

Ordinance No. _____

An ordinance of the Mayor and Board of Alderman of the Town of Dover, County of Morris and the State of New Jersey amending Chapter 236, LAND USE AND DEVELOPMENT of the Code of the Town of Dover.

BE IT ORDAINED by the Mayor and Board of Alderman of the Town of Dover, County of Morris and state of New Jersey as follows:

Section 1

The Code of the Town of Dover, Chapter 236, LAND USE AND DEVELOPMENT shall be supplemented with the following

ARTICLE VIA
Riparian Zones

§ 236-77.1. Definitions

The definitions of the words and/or terms utilized in this Article shall be as defined in NJAC 7:15-1.5 Definitions as they exist at the time of passage of this ordinance and as they may change from time to time.

§ 236-77.2. Intent

It is the intent of this Article to provide compliance with NJAC 7:15-5.25(g)3. which requires municipalities to adopt an ordinance regulating new disturbances for projects or activities in riparian zones as part of a Wastewater Management Plan.

- A. Compliance with the riparian zone requirements of this chapter does not constitute compliance with the riparian zone or buffer requirements imposed under any other Federal, State or local statute, regulation or ordinance.

§ 236-77.2. Riparian Zone Protection

Riparian zones adjacent to all waters as described below in this paragraph shall be protected from avoidable disturbance:

- A. The riparian zone is 300 feet wide along both sides of any Category One water, and all upstream tributaries situated within the same HUC 14 watershed;
- B. The riparian zone is 150 feet wide along both sides of the following waters not identified in A. above:
 - (1) Any trout production water and all upstream waters (including tributaries);
 - (2) Any trout maintenance water and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water;
 - (3) Any segment of a water flowing through an area that contains documented habitat for a threatened or endangered species of plant or animal, which is critically dependent on the regulated water for survival, and all upstream

- waters (including tributaries) within one linear mile as measured along the length of the regulated water; and
- (4) Any segment of a water flowing through an area that contains acid producing soils; and
- C. A riparian zone 50 feet wide shall be maintained along both sides of all waters not subject to A. or B. above.

§ 236-77.3. Exceptions

- A. The following disturbances are Excepted:
- (1) Redevelopment within the limits of existing impervious surfaces; and
- (2) New disturbance in the riparian zone necessary to protect public health, safety or welfare; to provide an environmental benefit; 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.
- B. An Exception to any of the disturbances listed in A.(1) above shall be granted by the Town Engineer upon proof by virtue of submission of appropriate maps and drawings, that the proposed redevelopment is within the limits of impervious surfaces that existed at the time of passage of this ordinance.
- C. An Exception to any of the disturbances listed in A.(2) above shall be granted by the Planning Board upon proof by virtue of submission of appropriate maps, drawings, reports and testimony, that the disturbance protects public health, safety or welfare; provides an environmental benefit; prevents extraordinary hardship on the property owner peculiar to the property; or prevents 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. The Board of Adjustment shall have the power to grant these same exceptions if an exception is sought in conjunction with an application required to be heard by them in accordance with NJSA 40:55D-1. et. seq. (Municipal Land Use Law).
- D. Appeals of a determination by the Town Engineer made in accordance with B. above may be made to the Planning Board.

§ 236-77.4. Adjustments

Adjustments to the riparian zones established by this article are allowed to the extent they comply with the Stormwater Management Rules (NJAC 7:8), the Flood Hazard Area Control Act Rules (NJAC 7:13), and the Highlands Water Protection and Planning Act Rules (NJAC 7:38).

§ 236-77.5. Permits-By-Rule

The Flood Hazard Area Control Act Rules (NJAC 7:13), Subchapter 7. PERMITS_BY RULE, establishes permits-by rule for certain regulated activities. This Article hereby adopts by reference said Subchapter as it exists at the time of passage of this ordinance and as it may change from time to time, as a means of allowing regulated activities in the riparian zone without any other permits or approvals. In addition, any permit-by-

rule provision that requires notification to The New Jersey Department of Environmental Protection shall also be copied to the Dover Town Engineer.

Section 3

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

Section 5

If any article, section, subsection, paragraph, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

Section 6

This ordinance shall take effect immediately upon final publication as provided by law.

ATTEST:

TOWN OF DOVER

Clerk

Mayor