Chapter 131

STREAM CORRIDOR PROTECTION ZONE

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GENERAL REFERENCES

Land use and zoning — See Ch. 95.
Wetland protection — See Ch. 161.

§ 131-1. Objectives.

The specific purpose and intent of this chapter is to:

A. Regulate the land use, siting and engineering of all development to be consistent with the intent and objectives of this chapter and accepted conservation practices, so as to respect the carrying capacity of existing natural resources as new development occurs.

B. Reduce the amount of nutrients, sediment, organic matter, pesticides and the harmful substances that reach watercourses, wetlands and other surface water bodies as well as subsurface waters by optimizing scientifically proven processes including filtration, deposition, absorption, adsorption, plant uptake, biodegradation, denitrification through stabilizing concentrated flows and encouraging distributed sheet flow and by improving infiltration.

C. Provide for shading (i.e. cooling) of the aquatic environment so as to moderate temperatures, protect fish habitat, retain more dissolved oxygen and encourage the growth of diatoms, beneficial algae and aquatic insects.

D. Provide organic matter through leaf debris which falls into the stream and becomes trapped by woody debris (fallen trees and limbs) and rocks where such provides food and habitat for small bottom-dwelling organisms (insects, amphibians, crustaceans and small fish) essential to maintain the food chain.

E. Increase streambank stability and maintain natural fluvial geomorphology of the stream system, reducing streambank erosion and sediment production and protecting fish habitat.

F. 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.

G. Conserve natural, scenic and recreation areas within and adjacent to stream areas for the community unity’s benefit, promoting the positive functions of greenways.

H. 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.

I. Work with floodplain, steep slope and other ordinances that regulate environmentally sensitive areas to minimize hazards to life, property and stream features.

J. Assist in the implementation of pertinent state laws concerning erosion and sediment control practices.

§ 131-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have these definitions:

INTERMITTENT STREAM — A stream that does not always have water in it, that has a drainage area of 50 acres or greater, or is portrayed as a dashed line on a USDA soil survey map of the most recent edition, whichever is more restrictive.

PERENNIAL STREAM — A stream that flows continuously throughout the year in most years.

REVIEWING BOARD — The Planning Board or Board of Adjustment of the Township of East Hanover, whichever shall have jurisdiction over the respective subdivision or land development application.

STREAM — A natural watercourse containing flowing water for at least part of the year.

§ 131-3. Establishment of the Stream Corridor Protection Zone.

A. The Stream Corridor Protection Zone is defined as those areas surrounding municipally designated surface water bodies, including creeks 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 this chapter is enacted.

B. The establishment of the Stream Corridor Protection 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 watercourses within the municipality.
C. Procedural applicability.

(1) These provisions are intended to modify the location of development in relation to specified water resource areas but not to modify its overall intensity. These provisions apply to land disturbances resulting from or related to any activity or use requiring issuance of any of the following permits or approvals:

(a) Building permit.

(b) Zoning variance.

(c) Special exception.

(d) Conditional use.

(e) Subdivision/land development approval.

(2) On any lot of record at the time of adoption of this chapter, the Construction Official may issue a permit for building activity in accordance with all applicable zoning and subdivision regulations where such building activity intrudes into the Stream Corridor Protection Zone, subject to a determination by the Director of Land Use that the intrusion is limited to the minimum practicable extent necessary to accommodate the proposed building activity.

(3) Where any applicant demonstrates to the satisfaction of the reviewing board that strict adherence to these principles will render the lot or tract unusable or unsuitable for development in accordance with all applicable zoning and subdivision regulations or demonstrates that alternative design provisions will achieve comparable conservation objectives, the reviewing board may waive compliance with these provisions. In so waiving compliance, the reviewing board may require that alternative means to achieve conservation objectives as listed above be incorporated into the applicable plans.

D. The measurement of the Stream Corridor Protection Zone shall extend to a minimum of 75 feet from each defined edge of an identified watercourse or surface water body at bankful flow or level, or shall equal the extent of the one-hundred-year floodplain, whichever is greater. There shall be two distinct zones, designated as Zone One and Zone Two.

