

TOWN OF MORRISTOWN

ORDINANCE 31 - 04

AN ORDINANCE AMENDING CHAPTER 132 OF THE CODE OF THE TOWN OF MORRISTOWN ENTITLED, "LAND USE REGULATIONS," TO ADD STEEP SLOPE REGULATIONS

BE IT ORDAINED, by the Town Council of the Town of Morristown, being the governing body thereof as follows:

SECTION I. Chapter 132 of the Code of the Town of Morristown, entitled "Land Use Regulations," is hereby amended to add a new ARTICLE XXVIII, entitled "Regulation of Steep Slopes," which shall provide as follows:

132-98A Steep Slope Regulations

A. Legislative Purpose and Findings.

The purpose of regulating steep slopes in the Town of Morristown is to prevent, or reduce, the problems resulting from the development of such environmentally sensitive areas. The New Jersey State Development and Redevelopment Plan states that slopes that are in excess of 15% are environmentally sensitive, and the alteration of such slopes can adversely affect the slope itself, surrounding land, and the region as a whole. The removal of vegetation from a steep slope increases water runoff and erosion, reduces the stability of remaining plants on the slope, and degrades the visual aesthetics of the area as a whole. Because of increased water runoff, as the water spills into nearby lakes and streams, it brings along loose soil, which adds sediment to the waterways and pollutes key regional water resources. Surface runoff from Morristown drains into both the Whippany River Watershed and the Great Swamp, two key natural resources in the region.

The speed at which the water passes down an unprotected slope into a lower lying area may also cause serious flooding and landslides. The higher speed of surface water runoff also reduces the amount of water percolating into groundwater and aquifers immediately surrounding the slope, which can result in periodic or permanent water shortages. This is a particularly important consideration in Morristown because the Town is located above one of the key regional aquifers. The erosion of a hillside also leaves remaining vegetation with a lack of nutrient-rich soil and weak root systems, which may cause falling trees and deteriorating plant life conditions, leading to the aesthetic decline of the site and the Town as a whole.

Finally, it is also important to note that if this ordinance is to remain consistent with Morristown's role as a designated regional center, it must be structured so that it does not significantly and unreasonably limit the growth capabilities of the Town

B. Definitions

1. *Steep Slope* means slopes 15% or greater.
2. *Prohibitive Slope* means those slopes greater than 25 percent.
3. *Precautionary Slope* means those slopes between 15 percent and 25 percent.
4. *Non-critical Slope or Area* means those slopes less than 15 percent.

C. Regulations

1. All development and redevelopment activities, including stripping of vegetation, grading, or other soil disturbances, may occur without approval under this ordinance only on non-critical areas of the tract or steep slope areas provided that the development activity complies with the following provisions:
 2. No area with prohibitive slopes shall be disturbed developed, or redeveloped.
 3. No area with precautionary slopes may be disturbed or developed without the applicant submitting sufficient evidence to prove the following:
 - a. Soil erosion, land disturbance, and other environmental concerns have been adequately addressed;
 - b. The Performance Standards in Section E herein have been satisfied;
 - c. The applicant has submitted grading, drainage, and landscaping plans for the entire lot or tract of land to be developed, each in accordance with the requirements specified in Section F herein, which plans confirm conformance with the aforementioned Performance Standards and which further confirm that the rate and velocity of the surface water runoff from the entire site which will result following completion of the proposed development shall not exceed that which currently exists in the predevelopment conditions. Certification by a professional engineer will be required stating that the standards contained herein have been met.
 4. A precautionary slope with a minimum grade of at least 15 percent but not more than 20 percent may have a maximum disturbance area of no greater than 50 percent.
 5. A precautionary slope with a minimum grade of at least 21 percent but not more than 25 percent may have a maximum disturbance area of no greater than 25 percent.

D. Relief from Regulations

An applicant may seek relief from the requirements of these regulations by applying for variances to either the Planning Board or by the Zoning Board of Adjustment, depending on which Board has jurisdiction based on the provisions of the New Jersey Municipal Land Use Law.

