

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, STEEP SLOPE ORDINANCE

I. PURPOSE

The purpose of this ordinance 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.

II. BACKGROUND

Disturbance of steep slopes results in accelerated erosion processes from Stormwater runoff and the subsequent sedimentation of waterbodies 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. It has become widely recognized that disturbance of steep slopes should be restricted or prevented based on the impact disturbance of steep slopes can have on water quality and quantity, and the environmental integrity of landscapes.

III. APPLICABILITY

This ordinance shall be applicable to new development or land disturbance on a steep slope within Berkeley Township.

IV. DEFINITIONS

“Disturbance” means the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

“Impervious surface” means 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” means the construction of structures or improvements on areas which previously contained structures or other improvements.

“Steep Slopes” means 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.

V. DESIGNATION OF AREAS

The percent of slope (rise in feet per horizontal distance) 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.

VI. STEEP SLOPE LIMITS

For steep slopes any disturbance shall be prohibited except as provided below:

1. Redevelopment within the limits of existing impervious surfaces; and
2. New disturbance necessary to protect public health, safety or welfare, such as necessary linear development with no feasible alternative; to provide an environmental benefit, such as remediation of a contaminated site; to prevent extraordinary hardship on the property owner peculiar to the property; or to prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment. For example, redevelopment, within the footprint of existing impervious cover should be allowed to support efforts to revitalize development that has fallen into disrepair.

The applicant shall demonstrate through site plans depicting proposed development and topography that new disturbance is not located in areas with a 20 percent or greater slope.

VII. CONFLICTS AND SEVERABILITY

A. Conflicts: All other ordinances, 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.

B. Severability:

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

VIII. ENFORCEMENT, VIOLATION AND PENALTIES

A prompt investigation shall be made by the appropriate personnel of Berkeley Township, of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this Ordinance is discovered, a civil action in the Special Part of the Superior Court, or in the Superior Court, if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, by the filing and serving of appropriate process. Nothing in this Ordinance shall be construed to preclude the right of Berkeley Township, pursuant to N.J.S.A 26:3A2-25, to initiate legal proceedings hereunder in Municipal Court. 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.

IX. EFFECTIVE DATE

This Ordinance shall take effect upon final adoption and publication in accordance with the law on [date].