-50B (Medium/High Density Single Family); R-60 (Medium Density Single Family); P (Public); T(Transportation)

Despite anything contained herein to the contrary, this Article XXI shall not apply to an application for a minor subdivision that seeks only to modify an existing lot line without creating a disturbance.

Except as otherwise specifically set forth, this ordinance shall apply to new development, redevelopment or land disturbance on a steep slope on all properties within the Township of Verona. The Planning Board or Zoning Board of Adjustment shall review all plans submitted under this ordinance as part of any application for a construction permit, site plan approval, or subdivision approval. The Township Engineer, in all cases, shall review all applications for compliance with this ordinance. Applicability of the ordinance may be contested by demonstration to the satisfaction of the Township Engineer that no area on the subject property (or proposed or future subdivision thereof) meets the criteria for the presence of a 15 percent or greater slope. Once demonstrated, the subject property, or subdivision thereof, shall be considered to be exempt from the requirements set forth herein.

150-21.4 DEFINITIONS

The following words shall have the following meanings as used in this Article XXI and for purposes of this Article XXI:

CUT - a location where a slope has been steepened by an excavation.

De MINIMUS DISTURBANCE - any new disturbance less than 500 square feet.

DISTURBANCE - the placement of impervious surface, the construction of a structure, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation. The planting of any vegetation in and of itself shall not be considered a disturbance.

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, and water features.

MAJOR DISTURBANCE - any disturbance of 1000 square feet or greater.

MINOR DISTURBANCE - any disturbance equal to or greater than 500 square feet, but less than 1000 square feet.

PERCENT SLOPE - the rise in feet divided by horizontal distance in feet, with the result multiplied by 100.

PRECAUTIONARY SLOPE - any slope of 15 percent or greater but less than 25 percent.

PROHIBITIVE SLOPE - any slope of 25 percent or greater.

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

STEEP SLOPE - any slope equal to or greater than 15 percent as measured over any minimum run of 10 feet, perpendicular to the contour of the slope, based on contour intervals of two feet or less.

150:21.5 DESIGNATION OF AREAS Steep slope areas shall be designated or excluded based on site-specific topographic mapping to be prepared by a land surveyor licensed in the State of New Jersey, or utilizing best available topographic information as determined by the Township Engineer. 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 for the disturbed area. The percent of slope shall be calculated for each two-foot contour interval. For example, any location on the site where there is a 1.0-foot rise over a 10.0-foot horizontal run constitutes a 10 percent slope; a 1.5-foot rise over a 10.0-foot horizontal run constitutes a 15 percent slope; and a 2.5 foot rise over a 10.0-foot horizontal run constitutes a 25 percent slope. Previously existing artificially created landscaping features or construction elevation changes, such as but not limited to, retaining walls, garden mounds or the transitions between terraces, or the creation of a railroad bed, shall be exempt from consideration in calculating slopes for designation of areas under this ordinance. However, if the nominal slope of the land supporting such a feature meets the definition of a steep slope, irrespective of the existence of the feature, it shall be included as a designated area. Land development plans which received planning or zoning board approval prior to the adoption date of this ordinance shall be exempt. Proof of exemption eligibility shall be determined by the Construction Official.

150-21.6 STEEP SLOPE DISTURBANCE LIMITS For designated steep slope areas, any non-exempt disturbance shall require a permit under this ordinance, except as provided below as confirmed by the Township Engineer:

Redevelopment (or rebuilding after a disaster) within the limits of existing impervious surfaces;

Addition to an existing single-family home where new disturbance to a precautionary slope area is less than 500 square feet (i.e., a de minimis disturbance);

New disturbance necessary to protect public health, safety or welfare, such as necessary linear development with no feasible alternative, or to provide an environmental benefit, such as remediation of a contaminated site.

150-21.7 APPLICATION PROCEDURE Applicants for a construction permit, site plan approval, or subdivision approval shall submit to the Construction Office all information and documents required by this ordinance in the same form as applications for subdivision approval or site plan approval.

