



TOWNSHIP OF HOPEWELL

MERCER COUNTY

201 Washington Crossing Pennington Road
Titusville, New Jersey 08560-1410
609.737.0605 Ext. 664
609.737.6839 Fax
September 8, 2016

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**Re: Docket PF15-1-000
Proposed Gas Pipeline
PennEast Pipeline Company LLC
Hopewell Township, Mercer County**

Dear Ms. Bose:

The impacts to Hopewell Township and its groundwater supply caused by PennEast's deviations from Hopewell Township's environmental control ordinances is significant. Hopewell Township provides many levels of protection for its water supply because the township's 60 square miles are served primarily by individual on-site wells. The NJDEP recognizes Hopewell Township aquifers as sole source aquifers meaning they are the only source of drinking water for residents on wells and are deserving of special protection. Therefore, protection of this critical water supply is a priority which must be honored by PennEast:

- 1. Forestry Management and Tree Removal:** There is a strong interrelationship between the integrity of the Township's water resources and tree removal. Forestlands protect water quality by assisting in the removal of pollutants, enhancing water infiltration, soil stabilization, and slowing the velocity of floodwaters. One mechanism Hopewell Township utilizes to protect its groundwater resources is through a Forestry Management and Tree Removal ordinance which is found in Chapter 12-4 of the Revised General Ordinances of Hopewell Township, Environmental Control (Exhibit "A" attached).

Tree removal is regulated by requiring mitigation for the removal of more than 150 diameter inches 10 inch DBH trees on a tax lot within a 10 year period. Based upon maps filed with FERC, PennEast is advancing a plan which proposes to remove a significant number of 10 inch DBH trees, which appears to be well in excess of 150

diameter inches on many tax lots. This removal will significantly impact the protection to the township's groundwater supply afforded by these trees.

In order to properly protect Hopewell Township's water supply as required by Chapter 12 of the Revised General Ordinances of Hopewell Township, PennEast is required to obtain a tree removal permit. The application for this permit is to be accompanied by a Tree Preservation and Removal Plan prepared by the appropriate expert. This plan shall include all information as required by section 12-4.5 (Exhibit "A" attached).

It will be necessary for PennEast to document all trees over 10 inches DBH that are to be removed in order to properly consider the application. It will also be necessary for PennEast to provide financial performance guarantees to insure the implementation of the Tree Preservation and Removal Plan.

- 2. Steep Slopes:** Steep slopes are valuable resources and sensitive landforms that create microclimates where a diversity of organisms thrive. Hopewell Township has regulated disturbance of steep slopes through a steep slope protection ordinance found in section 17-116 of Hopewell Township's Revised General Ordinances (Exhibit "B" attached).

The proposed PennEast pipeline activities will modify the natural slope system in a variety of ways and will promote instability by loading the slope, removing vital support, and increasing pore-water pressures. PennEast shall submit grading plans indicating all grading necessary for the project for review and approval by the township engineer. Such plans shall provide for the proper protection and stabilization of all disturbed areas consistent with the design techniques established by the Soil Erosion and Sediment Control Standards, adopted as amended by the New Jersey State Soil Conservation Committee and shall include all mitigation strategies for consideration.

The current DEIS is incomplete, absent this information and, therefore, must be withdrawn, lest public officials and citizens be deprived of their rights to make public comments before decisions are made.

- 3. Stream Corridors:** Hopewell Townships protects its groundwater resources through a stream corridor protection ordinance found in Chapter 12-3 of the Revised General Ordinances of Hopewell Township, Environmental Control (Exhibit "C" attached). Environmental Control Ordinances are applicable to all development and related disturbances.

Many stream corridors are bisected by the PennEast pipeline. PennEast shall obtain the required stream corridor permit as prescribed by ordinance section 12-3.4. As part of this section, PennEast shall demonstrate if the proposed encroachment meets the general purpose and intent of the provisions of the section and whether the literal

Ms. Kimberly D. Bose, Secretary
September 8, 2016
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enforcement of the section is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question. The extent to which PennEast will mitigate any encroachments into the stream corridor and rehabilitate any and all degraded or disturbed areas within the stream corridor and maintain the integrity of the surrounding habitat and the extent to which the proposed disturbances will measurably increase the danger of flood damage or negatively impact the ecology of the stream corridor will be factors in the review.

