

Topic: Buffer Zones; Wetlands & Watercourse Protection; Environmental Compliance; Wildlife & Fish Habitat; Natural Resource Protection & Conservation; Development Standards
Resource Type: Regulations
State: New Jersey
Jurisdiction Type: Municipal
Municipality: Township of Howell
Year (adopted, written, etc.): 2004
Community Type – applicable to: Suburban; Rural
Title: Township of Howell Riparian Buffers – Standards of Performance Ordinance
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Abstract

This ordinance sets forth the practices and procedures to be followed by developers and others in order to maintain the integrity of riparian habitat. This law creates a buffer zone in which private activity, such as tree cutting, disturbing soil, use of fertilizer, and use of pesticides are severely regulated. The town board holds discretion in allowing a buffer zone to be disturbed. If a buffer zone is disturbed, the developer is required to rehabilitate the buffer zone in accordance with the accepted practices set forth in this law.

Resource

Howell Township NJ Riparian Buffers

Code of the Township of Howell, NJ

Chapter 188: Land Use

Article IV: Standards of Performance

General Code

[http://www.e-](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=2064%2D247%2Ehtm&cn=1107&n=[1][182])

[codes.generalcode.com/codebook_frameset.asp?t=tc&p=2064%2D247%2Ehtm&cn=1107&n=\[1\]\[182\]](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=2064%2D247%2Ehtm&cn=1107&n=[1][182])

NOTE: SEE:

300' buffer

Proposed:

http://tritown.gmnews.com/News/2004/0701/Front_Page/041.html

Adopted 9-21-2004:

http://tritown.gmnews.com/news/2004/0929/Front_page/052.html

Revocation of new ordinance tabled 12-22-2005:

http://tritown.gmnews.com/news/2005/1222/Front_page/009.html

More discussion:

http://tritown.gmnews.com/news/2006/0105/Front_page/009.html

§ 188-34. Riparian buffers. [Amended 9-21-2004 by Ord. No. 0-04-46]

A. Foundation and Intent.

1. Riparian buffer protection has significant state, regional and municipal support in New Jersey. The State Development and Redevelopment Plan (SDRP, adopted June 1992) calls for the protection and preservation of large, continuous tracts and corridors of open space land which contain important biological resources/networks. Additionally, the SDRP calls for the maintenance of riparian corridor buffers adequate for the protection of water quality, wildlife corridors and opportunities for recreational activities.

2. State support for stream corridor protection is strengthened by regulatory programs such as state Freshwater Wetlands Protection Regulations and state Flood Hazard Area Regulations, and by Stream Encroachment Permits, which govern all development activities within freshwater wetland areas, surface waters and flood hazard areas of the state. These regulations are complemented by water quality management initiatives such as areawide water quality management plans, including wastewater management plans, and New Jersey Pollution Discharge Elimination System Regulations which primarily control pollutant input to streams through point sources.

3. Riparian corridor protection is an essential aspect of the intent and purposes stated under New Jersey Municipal Land Use Law, which is the legal foundation for the municipal planning and zoning process. Riparian buffer protection is critical to protecting the drinking water supply of those who are dependent on vital surface water resources.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

ACTIVITY — Any land disturbance, including any development for which an application for development is necessary.

IMPERVIOUS SURFACE — Any paved, hardened or structural surface which does not allow for complete on-site infiltration of precipitation. Such surfaces include but are not limited to buildings, driveways, streets, parking lots, swimming pools, dams, tennis courts, concrete pavers, brick pavers and any other structures that meet the above definition.

LAND-DISTURBING ACTIVITY — Any grading, scraping, excavating or filling of land, clearing of vegetation, and any construction or additions to the footprint of a structure.

ONE-HUNDRED-YEAR FLOOD LINE — The line formed by following the outside boundaries of the area inundated by a one-hundred-year flood. A one-hundred-year flood is estimated to have one-percent chance or one chance in 100 of being equaled or exceeded in any one

year. The one-hundred-year floodline shall be determined by reference to the most recent flood insurance rate maps promulgated by the Federal Emergency Management Agency or such other documentation that may be determined valid by the Township Engineer.

RIPARIAN CORRIDOR — The land area that acts as a transition between the aquatic and upland ecosystems.

