

TOWNSHIP OF BERKELEY
ORDINANCE NO. 2009-_____

AN ORDINANCE OF THE
TOWNSHIP OF BERKELEY IN OCEAN COUNTY,
AMENDING THE CODE OF
THE TOWNSHIP OF BERKELEY
BY ADDING A SECTION ENTITLED

x-xx, ENVIRONMENTAL ASSESSMENT ORDINANCE

Performance Standards and Requirements for Vegetation and Fish/Wildlife

y. *Vegetation and landscaping.*

1. All clearing and soil disturbance activities shall be limited to that which is necessary to accommodate an activity, use or structure which is permitted by this chapter.
2. Where practical, all clearing and soil disturbance activities associated with an activity, use or structure, other than agriculture, forestry and resource extraction, shall:
 - (a) Avoid wooded areas, including New Jersey's Record Trees as published by the New Jersey Department of Environmental Protection in 1991 and periodically updated; and
 - (b) Re-vegetate or landscape areas temporarily cleared or disturbed during development activities using native, non-invasive plant species appropriate for the soil types identified on site, as identified in the *County Soil Survey*. Forested areas shall be replanted consistent with N.J.A.C. 7:38-3.9(h)1-10, and any subsequent amendment thereto, to the maximum extent possible.
3. All applications for major subdivision or site plan shall contain a landscaping or re-vegetation plan that incorporates the elements set forth in Subsection y.4 below.
4. In order to conserve water, conserve natural features and reduce pollution from the use of fertilizers, pesticides and other soil supplements, all landscaping or re-vegetation plans prepared pursuant to Subsection y.3 above shall incorporate the following elements:
 - (a) The limits of clearing shall be identified;
 - (b) Existing vegetation, including New Jersey's Record Trees as published by the New Jersey Department of Environmental Protection in 1991 and periodically updated, shall be preserved and incorporated into the landscape design where practical;
 - (c) Permanent lawn or turf areas shall be limited to those specifically intended for active human use such as play fields, golf courses and lawns associated with a residence or other principal non-residential use. Existing

wooded areas shall not be cleared and converted to lawns except when directly associated with and adjacent to a proposed structure; and

(d) Native, non-invasive plant shrubs and trees species appropriate for the soil types identified on site, as identified in the *County Soil Survey*, shall be used for re-vegetation or landscaping purposes. Forested areas shall be replanted consistent with N.J.A.C. 7:38-3.9(h)1-10, and any subsequent amendment thereto, to the maximum extent possible. Other shrubs and trees may be used in the following circumstances:

- (1) For limited ornamental purposes around buildings and other structures; or
- (2) When limited use of other shrubs or tree species is required for proper screening or buffering.

5. Development Prohibited in the Vicinity of Threatened or Endangered Plants. No development shall be carried out by any person unless it is designed to avoid irreversible adverse impacts that jeopardize the survival of any local populations of threatened or endangered plants pursuant to the Endangered Plant Species List Act, N.J.S.A. 13:1B-15.151 et seq., and any species or subspecies of plant designated as listed, proposed, or under review by the federal government pursuant to the Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq.

6. Required projects shall demonstrate compliance with this section by conducting an Environmental Assessment in accordance with Ordinance #____/2009 regarding Environmentally Sensitive Areas.

7. If the project site contains threatened or endangered plants, a habitat evaluation shall be performed consistent with N.J.A.C. 7:38-5.3 and a plan for habitat preservation and protection must be provided.

z. Fish and Wildlife.

1. No development shall be allowed unless it is designed to avoid irreversible adverse impacts to habitat that is critical to the survival of local populations of threatened or endangered animals pursuant to the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-13 et seq., and any species or subspecies of wildlife appearing on any Federal endangered species list designated as listed, proposed, or under review by the federal government pursuant to the Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq.

2. Protection of Wildlife Habitat. All development shall be carried out in a manner which avoids disturbance to distinct fish and wildlife habitats that are used by or necessary for endangered and threatened species and other priority fish or wildlife to sustain themselves successfully in the Township of Berkeley.

3. Required projects shall demonstrate compliance with this section by conducting an Environmental Assessment in accordance with in accordance with Ordinance #____/2009 regarding Environmentally Sensitive Areas.

4. If the project site contains threatened or endangered animals and/or habitat for threatened or endangered animals, a habitat evaluation shall be performed consistent with N.J.A.C. 7:38-5.2 and shall include a plan for habitat preservation and protection.

Requirement for Preparing Environmental Assessment

Purpose

The impact on the environment associated with development projects necessitates a comprehensive analysis of the variety of problems that may result and the measures that can be taken to minimize the adverse impacts. It is recognized that the level of detail required for the variety of development applications will vary depending on the size of the project, the site conditions, the location of the project and the information already in the possession of the Township. Some flexibility is needed in preparing the Environmental Assessment Report. The Environmental Assessment Report requirements pertaining to different types of development application are listed below:

Requirements

1. All agricultural operations conducted in accordance with a farm conservation plan or a resource management systems plan approved by the Soil Conservation District and all silviculture operations conducted in accordance with a an approved woodland management plan pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3) prepared by a professional forester are specifically exempt from the Environmental Assessment requirements.
2. Any variance applications to the Zoning Board of Adjustment not involving a site plan or subdivision application shall not require an Environmental Assessment unless specifically requested by the Board. The Zoning Board of Adjustment shall inform the applicant regarding any information that may be required.
3. All subdivision applications and/or site plan applications shall be accompanied by a complete Environmental Assessment Report including the Environmental Assessment Checklist and required documentation which shall be submitted as a prerequisite to a complete application.
4. Amended subdivision or site plan applications shall be accompanied by a supplemental Environmental Assessment Report which assesses the environmental impacts associated with any modifications to the original plan.
5. Any development application or amended development application located in the Highlands Preservation Area and for which Highlands Resource Area Determination has been prepared and submitted to the NJDEP shall not be bound by the provisions of this section provided that a copy of the Highlands Resource Area Determination also accompanies any development application to the Berkeley Township Planning Board or Board of Adjustment.