

## ARTICLE 9 - REGULATIONS FOR DEVELOPMENT WITHIN STEEP SLOPE AREAS

### 35-9.1 PURPOSE AND FINDINGS OF FACT

The Master Plan identifies slope characteristics of flat, gently sloping, moderately sloping, and steeply sloping for areas of the City as part of its description of "Natural Resources," and further identifies appropriate development restrictions depending on the slope percentage for each slope characteristic. The Master Plan further states that steeply sloping lands present the most serious limitations on development.

The purpose of this Article is to provide for reasonable control of development within the steep slope areas of the City in order to minimize the adverse impact caused by the development of such areas, including, but not limited to, erosion, siltation, flooding, surface water runoff, and pollution of potable water supplies from point and non-point sources.

According to the Soil Conservation Service, United States Department of Agriculture, soils with a slope fifteen (15%) percent or greater invariably involve severe limitations to development, including, but not limited to, building and road construction and septic effluent disposal. It is hereby found that the removal of vegetation, disturbance of the soil and the construction of buildings and structures in steep slope areas of the City may increase surface water runoff; soil erosion and siltation with the resultant pollution of streams, as well as the potential danger of flooding and water drainage, thereby having the potential of endangering public and private property and life. Summit's location within both the Passaic River basin and the Rahway River basin areas requires extra care when dealing with water resource issues.

The disturbance of soil and construction and development on steep slopes create an additional hazard to the lives and property of those dwelling on the slopes and below them. The most appropriate method of alleviating such conditions is through the regulation of such vegetation and soil disturbances, construction and development.

Therefore, it is determined that the special and paramount public interest in these slopes justifies the regulation of property located thereon as provided below, which is the exercise of the police power by the City for the protection of persons and the property of its inhabitants and for the preservation of the public health, safety and general welfare.

It is recognized that there is a strong relationship between the integrity of the City and the region's water resources and the development on steep slopes, tree removal, soil disturbance, storm water management and the general use of land resources. Therefore, the appropriate management of these resources is an important health, safety and general welfare concern. (Ord. No. 03-2580 Art. 9 § 9.1; Ord. No. 06-2727 § 1; Ord. No. 09-2870 § 1)

### 35-9.2 APPLICABILITY

A. Applicants for site plan or subdivision approval shall submit all information required under this Article to the appropriate reviewing authority which shall not approve the application unless the approval requirements of this Article are met.

B. Applicants for construction permits, including the construction of buildings, walls, driveways or other structures or the clearing of land shall submit a grading permit application with the information required in this Article, to the Administrative Officer whenever development is proposed in any steep slope area to insure that the proposed development of the lot will respect the natural features of the tract and minimize adverse impacts associated with such clearing and/or construction. This information shall be referred to the City Engineer.

C. Applicants for subdivision or site plan review shall submit information required in this Article as the approving authority can render a decision concerning the land's suitability to accommodate the proposed project without negatively impacting the community health or welfare. The approving authority or Administrative Officer shall use this information to evaluate the appropriateness of the project.

(Ord. No. 03-2580 Art. 9 § 9.2; Ord. No. 06-2727 § 1; Ord. No. 09-2870 § 1)

### 35-9.3 STEEP SLOPE IDENTIFICATION AND CRITERIA FOR REVIEW

A. All applications for subdivision or site plan approval or for permit for construction, grading or clearing of any lot shall be evaluated by the applicant for the presence of steep slopes as defined herein. Each proposed or existing lot shall be evaluated to determine the presence of steep slopes greater than fifteen (15%) percent.

The slopes shall be identified on a plan showing existing and proposed topographic information at a scale required as per site plan or subdivision submission requirements or as per Section 35-9.4 where applicable.

B. Disturbance of slopes in the above amounts is limited by Section 35-9.6, and may only be permitted where it can be shown to the satisfaction of the applicable board or the Administrative Officer that:

1. Proposed excavation, removal, depositing or disturbance of soil shall be for purposes consistent with the intention of this section and shall be executed in a manner that will not cause excessive erosion or other unstable conditions.