RIPARIAN BUFFER — The area of land within a minimum width of 300 feet located adjacent on either side to permanent or intermittent riparian buffers, lakes, and ponds, measured as a line extending perpendicularly from the one-hundred-year floodplain delineation. If there is no one-hundred-year flood line delineated, the distance shall be measured outward from the top of the bank of the stream channel. If slopes greater than 10% abut the outer boundary of the stream corridor, the area of such slopes shall also be included as in the stream corridor.

STREAM (OR RIVER) — Any perennial stream or river (or portion thereof) that is portrayed as a solid line on a United States Department of Agriculture Soil Survey Map of the most recent edition; and any intermittent stream or river (or portion thereof) that is portrayed as a dashed line on a United States Department of Agriculture Soil Survey Map of the most recent edition; and any lake or impoundment that does not lie entirely within a single parcel of land. For the purpose of this section, this buffer does not apply to man-made stormwater management facilities, farm ponds, fountains and/or ornamental ponds.

TOP OF BANK — The upper ridgeline of the confining channel as defined by the Rosgen stream classification method.

C. Applicability.

(1) For all major subdivisions, minor subdivisions and site plans, a three-hundred-foot wide riparian buffer shall be provided along all streams or waters (as defined).

(2) Where a riparian buffer easement has been recorded on a residential parcel, the property owner has the right to the development, redevelopment, or alteration of a single-family home but no disturbance or construction is permitted in the recorded buffer.

(3) Where a riparian buffer easement has not been recorded on a residential parcel, the existing property owner has the right to the development, redevelopment, or alteration of a single-family home and appurtenances where the proposed improvements in the riparian buffer are less than a disturbance of 10,000 square feet or creation of less than 3,500 square feet of additional impervious surface and the riparian buffer restrictions would present an unfair hardship to the applicant.

D. Activities and Uses.

(1) Activities permitted in riparian buffers. Riparian buffers shall remain in their natural state, with no clearing or cutting of trees and brush (except for removal of dead vegetation

and pruning for reasons of public safety), no altering of watercourses, regrading or construction except for the following activities:

- (a) Wildlife sanctuaries, woodland preserves and arboretums, but excluding enclosed structures;
- (b) Game farms, fish hatcheries and fishing reserves, operated for the protection and propagation of wildlife, but excluding enclosed structures;
- (c) Unpaved hiking, bicycle and bridle trails, and public viewing areas;
- (d) Fishing areas;
- (e) Public parks, roadways or projects;
- (f) Stream cleaning and stream rehabilitation work undertaken to improve hydraulics or protect public health;
- (g) Culverts as needed, provided that they cross the buffer as directly as practical;
- (h) Utility transmission lines installed during periods of low stream flow in accordance with soil erosion and sediment control practice and approved by the Freehold Soil Conservation District in a manner which will not impede flows or cause ponding of water;
- (i) Structures comprising part of an identified regional flood detention project.

(2) Riparian buffer encroachment. For all major subdivisions, minor subdivisions, and site plans, encroachment within the buffer area shall only be allowed where previous development or disturbance has resulted in the placement of impervious surfaces such as roadways, parking lots, swimming pools, or buildings. The encroachment shall only be allowed to continue where the applicant demonstrates that the functional value and overall condition of the buffer will be maintained to the maximum extent practicable. The appropriate land use board may require compensating areas for the encroachments.

(3) Prohibited activities. All uses shall be prohibited within a recorded riparian buffer except as permitted in Subsection D(1) and (2) above.

- (a) Use of fertilizers, pesticides, or other chemicals by other than a government agency;
- (b) Vehicular traffic or excessive pedestrian traffic;
- (c) Removal or disturbance of vegetation inconsistent with erosion control and buffering objectives;

(d) Any solid or hazardous waste facilities, including but not limited to sanitary landfills, transfer stations, and wastewater lagoons;

(e) Junkyards, commercial and/or industrial storage facilities and open storage of vehicles and materials;

(f) Mining;

(g) Timber harvesting.

E. Provisions Governing Activities.

(1) Submission requirements for all new development applications. An applicant for an activity adjacent to or within a riparian buffer shall submit to the municipality a map of the project site delineating the following (at a scale of not greater than one inch = 100 feet) using the best available information:

(a) One-hundred-year flood line;

(b) State wetland boundary lines and wetland buffer boundary lines;

(c) The riparian corridor buffer boundary and installed monument locations;

(d) Any slopes greater than 10% within the site;

(e) The location of all improvements and land disturbance, existing or proposed, to be located within any of the above boundaries;

(f) All plat detail requirements as would otherwise be required for a site plan submission.

