

Natural Resource Protection Ordinance (See Wetlands) Kennet Township, Chester County

SECTION 1414 NATURAL RESOURCE PROTECTION STANDARDS

A. Purpose

The following natural resource protection standards are established to protect the public health, safety, and welfare by minimizing adverse environmental impacts. These standards are intended to meet the following purposes:

1. Define and delineate selected natural resources within the Township and establish resource protection standards to assist the Township in reducing the impact proposed uses will have on the environment.
2. Conserve valuable natural resources within the Township in accordance with the following community goals of the Kennett Township Comprehensive Plan (1 992), as amended:
 - a. Natural Resources: Conserve natural resources within the Township to preserve the values of the local and regional environment.
 - b. Land Use: Establish a balance between land use and the ability of the natural systems to support development.
3. Protect identified natural resources within the Township in accordance with the following goals and objectives of the Kennett Square Borough and Kennett Township Parks, Recreation, and Open Space Plan (I 993), as amended.
 - a. Protect sensitive natural areas, including streams, flood-prone areas, woodlands, and steep slopes.
 - b. Continue to preserve sensitive natural areas and wildlife habitats from development by strengthening natural resource protection standards contained in each municipality's Zoning and Subdivision and Land Development Ordinances.
 - c. Preserve and protect areas which are naturally unsuitable for development, especially creek valleys and steep slopes
4. Conserve and protect natural resources within the Township and the Kennett Area Region in accordance with the following policies of the Kennett Area Region Comprehensive Plan (2000) as amended.
 - a. Preserve and protect areas which are naturally unsuitable for development or which

provide valuable wildlife habitat, including stream valleys, steep slopes, floodplains, woodlands, wetlands, hydric soils, and hedgerows.

- b. Continue to preserve sensitive natural areas and wildlife habitats from development by strengthening natural resource protection standards contained in each municipality's Zoning and Subdivision and Land Development Ordinance.
- c. Protect regional watersheds and the quality of groundwater and streams within the Region and pursue measures to maintain and, where possible, improve water quality.

B. Protection Standards

1. General

- a. In the event that the provisions of this Section and the provisions of other applicable Township ordinance standards are in conflict, the more restrictive provisions shall apply.
- b. In the event that two (2) or more natural resource areas identified in this Section overlap, the resources with the most restrictive standard (the least amount of permitted alteration, regrading, clearing, or building) shall apply to the area of overlap.
- c. It shall be a violation of this Ordinance to regrade, fill, pipe, divert, channel, build upon, or otherwise alter or disturb a natural resource protected by this Section prior to the submission, review, and approval of:

Applications for zoning or building permits;
Conditional use or special exception approvals;
Zoning variances; or
Submission of plans for subdivision or land development

- (1) Where disturbance of a natural resource is permitted, it shall not take place until it has been determined that such disturbance is consistent with the provisions of Section 1414 and other applicable ordinance provisions.
- (2) Restrictions to the disturbance of resources shall apply before, during, and after construction on a site.
- d. Plan information required by Section 1414 shall be verified as correct by the Township Engineer.

2. Floodplain

a. Resource Protection Standards

Areas identified as being within the boundaries of the floodplain shall not be regraded, filled, built upon, channeled, or otherwise altered or disturbed except in conformance with Article XI, Flood Hazard District, of this Ordinance.

b. Delineation

The Applicant shall delineate the limit of floodplains which are on the site, in accordance with Section 1414.C of this Ordinance.

3. Steep Slopes

a. Resource Protection Standards

(1) Steep slope areas shall be preserved in their natural state whenever possible. Where construction of roads, buildings, driveways, or infrastructure cannot be avoided, - disturbance shall be kept to the minimum necessary and, in no case, shall it exceed the following permitted disturbance limits:

(a) Moderately Steep Slopes - No more than thirty (30) percent of moderately steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed.

(b) Very Steep Slopes - No more than fifteen (15) percent of very steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed. In addition, the disturbance permitted on very steep slopes shall be limited to the following activities:

i. Timber harvesting, when conducted in compliance with the required timber harvesting plan (see subsection 7.a). Clearcutting or grubbing of trees is prohibited on very steep slopes.

ii. Grading for the minimum portion of a road or driveway necessary for access to the principal use and sewer, water, and other utility lines when it can be demonstrated that no other routing is feasible.