It is recommended that PennEast begin this process as soon as other environmental permits have been obtained to provide adequate technical detail for the review to be concluded.

Again, preserving the integrity of Hopewell Township's water supply to insure quantity and quality and to preserve the sustainable recharge of this water supply is a priority for the township. Insuring the quantity and quality of the township's water supply and preserving its sustainable recharge is the dominant theme for the township's master plan. The township's zoning has been altered to protect the groundwater resources of Hopewell Township. Unmitigated, PennEast's proposed pipeline will serve to erode years of protections adopted by many governing bodies. PennEast must be required to adhere to the township's standards for Forestry Management and Tree Removal, Stream Corridors and Steep Slopes.

Thank you.

Sincerely,



Kevin D. Kuchinski, Mayor

C: Hopewell Township Committee
Steven P. Goodell, Esquire
Governor Chris Christie
Senator Robert Menendez
Senator Cory Booker
Senator Shirley Turner
Congresswoman Bonnie Watson Coleman
Assemblywoman Elizabeth Maher Muoio
Assemblyman Reed Gusciora
Mercer County Board of Chosen Freeholders
Robert Martin, NJDEP Commissioner
John Gray, NJDEP Deputy Chief of Staff
Judith A. Enck, USEPA Region 2 Administrator

EXHIBIT A

**TOWNSHIP OF HOPEWELL
MERCER COUNTY, NEW JERSEY**

ORDINANCE NO. 12-1554

**AN ORDINANCE TO AMEND AND SUPPLEMENT
CHAPTER 12 "ENVIRONMENTAL"
AND CHAPTER 10 "FEES AND PERMITS"
OF THE REVISED GENERAL ORDINANCES OF
THE TOWNSHIP OF HOPEWELL**

WHEREAS, the Township of Hopewell is dedicated to preserving, protecting and enhancing its natural resources and promoting a sustainable future for the Township and region, and protecting the public health and safety of its residents, and this vision for managing change in Hopewell's future is reflected in the Guiding Principal of conserving community character and community health by retaining forestlands, and

WHEREAS, according to aerial imagery as digitized by NJDEP, non-wetland forested acres in Hopewell Township and in New Jersey as a whole have declined during the period 1986 to 2007, with a statewide decline from approximately 1.64 million acres in 1986 to 1.53 million acres in 2007, and

WHEREAS, the Hopewell Township Environmental Resource Inventory (ERI) identified deer damage, invasive insects and pathogens as threats which could lead to widespread, rapid changes that would be detrimental to the Township's forestland diversity, further efforts to protect these forestlands are warranted, and the ERI states that the Township's valuable natural resources should be preserved and,

WHEREAS, the forestlands protect water quality by assisting in the removal of pollutants, soil stabilization, and slowing the velocity of floodwaters, and

WHEREAS, tree cover is a positive factor in carbon sequestration, removing carbon from the air, thus offsetting greenhouse gas emissions,

WHEREAS, the loss of overall forested area in the Township and the State has been accompanied by an increasing fragmentation of remaining forested areas. The fragmentation of forests, particularly by urban uses, degrades watersheds, reduces wildlife habitat, increases site disturbances, and favors invasion by exotic plant species, and

WHEREAS, many wildlife biologists believe that fragmentation is a contributing factor in the decline of some bird and wildlife species, though fragmentation favors species such as raccoons, squirrels, and white-tailed deer, and

WHEREAS, Hopewell Township participates in the New Jersey Community Forest Management Program.

WHEREAS, a goal Hopewell Township's Master Plan is protecting biological diversity through the maintenance of large contiguous tracts and corridors of forest, and

WHEREAS, Hopewell Township's Master Plan seeks to protect sensitive environmental resources from destruction or degradation, including forests and other vegetation, soils, habitats or threatened and endangered species and unique natural systems; and

WHEREAS, Hopewell Township's Master Plan seeks to protect and maintain the prevailing rural character and unique sense of place of the Township, which includes forestlands.