2. Provision shall be made for the proper disposition of surface water runoff so that it will not create unstable conditions. Appropriate storm drainage facilities shall be constructed as required and as adequate protective measures for downstream properties.

3. Provision shall be made for any structures or protective measures that may be required for the protection of the public safety including but not limited to retaining walls, headwalls and fences.

4. Proper facilities have been or will be provided for a safe water supply and for the disposal of sanitary sewage as approved by the Summit Board of Health.

5. Any proposed building or structure or attendant protective measures will not impede the flow of surface waters through any stream corridor or cause an increase in flood heights or velocities.

6. Any proposed vehicular facilities including roads, drives or parking areas shall be so designed that any land disturbance shall not cause excessive erosion. Both vertical and horizontal alignment of vehicular facilities shall be so designed that hazardous circulation conditions will not be created.

7. Steep slope areas, where possible, should be avoided through the use of cluster subdivision or alternative placement of structures or vehicular facilities.

8. Areas of disturbance shall comply with Chapter XXIX, Protection of Trees in the Revised General Ordinances.

9. Proposed finished grades shall not exceed 3:1.

10. Water resources, including quality and quantity, shall be evaluated to avoid degradation of resources.

(Ord. No. 03-2580 Art. 9 § 9.3; Ord. No. 06-2727 § 1; Ord. No. 09-2870 § 1)

**35-9.4 STEEP SLOPE DISTURBANCE APPLICATION CONTENTS**

Where application for a building permit is being made in conjunction with this chapter, the following shall be required:

- A. A legibly drawn plan, at a scale no smaller than one inch equals thirty (1" = 30') feet and no larger than one inch equals ten (1" = 10') feet shall be submitted by a New Jersey licensed engineer, land surveyor or architect which provides sufficient on-site detail to evaluate the proposed development.
  - B. The Steep Slope Disturbance Plan shall contain, at a minimum, the following items:
    - 1. Existing and proposed topographic information using two-foot contour intervals for all steep slopes as defined above and within all areas contemplated for clearing and/or construction as described above. Topographic information can only be supplied by a licensed land surveyor registered in the State of New Jersey.
    - 2. Existing and proposed drainage patterns within one hundred (100) feet of the proposed lot under development.
    - 3. Location of existing and/or proposed well and septic systems.
    - 4. Details concerning architectural design and how the proposed construction will relate to, complement and minimize adverse impacts upon the existing natural features of the lot.
    - 5. Location of all trees in excess of eight (8) inches in diameter.
    - 6. Soil types contained on the lot with specific reference to highly erodable soils as defined by the United States Department of Agriculture Soil Conservation Service.
    - 7. All impervious areas including driveway locations, paved areas and details.
- (Ord. No. 03-2580 Art. 9 § 9.4; Ord. No. 06-2727 § 1; Ord. No. 09-2870 § 1)

**35-9.5 STEEP SLOPE DISTURBANCE APPLICATION PROCEDURES**

- A. Prior to the issuance of a construction permit for any structure or the disturbance of any soil or vegetation within any steep slope area (including temporary disturbance for construction access) as herein defined, an applicant for building permit shall submit a grading permit application to the Administrative Officer for its review and approval.
- B. Applicants for site plan or subdivision approval involving the disturbance of steep slopes shall submit information regarding steep slope conditions required as per Section 35-9.4 to the appropriate reviewing authority as part of the required submission which shall be examined within the appropriate site plan or subdivision review context. Requests for permitted disturbance of steep slopes shall not be approved unless the requirements of Sections 35-9.6 and 35-9.7 below have been met. (Ord. No. 03-2580 Art. 9 § 9.5; Ord. No. 06-2727 § 1; Ord. No. 09-2870 § 1)