150-21.8 INFORMATION REQUIRED For all subdivisions and site plans regulated under this ordinance (minor and major) the following exhibits shall be submitted:

- A.
 1. A topographic map, prepared, signed and sealed by a New Jersey licensed land surveyor showing existing contours at two (2) foot intervals.
 2. Areas clearly identified on the topographic map showing the following slopes as measured between two (2) foot contour lines designated as Areas 1 through 3: a) Area 1. 0 to 14.9 percent (non-regulated slopes); b) Area 2. 15 to 24.9 percent (precautionary slopes); c) Area 3. 25 percent or greater (prohibitive slopes).
 3. Calculations, in square feet and acres, of amount of area in the various slope categories listed above.
- B. Where development is proposed on steep slopes (i.e., equal to or greater than 15 percent) as part of preliminary subdivision approval, or preliminary site plan approval the following additional exhibits, prepared, signed and sealed by a New Jersey licensed professional engineer shall be submitted.

For all minor and major disturbances (≥ 500 square feet):

1. Type and location of construction activity, including the amount of site grading.
2. Location of construction access roads.

Additionally, for major disturbances (≥ 1000 square feet):

1. Erodibility potential of exposed soils.
2. Length, steepness and surface roughness of exposed slopes.
3. Resistance of soil to compaction and stability of soil aggregates.
4. High-water table, water infiltration capacity and capacity of soil profile.
5. Any other engineering data which shall be deemed reasonably necessary by the Township Engineer to determine compliance with this section.

150-21.9 SPECIAL DEVELOPMENT REQUIREMENTS

A. No soil shall be excavated, removed, deposited, or disturbed within an area of steep slopes except as a result of and in accordance with a site plan or subdivision approved under the terms of this ordinance and consistent with Chapter 150 "Land Use" and Chapter 121 "Soil Removal" of this Code and the Hudson Essex Passaic Soil Conservation rules and regulations. Proposed disturbances of soil shall be for purposes consistent with the intent of this chapter and it shall be executed in a manner consistent with Chapter 150 "Land Use" and Chapter 121 "Soil Removal" of this Code and the Hudson Essex Passaic Soil Conservation rules and regulations.

B. Provisions shall be made for the proper disposition of surface water runoff so that it will be in a manner consistent with Chapter 150 "Land Use" and Chapter 121 "Soil Removal" of this Code and the Hudson Essex Passaic Soil Conservation rules and regulations. Appropriate temporary and permanent storm drainage facilities shall be constructed to adequately protect downstream properties.

C. Any proposed vehicular facilities including roads, drives, or parking areas shall be so designed that any land disturbances shall be in compliance with Chapter 150 "Land Use" and Chapter 121 "Soil Removal" of this Code and the Hudson Essex Passaic Soil Conservation rules and regulations. Both the vertical and horizontal alignment of vehicular facilities shall be so designed that hazardous circulation conditions will not be created. Existing grades along the centerline of any proposed driveway shall not exceed fifteen (15) percent. The connection of any driveway to a street shall be by a vertical curve of sufficient radius to provide a smooth transition. The horizontal angle of intersection of a driveway with a street shall not be less than sixty (60°) degrees.

D. Fill shall be "clean" and when placed on the lot shall be properly stabilized and when found necessary, depending upon existing sloped and soil types, supported by retaining walls or other appropriate structures as approved by the Township Engineer.

E. All cuts shall be supported by retaining walls or other appropriate structures when, depending upon the nature of the soil characteristics, such structures are found necessary by the Township Engineer to prevent erosion.

F. Walkway slopes shall not be in excess of six (6) percent unless the construction of a ramp is required and steps are provided.

G. Compaction of Fill. Fill material shall not consist of or include organic material, nor rocks greater than eight (8) inches in diameter. Fill material shall be compacted at least ninety (90) percent of the maximum density.