WHEREAS, it is recognized that there is a strong interrelationship between the integrity of the Township's water resources, development on steep slopes, tree removal, soil disturbance, storm water management and the general use of the land resources.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hopewell, County of Mercer, State of New Jersey, that Chapter 12, "Environmental" of the Revised General Ordinances of the Township of Hopewell is hereby supplemented with a new section number 4 entitled "Forest Management and Tree Removal" as follows:

12-4.1 Intent and Purpose

Trees are declared to be an important cultural, ecological, scenic and economic resource. Proper management of this resource will ensure its maintenance and result in economic returns. Forestry management is intended to meet the objectives of preserving, protecting, enhancing and maintaining trees and providing opportunities for the continued use of forest resources by ensuring management of forest and trees through the application of sound management practices.

It shall be unlawful to cut down, damage, poison or in any other manner destroy or cause to be destroyed any trees covered by this subchapter, except in accordance with the provisions of this subchapter.

12-4.2 Definitions.

ADMINISTRATIVE OFFICER - The administrative officer is the individual appointed annually by the Township Committee who shall be responsible for the issuance of tree removal permits, in accordance with the procedures and standards set forth herein. The Administrative Officer shall consult with the municipal engineer with regard to engineering and technical issues. The administrative officer may consult with a Certified Tree Expert or Forester under contract with the Township Committee and the costs for said consultant shall be paid from the Tree Escrow Funds

CALIPER: ANSI Z60 FOR NURSERY STOCK – Caliper is a type of diameter measurement used in the nursery industry. The height measurement shall be taken from ground level for field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare. Caliper measurement of the trunk shall be taken six (6") inches above the top of root flare up to and including four-inch caliper size. If the caliper at six inches above the ground exceeds four inches (4"), the caliper should be measured at twelve (12") inches above the top of root flare. Seldom are tree trunks perfectly round. The most accurate measurement will result from the use of a diameter tape. Caliper measurements taken with manual or electronic "slot" or "pincer" type caliper tools should be the average of the smallest and largest measurements.

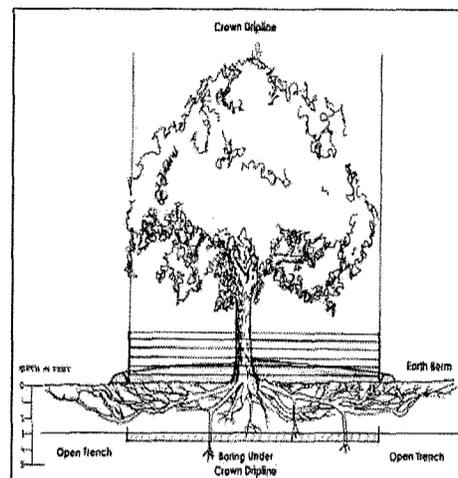
COMMUNITY FORESTRY MANAGEMENT PLAN – A plan developed by a municipality that outlines the goals and objectives for managing trees on municipal property with the intent of minimizing liability to the municipality and maximizing the useful life of the tree resource. The plan is to be approved by the New Jersey Department of Environmental Protection, Division of Parks and Forestry, New Jersey Forest Service.

DIAMETER BREAST HEIGHT (DBH) – The diameter of a tree measured four and one-half (4 1/2') feet above the uphill/highest side.

DRIPLINE – the line extending vertically from the exterior edge of a tree's live crown to the ground.

EROSION – The detachment and movement of soil or rock fragments by water, ice, wind and gravity.

EXEMPT AREA – The lot area as provided in this chapter for which tree replacement shall not be required.



FOREST MANAGEMENT PLAN – A plan for the management of timbered or forested lands approved by the New Jersey Department of Environmental Protection, New Jersey Forest Service, or similar state or federal agency.

OPEN SPACE – Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use and enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open spaces, provided that such areas may be improved with only those buildings, structures, streets and off-street parking and other improvements that are designated to be incidental to the natural openness of the land.

SPECIMEN TREE - an individual tree that measures 60% or more of the circumference at breast height of a State Record Tree for that species.

STATE RECORD TREE – the largest tree of each species found in New Jersey as listed on the NJ State Big Tree Register, available from the NJDEP Division of Parks & Forestry, State Forest Service, PO Box 404, Trenton, NJ 08625

TREE – any State Record Tree, Specimen Tree or any other woody perennial plant greater than 20 feet in height.

TREE ESCROW FUND – A fund established by the governing body for the administration and promotion of tree and shrubbery resource sustainability projects and practices which may be consistent with the Community Stewardship Incentive Program as outlined within the New Jersey Shade Tree and Community Forestry Assistance Act P.L. 1996, chapter 135.

