

**ARTICLE XXII-A
STREAM BUFFER CONSERVATION ZONE**

SECTION 2201-A. LEGISLATIVE INTENT.

In recognition of the fact that natural features contribute to the welfare of residents, the following regulations have been enacted to provide reasonable controls governing the restoration, conservation, disturbance, and management of existing stream buffers for all perennial and intermittent streams and all lakes and ponds in the municipality by establishing designated Stream Buffer Conservation Zones. For the purposes of this ordinance the following definitions shall apply:

- Stream: A natural watercourse containing flowing water for at least part of the year.
- Perennial Stream: A stream that flows continuously throughout the year in most years.
- Intermittent Stream: A stream with a drainage area of 50 acres or greater.

In addition, the specific purposes and intent of this article are to:

1. Reduce the amount of nutrients, sediment, organic matter pesticides, and other harmful substances that reach watercourses, wetlands, subsurface and surface water bodies by using scientifically-proven processes including filtration, deposition, absorption, adsorption, plant uptake, biodegradation, denitrification and by improving infiltration, encouraging sheet flow, and stabilizing concentrated flows.
2. Improve and maintain the safety, reliability and adequacy of the water supply for domestic, agricultural, commercial, industrial and recreational uses along with sustaining diverse populations of aquatic flora and fauna.
3. Regulate the land use, silting and engineering of all development to be consistent with the intent and objectives of this ordinance, accepted conservation practices, and to work within the carrying capacity of existing natural resources.
4. Assist in the implementation of pertinent state laws concerning erosion and sediment control practices.
5. Conserve the natural features important to land and water resources (e.g., headwater areas, groundwater recharge zones, floodway, floodplain, springs, streams, wetlands, woodlands, prime wildlife habitats) and other features constituting high recreational value or containing amenities that exist on developed and undeveloped land.
6. Work with floodplain, steep slope, and other ordinances that regulate environmentally sensitive areas to minimize hazards to life, property, and Stream features.
7. Conserve natural, scenic, and recreation areas within and adjacent to Stream areas for the community's benefit.

SECTION 2202-A. DEFINITIONS, ESTABLISHMENT, & WIDTH DETERMINATION OF THE STREAM BUFFER CONSERVATION ZONE

1. Definition. The Stream Buffer Conservation Zone is defined as, "Areas surrounding municipally designated surface water bodies, including creeks, lakes and intermittent watercourses that intercept surface water runoff, wastewater, subsurface flow, and/or deep groundwater flows from upland sources and function to remove or buffer the effects of associated nutrients, sediment, organic matter, pesticides, or other pollutants prior to entry into surface waters. This area may also provide wildlife habitat, control water temperature, attenuate flood flow, and provide opportunities for passive recreation. This buffer area may or may not contain trees and other native vegetation at the time of ordinance enactment."
2. Establishment.
 - A. The establishment of the Stream Buffer Conservation Zone applies to the following areas which are identified on the municipal Stream buffer map:

- (1) Lands adjacent to municipally designated streams within the municipality.
- (2) Lands adjacent to municipally designated intermittent water courses within the municipality.
- (3) Lands at the margins of municipally designated lakes.

B. The measurement of the Stream Buffer Conservation Zone shall extend a minimum of 75' feet from each defined edge of an identified watercourse or surface water body at bankfull flow or level, or shall equal the extent of the 100 year floodplain, whichever is greater. The District will consist of two distinct zones designated as:

- (1) Zone One. This zone will begin at each edge of an identified waterway (which can include wetlands and intermittent watercourses) and occupy a margin of land with a minimum width of 25 feet measured horizontally on a line perpendicular to the edge of water at bankfull flow.

Where steep slopes (in excess of 25 percent) are located within 25 feet of a municipally designated watercourse, Zone One shall extend the entire distance of this sloped area. If the distance of this sloped area is greater than 75 feet, there will be no requirement for the establishment of Zone Two. If the distance is less than 75 feet, the width of Zone Two will be adjusted so that the total buffer width (Zone One and Zone Two) will be 75 feet maximum.

- (2) Zone Two. This zone will begin at the outer edge of Zone One and occupy a minimum width of 50 feet in addition to Zone One.

Where the 100-year floodplain extends greater than 75 feet from the waterway, Zone One shall remain a minimum of 25 feet wide, and Zone Two shall extend from the outer edge of Zone One to the outer edge of the 100-year floodplain.

Width Determination. The developer, applicant, or designated representative shall be responsible for the initial width determination of the stream buffer and identifying this area on any plan that is submitted to the municipality for subdivision, land development, or other improvements that require plan submissions or permits. This initial determination shall be subject to review and approval by the municipal engineer, governing body, or its appointed representative.