(2) Submission requirements for applications with existing development. An applicant for an activity in a riparian buffer which exceeds the limits stated in Subsection C(3) above, shall submit to the municipality a map of the project site delineating the following (at a scale of not greater than one inch = 100 feet) using the best available information:

(a) One-hundred-year flood line;

(b) State wetland boundary lines and wetland buffer boundary lines;

(c) The riparian corridor buffer boundary and installed monument locations;

(d) Any slopes greater than 10% within the site;

(e) The location of all improvements and land disturbance, existing or proposed, to be located within any of the above boundaries.

(3) Regulations for any activities. Any application for development of activities within the riparian buffer is subject to the following regulations.

(a) The applicant for any activity in a buffer shall rehabilitate any degraded areas within the buffer, in a manner acceptable to the Board or Township Engineer, as the case may be.

(b) The applicant shall also be required to accomplish to the satisfaction of the Township Engineer all of the following:

[1] Rehabilitate or cure the effects of the disturbance caused during construction;

[2] Maintain the integrity of the surrounding habitat;

[3] Maintain the existing ability of the buffer to function appropriately.

(c) The applicant provides whatever additional measures are necessary to assure that areas designated as riparian buffers will be preserved and to prevent additional encroachments likely to occur as a result of the approval granted.

(d) The Board, in the case of an application for development, and the Township Engineer, in all other cases, may require conservation easements or deed restrictions assuring there will be no further intrusion on the buffer than that permitted by the activity approved.

F. Buffer Width.

(1) The buffer width as defined shall be 300 feet located adjacent on either side to streams or waters (as defined) measured as a line extending perpendicularly from the one-hundred-year flood line or top of bank, (see definition).

(2) All setback requirements for structures, parking areas, etc., shall be measured from the existing or proposed buffer limit, whichever is more restrictive.

(3) A deed of conservation easement shall be prepared and recorded. The easement shall be monumented in accordance with this chapter.

G. Buffer Vegetation.

(1) Objectives. Vegetation in the buffer shall consist of plants able to withstand periodic inundation of water after storms, as well as occasional drought during the summer months. Plant selection should favor native species that have multiple values such as those suited for fruit, nesting, aesthetics, and tolerance to locally used herbicides. Tree and shrub species which may be alternate hosts to undesirable pests shall be avoided. Species diversity should be considered to avoid loss of function due to species specific pests. All new plantings shall be consistent with existing, healthy plant material.

(a) Approved plants should:

- [1] Stabilize the ground from erosion;
 - [2] Produce shade to reduce pool and ripple warming whenever possible;
 - [3] Enhance pollutant uptake;
 - [4] Have very low maintenance since they may be difficult or impossible to access;
 - [5] Provide food or cover for wildlife;
 - [6] Be located to reduce pedestrian access to the deeper pools.
- (2) NJDEP lists frequently used plant species in a riparian buffer, which include:

Asters (Aster)

Goldenrods (Solidago)

Beebalm (Monarda didyma)

Bergamont (Mondarda Fistulosa)

Lobelias (Lobelia)

Coneflower (Rudbeckia)

Violets (Viola)

Lilies (Lilium)

Primrose (Oenothera)

Milkwort (Polygala)

Flatsedge (Cyperus)

Hollies (Ilex)

Lovegrass (Eragrostis)

Spirea (Spirea)

Serviceberry (Amelanchicr Arborea)

Nannyberry (Viburnum Lentago)

Sweet Pepperbush (*Clethra Alnifolia*)

Sweetbay Magnolia (*Magnolia*)

Hawthorns (*Crataegus*)

Redbud (*Cercus Canadensis*)

Dogwoods (*Cornus*)

White Ash (*Fraxinus Americana*)

Green Ash (*Fraxinus Pennsylvanica*)

Birch (*Betula*)

Sweetgum (*Liquidambar Styraciflua*)

American Beech (*Fagus Grandifolia*)

American Homewood

Red Maple (*Acer Rubrum*)

The National Resource Conservation Service, USDA, publishes a listing of "Native Plant Guide for Planting Along Streams and Ponds," which is made part of this chapter.

(3) Approval of the use of other plant material and the final design of plant material to be contained within the designated buffer area lies with the Township Engineer, with reference to "Native Plant Guide for Planting Along Streams and Ponds," prepared by the National Resource Conservation Service, USDA, and made part of this chapter.