TREE PLANTING PLAN – A specific plan adopted by Hopewell Township for the location and placement of trees on public property.

TREE PRESERVATION AND REMOVAL PLAN – A specific plan that contains tree locations and other information required by this subchapter.

TREE REMOVAL PERMIT – A permit issued by the Administrative Officer.

TREE REPLACEMENT PLAN – A specific plan for replacement of removed trees in accordance with the provision of this subchapter.

TREE EXPERT – A Forester qualified by the State of New Jersey and having a minimum of 5 years' experience working in New Jersey, a Conservation Officer qualified by the State of New Jersey and having a minimum of 5 years' experience working in New Jersey or an arborist qualified by the State of New Jersey and having a minimum of 5 years' experience working in New Jersey.

§ 12-4.3 Applicability.

The terms and provisions of this chapter shall apply as follows:

- a. It shall be unlawful for any person to remove or cause to remove trees above and beyond a combined total of 150 inches of DBH within a 10 year period unless a tree removal permit has first been obtained. (e.g. combined total of 150 inches of DBH equals 15 trees of 10 inches DBH; 5 trees of 30 inches DBH; 10 trees of 15 DBH; etc.)
- b. It shall be unlawful for any person to remove or cause to remove trees which are state record trees or specimen trees unless a tree removal permit has first been obtained..
- c. Exceptions. The provisions of this chapter shall not apply to the following:
 1. Any property upon which no trees are located, as confirmed by a site visit of the Administrative Officer.
 2. Any tree less than ten (10") inches DBH.
 3. Any tree or trees removed or cut in accordance with a forest management plan, provided that such plan is filed with the Tax Assessor.
 4. Any tree or trees removed or cut in accordance with an approved conservation plan prepared by the Soil Conservation District, provided that such plan has been filed with the Tax Assessor.
 5. Any tree or trees planted and grown for commercial purposes on property used as a commercial nursery, tree farm, garden center, Christmas tree plantations or tree orchards.
 6. Any tree growing in a utility right-of-way or clear areas as established by the FAA for runway safety.
 7. Weather emergencies such as hurricanes, fire, windstorm, ice storm, flood, freezing temperatures or other disaster.
 8. Dead or diseased trees which are a hazard to persons or property.
 9. Qualified Right-To-Farm activities.

12-4.4 Tree removal permits; general.

- a. Any person wishing to obtain a tree removal permit shall make application to the Administrative Officer by filing a written application which shall include a Tree Preservation and Removal Plan and payment of application fees as set forth in Chapter 10. No application shall be considered without the payment of the required fees.
- b. Removal of state record trees and specimen trees shall require approval of the Township Committee with consideration of recommendations by the Environmental Commission.
- c. Where an application as required by this chapter has been submitted, no permit shall be issued until an application for a Tree Removal Permit meeting all of the criteria of this subchapter has been reviewed and approved by the Administrative Officer.
- d. Where an application for a Tree Removal Permit is made in connection with the construction of a building or other improvement, no building permits shall be issued until the tree removal permit has been issued.
- e. All fees, including outstanding permit fees, inspection fees and tree escrow fund contributions, shall be paid prior to the issuance of the tree removal permit.
- f. The Administrative Officer shall approve or deny the tree removal permit within ten (10) business days after receipt of a completed application and payment of application fees. An additional ten (10) business days shall be added to the review period if the Administrative Officer requests additional information as may reasonably be required to review a Tree Removal Permit within the original review period.
- g. A tree removal permit shall require the Administrative Officer to inspect the site from time to time to enforce the permit conditions. An inspection fee shall be paid as a condition of any tree removal permit in accordance with Chapter 10, Fees and Permits.
- g. The Administrative Officer shall notify the applicant in writing of the factual basis and criteria for any denial.
- h. The final decision of the Administrative Officer may be appealed to the Township Administrator by filing written notice within ten (10) days of the final decision. The Township Administrator shall issue its decision within sixty (30) days after notice of appeal is filed. The Township Administrator may delegate its appeal responsibilities to the Environmental Commission. The Township Administrator's decision may be appealed to the Hopewell Township Committee who shall render a final decision within 45 days after a public hearing on the appeal.

12-4.5 Tree Preservation and Removal Plan.