(1) Zone One will begin at each edge of an identified waterway (which can include wetlands and intermittent watercourses) and will occupy a margin of land with a minimum width of 25 feet measured horizontally on a line perpendicular to the edge of water at bankful flow. In the event that a steep slope (in excess of 25%) shall be 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 plus Zone Two) will be a maximum of 75 feet.

(2) Zone Two will begin at the outer edge of Zone One and occupy a minimum width of 50 feet in addition to Zone One. Where the one-hundred-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 one-hundred-year floodplain.
(3) The developer applicant or designated representative shall be responsible for the initial width determination of the Stream Corridor Protection Zone and for identifying the area on any plan that is submitted to the municipality for subdivision, land development, or other improvements which require plan submission or permits. This initial determination shall be subject to review and approval by the reviewing board.

§ 13 1-4. Uses permitted.

In addition to regulated activities permitted by the state, provision for unpaved trail access and selective removal of hazardous or invasive vegetative species, the following uses are permitted in the Stream Corridor Protection Zone, either by right or after review and approval by the Director of Land Use. 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 set forth below.

A. Zone One.

(1) As a matter of right, open space uses which 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 parkland, and reforestation in compliance with the guidelines of the stream corridor management plan.

   (b) Streambank stabilization in compliance with the guidelines of the stream corridor management plan.

(2) Subject to approval of a reviewing board, zone crossings by recreational trails, roads, railroads, centralized sewer and/or water lines, and public utility transmission lines shall be permitted, provided that any disturbance is offset by buffer improvements identified in the stream corridor management plan.

B. Zone Two.

(1) The following uses, which are primarily passive, 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, fishing areas, passive areas of public and private parkland, and recreational trails.

   (b) Reforestation in compliance with appropriate guidelines as specified in the stream corridor management plan as set forth below.

   (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.

(2) The following uses require approval of a municipal reviewing board:

   (a) Buffer crossings by roads, railroads, centralized sewer and/or water lines, and public utility transmission lines shall be permitted, provided that any disturbance is offset by buffer improvements identified in the stream corridor management plan.
(b) 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 corridor management plan. These lines shall be located as far from Zone One as practical.

(c) Selective cutting of trees when removal is consistent with approved standards in the stream corridor management plan.

(d) Areas such as camps, campgrounds, picnic areas and golf courses. Active recreation areas such as ballfields, playgrounds and courts provided these uses are designed in a manner that will not permit concentrated flow.

(e) Naturalized stormwater basins in compliance with the provisions of the stream corridor management plan. The entire basin shall be located a minimum of 50 feet from the defined edge of an identified watercourse.

§ 131-5. Uses expressly prohibited.

Any use or activity not authorized in § 131-4 hereof shall be prohibited within the Stream Corridor Protection Zone. No woodland disturbance or other land disturbance shall be permitted within 25 feet of the outermost limit of any wetland or streambank, measured horizontally, except as noted in this chapter. By way of example, but without limitation, the following activities and facilities are specifically prohibited:

A. Clear-cutting of trees or 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 for a use permitted under § 131-4 hereof and where the effects of these actions are mitigated by revegetation, as specified under § 131-8 hereof.

C. Selective cutting of trees and/or the clearing of other vegetation within Zone Two, except where such clearing is necessary to prepare for a use permitted under § 131-4 hereof and where the effects of these actions are mitigated by revegetation, as specified under § 131-8 hereof.

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 the public safety or as part of a reforestation project, provided that the removal is in compliance with a stream corridor management plan approved by the Municipal Engineer, the Township Council or its designated representative.

E. Removal or disturbance of vegetation in a manner that is inconsistent with erosion control and/or buffer protection.

F. Storage of any hazardous materials.

G. Use of fertilizers, pesticides, and/or other chemicals in excess of prescribed industry standards or the recommendation of the Morris County Soil Conservation District.

H. Roads or driveways, except where permitted as buffer crossings in compliance with § 131-4 hereof.
I. Motor or wheeled vehicle traffic in any area not designated to accommodate adequately the type or volume.

J. Parking lots.

K. Any type of permanent structure, including fences, except structures needed for uses permitted in § 131-4 hereof.

L. Subsurface sewage disposal systems.

§ 131-6. Nonconforming structures and uses.