SECTION 2203-A. USES PERMITTED IN THE STREAM BUFFER CONSERVATION ZONE.

The following uses are permitted, either by right or after review and approval by the municipality in the Stream Buffer Conservation Zone. However, within any buffer, no construction, development, use, activity, or encroachment shall be permitted unless the activity is described in the Stream Buffer Management Plan, as outlined in §2208-A (A)(1).

A. Zone One.

1. Uses Permitted by Right. Open space uses that are primarily passive in character shall be permitted to extend into the area defined as Zone One, including:
 - a. Wildlife sanctuaries, nature preserves, forest preserves, fishing areas, passive areas of public and private parklands, and reforestation in compliance with the guidelines of the Stream Buffer Management Plan.
 - b. Stream bank stabilization in compliance with the guidelines of the Stream Buffer Management Plan.
2. Uses Requiring Municipal Review and Approval. Buffer crossings by farm vehicles and livestock, recreational trails, roads, railroads, centralized sewer and/ or water lines, and public utility transmission lines, and public utility transmission lines provided that any disturbance is offset by buffer improvements identified in the Stream Buffer Management Plan.

B. Zone Two.

1. Uses Permitted by Right. The following uses which are primarily passive in character shall be permitted by right to extend into the area defined as Zone Two:

- a. Open space uses including wildlife sanctuaries, nature preserves, forest preserves, passive areas of public and private parklands, and recreational trails.
 - b. Reforestation in compliance with the guidelines of the Stream Buffer Management Plan.
 - c. Minimum required front, side, and rear yards on private lots, provided that no yard may extend into Zone Two more than half the distance between the outer boundaries of Zone One and Zone Two.
 - d. Agricultural uses existing at the time of adoption of this ordinance.
2. Uses Requiring Municipal Review and Approval.
- a. New agricultural uses.
 - b. Buffer crossings by farm vehicles and livestock, roads, railroads, centralized sewer and/or water lines, and public utility transmission lines provided that any disturbance is at a minimum, offset by buffer improvements identified in the Stream Buffer Management Plan.
 - c. Centralized sewer and/or water lines and public utility transmission lines running along the buffer, provided that any disturbance is, at a minimum, offset by buffer improvements identified in the Stream Buffer Management Plan. These lines shall be located as far from Zone One as practical.
 - d. Selective cutting of trees when removal is consistent with approved standards in the Stream Buffer Management Plan.
 - e. Areas such as camps, campgrounds, picnic areas and golf courses. Active recreation areas such as ball fields, playgrounds, and courts provided these uses are designed in a manner that will not permit concentrated flow.
 - f. Naturalized storm water basins in compliance with the guidelines in the Stream Buffer Management Plan. The entire basin shall be located a minimum of 50 feet from the defined edge of identified watercourses.

SECTION 2204-A. USES SPECIFICALLY PROHIBITED IN THE STREAM BUFFER CONSERVATION ZONE.

Any use or activity not authorized within §2203-A shall be prohibited within the Stream Buffer Conservation Zone. By way of example, the following activities and facilities are specifically prohibited:

- A. Clear-cutting of trees and other vegetation.
- B. Selective cutting of trees and/or the clearing of other vegetation within Zone One, except where such clearing is necessary to prepare land for a use permitted under §2203-A.A. and where the effects of these actions are mitigated by re-vegetation, as specified under §2208-A.
- C. Selective cutting of trees and/or the clearing of other vegetation within Zone Two, except where such clearing is necessary to prepare land for a use permitted by §2203-A.B. and where the effects of these actions are mitigated by re-vegetation, as specified under §2208-A.
- D. Removal of trees in excess of selective cutting, except where such removal is necessary as a means to eliminate dead, diseased, or hazardous tree stands that jeopardize public safety or as part of a reforestation project, provided that the removal is in compliance with a Stream Buffer Management Plan approved by the municipal engineer, governing body, or its appointed representative.
- E. Removal or disturbance of vegetation in a manner that is inconsistent with erosion control and buffer protection.
- F. Storage of any hazardous or noxious materials.
- G. Use of fertilizers, pesticides, herbicides, and/or other chemicals in excess of prescribed industry standards or the recommendations of the Camden County Conservation District.
- H. Roads or driveways, except where permitted as buffer crossings in compliance with §2203-A.A.2.(a) or 2203-A.B.2.(b).