Tree preservation and removal plans shall contain the following minimum information. The Administrative Officer reserves the right to request additional information as may reasonably be required to review a Tree Removal Permit:

- a. The name and address of the applicant.
- b. The name and address of the owner of the property from which the trees are to be removed.
- c. The street address and lot and block of the property.
- d. A certification from the lot owner that the applicant is specifically authorized to make the application for tree removal.

- e. The shape and dimensions of the lot or parcel, including the location of all existing and proposed easements.
- f. Tree removal plans shall consist of a tree location sketch containing at least the minimum amount of pertinent information to enable the determination of compliance with the regulations in this subchapter.
- g. Tree preservation limits.
- h. Limits of all tree protection with appropriate construction details.
- h. All state record and specimen trees to be removed. The applicant shall provide documentation demonstrating that all reasonable efforts have been made to preserve state record and specimen trees, including, but not limited to, if feasible, relocation of existing and proposed infrastructure, roadways and buildings.
- i. Tree replacement plan in accordance with this chapter. A tree replacement plan may be integrated with landscape plans submitted for other separate land use approvals.
- j. A North arrow.
- k. The location of existing and proposed infrastructure, roadways and buildings, if any.

12-4.6 Criteria for issuance of permits.

The tree removal permit shall be approved by the Administrative Officer following his determination that the following criteria have been met:

- a. A Tree Preservation and Removal Plan has been provided meeting all of the criteria in Section 12-4.5;
- b. A Tree Replacement Plan has been provided meeting all of the criteria in Section 12-4.9;
- c. The Administrative Officer, after consultation with the municipal engineer, has determined that the proposed tree removal will NOT:
 - 1. Result in additional stormwater runoff which will impact adjacent properties;
 - 2. Create new erosion or will not require a soil erosion and sediment control plan approval by the Mercer County Soil Conservation District; or
 - 3. Impair growth or impair development of remaining trees on the applicant's property or upon adjacent properties;
 - 4. Create unusual dust or other nuisances during tree removal;
 - 5. Cause damage to on or off site utilities including but not limited to wastewater discharge and treatment systems, water supply and distribution systems;
 - 6. Result in dangerous or hazardous conditions.

12-4.7 Term of permit.

Approved tree removal permits shall be valid for a period not-to-exceed 12 calendar months from the date of issuance by the Administrative Officer and shall be conditioned upon payment of all permit and inspection fees. An extension may be granted by the Township Administrator for a period not to exceed 3 months for good cause shown. All work not completed within the term of permit or term of extension shall be the subject a new application and the payment of new fees.

12-4.8 Display of Permit and Right of Entry.

- a. The tree removal permit shall be prominently displayed on the site continuously while trees are being removed or replaced or work done as authorized by the tree removal permit and for ten (10) days thereafter.
- b. All persons cutting or removing trees, if other than the applicant, shall carry with him/her authorization from the owner and applicant authorizing such person to cut or remove trees.
- c. In the event that trees are being cut or removed in accordance with a forest management plan or a soil conservation plan, a copy of said plans shall be in the possession of the person cutting or removing such trees, if not the owner of the lot.
- d. As a condition for the issuance of the permit, the applicant shall agree in writing to the entry onto his/her premises by the Administrative Officer or his designee as necessary to inspect the site in review of the application for a tree removal permit and to inspect the permitted tree removal work to effectuate the provisions of this chapter. Failure to allow such entry shall constitute a violation of the permit and this chapter.

12-4.9 Tree Replacement Plan.

Unless deemed an exception by 12-4.3.c, trees to be removed shall be replaced in accordance with a tree replacement plan which shall be prepared in accordance with the following:

- a. For each tree ten (10") inches in DBH or greater that is removed, the applicant shall prepare a replanting plan for other areas on the same tax lot which is subject to the tree removal.
- b. Tree replacement on the subject tax lot to compensate for the tree removals shall be as follows:
 - 1. Number and size of replacement trees to be used for each tree ten (10") inches in DBH or larger that is to be removed beyond a combined total of 150 inches (150") DBH and replacement shall be as follows:

2.