Nonconforming structures and uses of land within the Stream Corridor Protection Zone shall be regulated under the provisions of the Zoning and Land Uses provisions of the Code of the Township of East Hanover (Chapter 95) regarding existing nonconforming use regulations. The following additional regulations shall apply also:

A. Existing nonconforming structures or uses within Zones One and Two that are not permitted under § 131-4 hereof may be continued but shall not have the existing building footprint or uses expanded or enlarged.

B. Discontinued nonconforming uses may be resumed provided that there has been no clear indication of abandonment. No change or resumption shall be permitted that is more detrimental to the Stream Corridor Protection Zone, as measured against the intent and objectives under § 131-1 hereof, than the existing or former nonconforming use.

§ 131-7. Boundary interpretation; appeals procedures; inspections.

A. When a landowner or applicant disputes the Zone (One or Two) boundaries of the Stream Corridor Protection Zone, or the defined edge of a watercourse, the landowner or applicant shall submit evidence to the appropriate reviewing board describing the boundary, the landowner or applicant’s proposed boundary and all justification for the proposed boundary change.

B. The Township Engineer shall evaluate all material submitted and shall make a written determination within 45 days, a copy of which shall be submitted to the appropriate reviewing board and to the landowner or applicant.

C. Any party aggrieved by such determination or other determination or decision under this section may appeal the same under the provisions of § 25 of Chapter 95 of the Code of the Township of East Hanover. The party contesting the location of the boundary shall have the burden of proof in the case of such an appeal.

D. Inspections.

(1) Lands within or adjacent to an identified Stream Corridor Protection Zone shall be inspected by a municipal representative when:

(a) A subdivision or land development plan is submitted.

(b) A building permit is requested.
Cc) A change or resumption of nonconforming use is proposed.

(2) The Stream Corridor Protection Zone may also be inspected periodically by the designated representatives of the Township of East Hanover if excessive or potentially problematic erosion is present, other problems are discovered, or at any time when the presence of an unauthorized activity is brought to the attention of the Township of East Hanover or its officials or representatives.


A. Within the Stream Corridor Protection Zone, no construction, development, use, activity or encroachment shall be permitted unless the effects of such development are accompanied by preparation, approval and implementation of a stream corridor management plan.

(1) The landowner, applicant or developer shall submit to the reviewing board a stream corridor management plan prepared by a landscape architect, professional engineer or other qualified professional. Such plan shall fully evaluate the effects of any proposed uses in the Stream Corridor Protection Zone.

(2) The stream corridor management plan shall identify the existing conditions (vegetation, one-hundred-year floodplain, soils, slopes etc.), all proposed activities, and all proposed management techniques, including any measures necessary to offset disturbances to the Stream Corridor Protection Zone. The plan shall be approved by the Township Engineer as part of the subdivision and land development process.

(3) The stream corridor management plan should include management provisions in narrative and/or graphic form specifying:

(a) The manner in which the Zone will be owned and by whom it will be managed and maintained.

(b) The conservation and/or land management techniques and practices which will be used to conserve and protect the Zone, as applicable.

Cc) The professional and personnel resources that are expected to be necessary in order to maintain and manage the Zone.

B. A stream corridor management plan is not required where the Stream Corridor Protection Zone is not being disturbed.


For the Stream Corridor Protection Zone to function properly, dominant vegetation in the stream corridor management plan should be selected from a list of plants most suited to the Zone, available at the Office of the Director of Land Use for the Township of East Hanover. The Township Engineer may permit plants not included on the list when evidence is provided from qualified sources certifying their suitability. Species suitability may be required to be verified by qualified experts at the Morris County Soil Conservation District, Natural Resources Conservation Service, NJ Department of Environmental Protection, US Fish and Wildlife Service or state or federal forest agencies.
A. In Zone One, dominant vegetation shall be composed of a variety of native riparian zone tree, shrub, tall grasses and other appropriate species necessary for streambank stabilization.

B. In Zone Two, dominant vegetation shall be composed of riparian zone trees and shrubs, with an emphasis on native species and appropriate plantings necessary to stabilize the soil.

C. Disturbed areas shall be revegetated with riparian zone species, in compliance with an approved stream corridor management plan:

D. Areas that cannot be revegetated shall be restored in compliance with an approved stream corridor management plan.