H. Vegetation and Revegetation. For major disturbances, the permittee shall submit a stabilization and revegetation plan prepared, signed and sealed by a New Jersey licensed professional engineer which shall include a complete description of the existing vegetation, the vegetation to be planted, and slope stabilization measures to be installed. The revegetation and slope stabilization plan shall be submitted with the grading plan. Every effort shall be made to conserve topsoil which is removed during construction for later use on areas requiring vegetation or landscaping, e.g., cut and fill slopes. All disturbed soil surfaces shall be

stabilized pursuant to Chapter 150 "Land Use" and Chapter 121 "Soil Removal" of this Code and the Hudson Essex Passaic Soil Conservation rules and regulations.

Every effort shall be made to preserve the maximum number of trees and other existing vegetation on the site and to avoid disturbance of the critical upland forest areas, and to preserve the unique and predominant views.

It shall be presumed that upon compliance with all of the requirements set forth in this section, de minimus and minor disturbances shall be permitted on all steep slopes.

It shall be presumed that upon compliance with all of the requirements set forth in this section, major disturbances shall be permitted on no more than fifty (50%) percent of an area identified as a Precautionary Slope.

It shall be presumed that upon compliance with all of the requirements set forth in this section, major disturbances shall be permitted on no more than five (5%) percent of an area identified as a Prohibitive Slope.

Major Disturbances on more than five (5%) of a prohibitive slope shall not be permitted *unless* the Applicant can demonstrate to the Planning Board or the Zoning Board of Adjustment as the case might be, that some disturbance is necessary otherwise the Applicant will have no ability to utilize the property on which the slope is located for any purpose permitted within the zone in which the property is located. By way of example and not limitation, should a major disturbance of a prohibitive slope be necessary to allow ingress/egress to a property, and should failure to allow disturbance of a prohibitive slope effectively prohibit all reasonable development on a property otherwise developable in accordance with other sections of this Code, including those developments that require variances and/or waivers herein, the Planning Board or Zoning Board shall allow such disturbance provided that the Applicant meets all of the requirements set forth in this Section 150-21.9. No exception to a prohibition against building on a prohibitive slope in accordance with this paragraph shall be granted if the property owner can create or build upon the lot on which the prohibitive slope is located without the benefit of such exception.

150-21.10. C VARIANCES

All variances relating to this ordinance are deemed to be "C" variances. It is the intent and purpose of this ordinance to provide bulk limitations which may be deviated from only in accordance with "C" variance standards.

150-21.11 CONFLICTS AND SEVERABILITY

A. Conflicts: All other ordinances, parts of ordinances, or other local requirements that are inconsistent or in conflict with this ordinance at the time of the passage of this ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this ordinance apply.

B. Severability: 1. Interpretation: This Ordinance shall be so construed as not to conflict with any provision of New Jersey or Federal law. 2. Despite 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. 3. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

150-21.12 ENFORCEMENT, VIOLATION AND PENALTIES The requirements of this ordinance shall be enforced by the Township Engineer or his designee who shall conduct investigations when any person or entity is believed to be in violation hereof. Any person or entity that violates any provision of this ordinance shall, upon conviction thereof, be punished by a fine not exceeding \$2000 and shall be ordered to stabilize the disturbed area and return the disturbed area to it previously existing condition. The violation of any section or subsection of this Ordinance shall constitute a separate and distinct offense independent of the violation of any other section or subsection, or of any order issued pursuant to this Ordinance. Each day a violation continues shall be considered a separate offense.

150-21.13. MAINTENANCE The owner of the property, all successors and any other person or agent in control of the property shall properly maintain in good condition and promptly repair and restore all improvements permitted under this Ordinance.

150-21.14 TOWNSHIP ENGINEER APPROVAL Following completion of construction or other activity, the owner shall apply for approval by the Township Engineer or his designee. Such approval shall not be issued until the Township Engineer or his designee certifies that all matters are in compliance with the plans submitted pursuant to this Ordinance.

Except as hereby amended, the Code of the Township of Verona shall remain in full force and effect.

This Ordinance shall take effect upon final passage and twenty days from publication in accordance with the law.

INTRODUCTION: February 1, 2016

PUBLIC HEARING: April 4, 2016

ADOPTED: April 4, 2016



Jennifer Kiernan, RMC
Municipal Clerk