E. Performance Standards

The Town Engineer, when reviewing an application to disturb precautionary slopes or when reviewing an application for variance relief from the requirements of this ordinance, shall submit a report to the Planning Board or Board of Adjustment for each application. The Planning Board or Board of Adjustment shall be guided by, but not limited to, the following performance standards:

1. The applicant shall demonstrate that the disturbance of the steep slope area is necessary for the proposed development of the subject tract or lot, and that such development is otherwise in accordance with the applicable ordinance provisions of the Town of Morristown.
2. The applicant shall demonstrate that the proposed development has utilized the "non-critical areas" of the tract to the extent reasonably practicable and that an attempt has been made to minimize the disturbance of the steep slope areas by limiting development to isolated areas of steep slopes;
3. The applicant shall demonstrate that appropriate re-vegetation and landscaping of the disturbed steep slope areas will be provided so as to adequately stabilize the slopes and enhance the attractiveness of the site, all in accordance with accepted soil conservation and stormwater management techniques as promulgated by the Town Engineer.
4. The applicant shall demonstrate that the proposed disturbance of the steep slope area minimizes the impairment of the visual quality of the site and protects the higher elevations along hillsides, ridges, and mountain tops which create visual amenities;
5. The applicant also shall demonstrate that:
 - a. any geologic disturbance, including blasting, cutting, or excavating, resulting from the development of a steep slope area will be satisfactorily mitigated; and
 - b. the cost of providing and maintaining public facilities and services to those portions of the site where steep slope areas are to be disturbed will not be substantially increased as a result of such disturbance.

F. Submission Requirements

Any applicant proposing to disturb steep slopes in the Town of Morristown shall submit the following information to the Town Engineer and to the Planning Board or the Zoning Board of Adjustment, as the case may be, and all submitted plans, details, and calculations shall be prepared, signed, and sealed by a New Jersey licensed professional engineer:

1. A steep slope analysis, utilizing the best available topographical information, as determined by the Town Engineer. The analysis shall be based on 2-foot contour intervals or spot elevations if appropriate. Areas designated as steep slope areas shall be shaded and the amount of land area calculated. The analysis shall identify non-critical, precautionary, and prohibitive slopes.
2. A grading plan, which shall be prepared at a minimum scale of 1" equals 20', shall include the following information in addition to all other applicable requirements of the Land Development Ordinance:
 - a. Plans showing the location of, and details for, all drainage devices, retaining walls, cribbing, dams, or other protective devices to be constructed, and any existing or proposed swales, ditches, brooks, or other drainage patterns;
 - b. Plans, profiles, cross-sections, and details of all retaining walls showing the height of each wall, the elevation at the top and bottom of each wall, the materials to be used, a profile and cross section of each wall, any proposed plantings, any safety barriers, the calculations of anticipated earth and hydrostatic pressures and surcharges, and the calculations detailing the design of each wall; and
 - c. A map designating the maximum limits of clearing and disturbance.
3. Drainage plans and supporting computations for any storm drainage system shall be submitted, including the following information as may be required by the Town Engineer:
 - a. All existing or proposed storm sewer lines within or adjacent to the tract, showing the profile, size, and slope of the lines, the direction of flow, and the location of each catch basin, inlet, manhole, culvert, headwall, and utility line, including pipe sizes and grades;
 - b. A map drawn to scale (minimum scale 1"=100') showing the contributing area to each inlet or cross drain;
 - c. The weighted run-off coefficient for each drainage area that was utilized in the submitted computations and a report by the design engineer containing the design criteria used, the alternates considered, the reasons for the final selections and the design calculations.

4. Landscaping plans, indicating the following information:
 - a. The proposed limits of disturbance of the subject site;
 - b. A general depiction of all existing vegetation within the area to be disturbed and a planting plan including a planting schedule for the plant material to be installed;
 - c. A specific identification within the area to be disturbed of all individual trees or groups of trees which have a caliper of 8" or more measured 3' above the ground level, with an indication of which trees are to be removed.

G. Exemptions

Developments shall be exempt from the steep slope requirements of this ordinance, as follows:

1. Land development plans, which were approved prior to the adoption date of this ordinance.
2. Any development proposal where the steep slope to be disturbed is less than 1,000 square feet shall be exempt. Proof of such exemption eligibility shall be determined by the Zoning Officer.
3. Redevelopment of any property, where the property in question is part of an area that was designated by the governing body as being in need of redevelopment prior to the adoption of this ordinance.

H. Compatibility with other ordinance and permit requirements.

Development approvals issued pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by other applicable codes, rules, acts or ordinances. In their interpretation and application the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, general welfare, and the protection of water quality.

SECTION II. Severability. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision, and the remainder of this Ordinance shall be deemed valid and effective.

SECTION III. Repealer. All Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION IV. Effective Date. This ordinance shall take effect upon passage and publication as required by law.

I do certify the above to be a true and exact copy of an Ordinance duly passed and adopted by the Town Council of the Town of Morristown at a regular meeting of the Town Council held on Tuesday, September 28, 2004, in the Morristown Council Room, 200 South Street, Morristown, New Jersey, beginning at 7:30 P.M., prevailing time.

DATED: September 29, 2004

Robin J. Kesselmeyer
Deputy Town Clerk