**35-9.6 PERMITTED LIMIT OF DISTURBANCE**

- A. The platting of any parcel for subdivision or the siting of any structure or grading for site plan approval or construction permit shall avoid disturbance of slopes fifteen (15%) percent or greater or the placement of lots or structures that would necessitate or be likely to cause future disturbance of such areas.
- B. Where proposed lots to be platted for subdivision contain steep slopes, each lot shall contain at least twenty-five (25%) percent of its area in a non-steep slope condition to avoid excessive erosion, vegetation clearance, and degradation of water resources while ensuring the proper placement of housing and associated uses.
- C. The siting of any structure for site plan approval, grading permit or construction permit shall provide a minimum distance of ten (10) feet from the foundation of any structure to the steep slope area as defined in the chapter. The Schedule of Space Regulations must also be met. (Ord. No. 03-2580 Art. 9 § 9.6; Ord. No. 06-2727 § 1; Ord. No. 09-2870 § 1)

**35-9.7 VARIANCE REQUIRED**

Disturbance of steep slope areas as indicated in Section 35-9.6, Permitted Limit of Disturbance, shall require a variance. Applications for variances from these standards shall be submitted to the Zoning Board of Adjustment for all developments except those developments that otherwise require Planning Board approval of a subdivision, site plan or conditional use. (Ord. No. 03-2580 Art. 9 § 9.7; Ord. No. 06-2727 § 1; Ord. No. 09-2870 § 1)

**35-9.8 MINOR STEEP SLOPE AREAS**

- A. The applicable board or Administrative Officer may disregard a steep slope area that is less than one thousand (1,000) square feet in size if in their assessment of the total disturbed area where such action would be in the interest of good planning, not seriously impair the purposes of this chapter and would otherwise result in practical difficulties to the applicant.
  - B. Where, however, the applicable board or Administrative Officer finds the area to be significant and of such size so as to constitute a substantial contiguous area to a steep slope, or finds that the impact of disturbing the steep slope may have a negative effect on an adjoining property, the reviewing authority may consider them significant and subject to regulation under this chapter. In such case the area will be considered disturbance of a steep slope area.
  - C. The applicable board or Administrative Officer may disregard a steep slope area that is less than two thousand five hundred (2,500) square feet in size for the sole purpose of installing solar panels and/or a geothermal system, in a previously disturbed steep slope area such as grass or landscaping areas. This relief does not apply to steep slopes in natural wooded areas.
  - D. The applicable board or Administrative Officer may disregard a steep slope area that is less than two thousand five hundred (2,500) square feet in size if the disturbance is for the purpose of replacing existing lawn areas or landscaping areas or performing maintenance work in these areas. The disturbance shall be in the interest of good planning, not change any existing drainage patterns, not seriously impair the purposes of this chapter and would otherwise result in practical difficulties to the applicant.
- (Ord. No. 03-2580 Art. 9 § 9.8; Ord. No. 06-2727 § 1; Ord. No. 09-2870 § 1)

**35-9.9 TIME FOR DECISION**

- A. Where the request for steep slope disturbances is part of a site plan, subdivision or variance application, the time periods regulating those applications shall

apply.

B. Where the request for steep slope disturbance is part of a construction permit application that does not require site plan or subdivision approval, the Administrative Officer shall approve, approve with conditions or deny an application for a steep slope disturbance approval within forty-five (45) days from the date of submission of a completed application.

(Ord. No. 03-2580 Art. 9 § 9.9; Ord. No. 06-2727§ 1; Ord. No. 09-2870 § 1)

### **35-9.10 APPEALS TO THE ZONING BOARD OF ADJUSTMENT**

Appeals of the decision of the Administrative Officer may be taken by the applicant to the Zoning Board of Adjustment within twenty (20) days of the date of such decision by filing a notice of appeal with the Administrative Officer specifying the grounds of such appeal and the appropriate fee for review and processing. The Administrative Officer shall immediately transmit to the Board the steep slope disturbance application and all related documents upon which its decision was based. The Zoning Board of Adjustment shall render a decision within one hundred twenty (120) days after receipt of the aforementioned documents from the Administrative Officer, or within such further time as may be consented to by the appellant. (Ord. No. 03-2580 Art. 9 § 9.10; Ord. No. 06-2727 § 1; Ord. No. 09-2870 § 1)

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