(2) Each building or structure shall be constructed in such a manner as to provide the least alteration necessary of the existing grade, vegetation, and natural soils condition.

(3) A grading plan shall be provided identifying the existing contours of the site, proposed finished grades, and the proposed location of all buildings and structures.

- (4) Excessive cut and fill shall be avoided. New roads and improvements to existing roads should be designed within the existing contours of the land to the extent possible and strive for compatibility with the character of rural roads.
- (5) Finished slopes of permitted cut and fill shall not exceed thirty-three (33) percent slope unless the applicant can demonstrate the method by which steeper slopes can be stabilized and maintained adequately.
- (6) All stockpiles of earth shall be seeded or otherwise stabilized to the satisfaction of the Township Engineer when stored for more than twenty-one (21) days. Cut and fill resulting in slopes of greater than twenty-five (25) percent shall be protected with an erosion control blanket.
- (7) Any disturbance of land shall be in compliance with the erosion and sedimentation control standards of the Subdivision and Land Development Ordinance and PA DEP Title 25, Chapter 102.
 - (a) An erosion and sedimentation control plan and soil stabilization plan shall be submitted consistent with the requirements of the Subdivision and Land Development Ordinance.
 - (b) The plan shall demonstrate how soil will be protected from erosion during construction and how soil will be stabilized upon the completion of construction.
- (8) Where the following information has not been previously submitted as part of a subdivision or land development plan application, such information shall be submitted to the Township with building permit, conditional use, special exception, or zoning applications, when applicable:
 - (a) The adequacy of access to the site for emergency vehicles shall be subject to review by the Fire Marshal or his designee. The necessary information shall be submitted by the applicant to the Fire Marshal or his designee for his review.
 - (b) The grading plan and erosion and sedimentation control plans described in sub-sections (3) and (7) above.
 - (c) For slopes of greater than twenty-five (25) percent, an architectural plan, including materials and type of foundation to be used to overcome structural problems associated with slope conditions.

b. Delineation

The applicant shall delineate the two (2) categories of steep slopes (moderately steep, very steep) which are on the site in accordance with Section 1414.C.

4. Wetlands

a. Resource Protection Standards

- (1) Any applicant proposing a use, activity, or improvement which would entail the regrading or placement of fill in wetlands shall provide the Township with proof that the Pennsylvania Department of Environmental Protection (Bureau of Dams and Waterway Safety and Bureau of Water Quality Management) and the U.S. Army Corps of Engineers have been contacted to determine the applicability of state and federal wetland regulations. The applicant shall concurrently provide to the Township a copy of the application and any other wetland information submitted to DEP and the U.S. Army Corps of Engineers.
- (2) Wetlands shall not be regraded, filled, piped, diverted, channeled, built upon, or otherwise altered or disturbed except where state or federal permits have been obtained.

b. Delineation

The Applicant shall delineate the limits of wetlands on the site in accordance with Section 1414.C. In addition, the following information shall be provided:

- (1) A full wetland delineation report conducted by a qualified wetland biologist, soil scientist, or environmental professional of demonstrated qualifications shall be submitted to the Township. If there is a question as to the accuracy of the wetland delineation report, the Township may hire a qualified consultant to review the delineation and recommend revisions at the applicant's expense.
- (2) Such a professional shall certify that the methods used correctly reflect the currently accepted technical concepts, including identification and analysis of wetland vegetation, hydric soils, and hydrologic indicators. Methods used in the delineation report shall be acceptable to the Township Engineer or other qualified consultant hired by the Township.
- (3) The wetland report shall include a determination of whether wetlands are present on the site and a full delineation, area measurement (in square feet), and description of any wetlands determined to be present.

5. Wetland Margins

a. Resource Protection Standards

With the exception of those uses or activities listed below, no more than twenty (20) percent of a wetland margin shall be regraded, filled, built upon, or otherwise altered or disturbed:

- (1) Regulated activities permitted by the Commonwealth (i.e. permitted stream or wetland crossing);
- (2) Provision of unpaved trail access;
- (3) Selective removal of hazardous or invasive alien vegetative species;
- (4) Vegetation management in accordance with an approved landscape plan or open space management plan; or
- (5) A soil conservation project approved by the Chester County Conservation District.

b. Delineation

The Applicant shall delineate the limits of the wetland margins on the site in accordance with Section 1414.C.