- I. Motor or wheeled vehicle traffic in any area not designed to accommodate adequately the type and volume.
- J. Parking lots.
- K. Any type of permanent structure, including fences, except structures needed for a use permitted in §2203-A.
- L. Subsurface sewage disposal areas.
- M. Sod farming.

SECTION 2205-A. NONCONFORMING STRUCTURES & USES IN STREAM BUFFER CONSERVATION ZONE.

Nonconforming structures and uses of land within the Stream Buffer Conservation Zone shall be regulated under the provisions of Article XXIX of the Cherry Hill Township Zoning Ordinance (*existing nonconformance regulations*). The following additional regulations also shall apply:

- A. Existing nonconforming structures or uses within Zones One or Two that are not permitted under §2203-A may be continued but shall not have the existing building footprint or uses expanded or enlarged.
- B. Discontinued nonconforming uses may be resumed any time within one year from such discontinuance but not thereafter when showing clear indications of abandonment. No change or resumption shall be permitted that is more detrimental to the Stream Buffer Conservation Zone, as measured against the intent and objectives under §2201-A, than the existing or former nonconforming use.
- C. This one year time frame shall not apply to agricultural uses which are following prescribed Best Management Practices for crop rotation.

SECTION 2206-A. BOUNDARY INTERPRETATION AND APPEALS PROCEDURE.

- A. When a landowner or applicant disputes the Zone (One or Two) boundaries of the stream buffer or the defined edge of a watercourse, surface water body, the landowner or applicant shall submit evidence to the municipality that describes the boundary, presents the landowner or applicant's proposed boundary, and presents all justification for the proposed boundary change.
- B. The municipal engineer, governing body or appointed representative shall evaluate all material submitted and shall make a written determination within 45 days, a copy of which shall be submitted to (*the governing body, municipal planning board*), and landowner or applicant.
- C. Any party aggrieved by any such determination or other decision or determination under this section may appeal to the (*municipality*) under the provisions this ordinance. The party contesting the location of the district boundary shall have the burden of proof in case of any such appeal.

SECTION 2207-A. INSPECTION OF STREAM BUFFER CONSERVATION ZONE.

- A. Lands within or adjacent to an identified Stream Buffer Conservation Zone will be inspected by the municipal representative when:
 - 1. A subdivision or land development plan is submitted.
 - 2. A building permit is requested
 - 3. A change or resumption of nonconforming use is proposed.
- B. The district may also be inspected periodically by the municipal representatives for compliance with an approved restoration plan, excessive or potentially problematic erosion or at any time when the presence of an unauthorized activity or structure is brought to the attention of municipal officials.

SECTION 2208-A. MANAGEMENT OF THE STREAM BUFFER CONSERVATION ZONE.

- A. Within any municipally identified buffer area, no construction, development, use, activity, or encroachment shall be permitted unless the effects of such development are accompanied by implementation of an approved Stream Buffer Management Plan, as specified within the Subdivision and Land Development Ordinance.
- B. The landowner or developer shall submit to the municipal engineer, governing body, or its appointed representative, a Stream Buffer Management Plan prepared by a landscape architect, professional engineer or other qualified professional who fully evaluates the effects of any proposed uses on the Stream Buffer Conservation Zone. The Stream Buffer Management Plan shall identify the existing conditions (vegetation, 100-year floodplain, soils, slopes, etc.), all proposed activities, and all proposed management techniques, including any measures necessary to offset disturbances to the Stream Buffer Conservation Zone. The plan shall be approved by the municipal engineer, governing body, or appointed representative as part of the subdivision and land development process.

SECTION 2209-A. VEGETATION SELECTION.

To function properly, dominant vegetation in the Stream Buffer Management Plan shall be selected from a list of plants most suited to the stream buffer. Plants not included on the lists may be permitted by the municipal engineer, governing body, or its appointed representative when evidence is provided from qualified sources certifying their suitability. The municipality may require species suitability to be verified by qualified experts in the Camden County Conservation District, Natural Resources Conservation Service, NJ Department of Environmental Protection, the U.S. Fish and Wildlife Service, or state and federal forest agencies.

1. In Zone One, dominant vegetation shall be composed of a variety of native stream tree, shrub species, tall grasses and appropriate plantings necessary for stream bank stabilization.
2. In Zone Two, dominant vegetation shall be composed of stream trees and shrubs, with an emphasis on native species and appropriate plantings necessary to stabilize the soil.
3. Disturbed areas shall be re-vegetated with stream buffer plants, in compliance with an approved Stream Buffer Management Plan.
4. Areas that cannot be re-vegetated shall be restored in compliance with an approved Stream Buffer Management Plan.