6. Watercourses/Riparian Buffers

a. Resource Protection Standards

- (1) Zone One - With the exception of those uses or, activities listed below, no woodland disturbance or other land disturbance, shall be permitted within the Zone One Riparian Buffer:
 - (a) Regulated activities permitted by the Commonwealth (i.e. permitted stream or wetland crossing).
 - (b) Provision for unpaved trail access;
 - (c) Selective removal of hazardous or invasive alien vegetative species;
 - (d) Vegetation management in accordance with an approved landscape plan or open space management plan; or
 - (e) A soil conservation project approved by the Chester County Conservation District.

b. Delineation

The Applicant shall delineate watercourses and Zone One and Zone Two riparian buffers located on the site, in accordance with Section 1414.C.

7. Woodlands, Hedgerows, and Specimen Vegetation

a. Resource Protection Standards

(1) Specimen vegetation shall not be removed from any lot or tract except where the Applicant demonstrates to the satisfaction of the Board of Supervisors that such removal is essential to eliminate a hazardous condition(s) or otherwise permit lawful use of the lot or tract; where permitted, removal of specimen vegetation shall be minimized. Specimen trees to be retained shall be credited toward any tree replacement required by Section 517.2 of the Subdivision and Land Development Ordinance.

(2) Disturbance Allowance for Woodlands and Hedgerows

(a) Unless undertaken as an approved timber harvesting operation conducted in compliance with the required timber harvesting plan, no more than thirty-five (35) percent of woodlands shall be regraded, cleared, built upon, or otherwise altered or disturbed for residential uses and no more than fifty (50) percent of woodlands shall be regraded, cleared, built upon or otherwise altered or disturbed for non- residential uses.

(b) Where disturbance of existing areas of woodlands and hedgerows exceeds twenty-thousand (20,000) square feet for each principal use permitted on any lot or tract, woodland replacement shall be required consistent with the standards of Section 517.2 of the Subdivision and Land Development Ordinance. Determination of the extent of woodland disturbance shall be as described in Section 517.1.C of the Subdivision and Land Development Ordinance.

(c) Guidelines for Determining Permitted Woodland Disturbance:

In determining where permitted woodland disturbance will occur, the following factors shall be considered:

i. The Applicant shall consider the location(s) and benefit of conservation of healthy mature woodland stands.

ii. Each building or structure shall be constructed in such a manner as to provide the least alteration or disturbance necessary of the existing woodland. Where possible, clearcutting shall be minimized and trees shall be selectively removed.

iii. Where possible, the remaining undisturbed woodlands and other vegetation shall interconnect with woodlands or wooded areas of adjacent properties to preserve continuous woodland corridors and allow for the normal movement, dispersion, and migration of wildlife. The Applicant shall consider the impacts, in terms of functions and values to wildlife, of separating, dividing, or encroaching on wildlife travel corridors or extensive habitat areas, especially woodlands exceeding ten (10) acres in area.

(d) Protection of Woodlands to Remain On Site

Woodlands, hedgerows, individual trees, and other vegetation that are to remain on the site shall be identified on the plan and protected in accordance with the provisions of Section 517.1.E of the Subdivision and Lana Development Ordinance. In addition:

i. Preserved woodlands and hedgerows may be used to provide the vegetative screens and buffers required by Section 1405 of this Ordinance. Where necessary to meet the intent and minimum standards of Section 1405, additional planting may be required to supplement existing vegetation.

ii. Provisions for the long-term management of woodland areas not subject to woodland disturbance shall be consistent with the "Woodland Management Planning" requirements of Section 517.3 of the Subdivision Ordinance.

b. Delineation

The applicant shall delineate or identify the limits of woodlands, hedgerows, or specimen vegetation on the site in accordance with Section 1414.C. Where vegetation on the site is to be preserved, it shall be clearly delineated on the plan as areas to be protected.