Diameter of Removed Trees at Breast Height in Inches	Number of Replacement Trees for Each Tree Removed	Size of Replacement Trees
Greater than 10" up to 16"	2	2 - 2½"
Greater than 16" up to 23"	2	3"
Greater than 23" up to 30"	4	3½ - 4"
Greater than 30"	5	3½ - 4"

3. Tree replacement species shall be indigenous to the area and site.
 4. Trees planted within other existing natural stands of trees on-site may be spaced five (5') feet to twenty (20') feet on center.
- c. Unless otherwise set forth in this subchapter, Tree replacement shall follow the guidelines set forth in the "New Jersey No Net Loss Reforestation Act", P.L. 1993, c.106 (c:13:1L-14.2).
 - d. All proposed replacement tree species shall be selected from Trees For New Jersey Streets as published by the New Jersey Shade Tree Federation; Street Tree Factsheets, a publication of the Municipal Tree Restoration Program; and the adopted Hopewell Township Community Forestry Plan.
 - e. Tree replacement materials shall be provided in accordance with the standards set forth in ANSI Z60.1, American Standard for Nursery Stock.
 - f. Removal of state record trees or specimen trees requires approval of the Hopewell Township Committee. Replacement requirements for any state record tree or specimen tree approved to be removed shall be established by the governing body.
 - g. Credits for tree replacement shall be given on a one-to-one basis when one of the following conditions are proposed on the Tree Replacement Plan:
 1. Preservation of stands of ten (10) or more trees with a DBH of six (6") inches or greater within the limit of the disturbance line. Credit will only be given for native trees located within the stand.
 2. Preservation of one (1) acre or more of on-site areas having stands of trees with a DBH of six (6") inches or greater which are to be left in natural condition. Preservation shall be provided by a deed of conservation easement from the lot owner to Hopewell Township which deed shall be filed with the Mercer County Clerk's Office by the applicant as a condition of the tree removal permit after approval by the Township Committee. This credit excludes all previous dedicated easements.
 - h. Soils disturbed during tree replacement shall be stabilized in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey.
 - i. All replacement trees shall be maintained in healthy condition for no less than two years from the date of planting.
 - j. When the site in question cannot physically accommodate the total replacement amount of trees required by the this subchapter, as certified by the applicant and verified by the Administrative Officer, tree replacement may be accomplished by a by a contribution of the monetary value of non-replaced trees to the Township Tree Escrow Fund in an amount as set forth in Chapter 10, Fees and Permits. Payment shall be a condition of the tree removal permit.

12-4.10 Tree Protection During Construction.

- a. Prior to any tree removal protection shall be installed. Tree protection shall remain until tree removal is complete.

- b. Tree Protection shall be provided, as a minimum, in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey.
- c. There shall be no wires or attachments to trees being protected.
- d. Protection is required for any soil disturbance within the drip line of any tree not being removed.
- e. Any trees damaged during construction must be inspected and treated if required in accordance with written guidance from a Tree Expert. If the damage is unable to be treated as certified by the Tree Expert the damaged tree shall be removed and replaced in accordance with this subchapter.
- f. No materials of any kind shall be stored and no construction machinery shall be placed within the drip line of any tree to be protected.
- g. When the tree protection area is adjacent to street rights-of-way and utility easements, the location said street rights-of-way and utility easements shall be identified during construction.

12-4.11 Tree Replacement Escrow Fund.

A Tree Escrow Fund shall be established to receive and disburse replacement tree contributions.

The primary purpose of the Tree Escrow Fund is to provide for the planting and maintenance of trees and shrubs on public property. The fund will also pay administrative costs to implement the provisions of this subchapter, including but not limited to fees for processing of permits, site inspections, consultants, and supervision of tree replacements. Administrative costs imposed in accordance with this chapter shall not exceed thirty (30%) percent of the fund, as determined on an annual basis.

Appropriations from the Tree Fund shall be authorized by the Township Committee in accordance with a municipal tree planting plan with consideration of recommendations made by the Environmental Commission. The Tree Escrow Fund shall maintained by the Chief Financial Officer.

12-4.12 Violations and penalties.

A. Any person, firm, partnership, corporation, association or other legal entity violating any of the provisions of this chapter shall, upon conviction of such violation be punished by a fine of up to two thousand (\$2,000.00) dollars for each offense, in the discretion of the Judge before whom conviction may be had. Each illegally removed tree shall be considered a separate violation. Each violation of any of the provisions of this chapter and each day the same is violated shall be defined and taken to be a separate and distinct offense. In addition, the court may order restitution (fine and/or appraised value, whichever is greater) and/or replacement of the tree illegally removed.

B. In addition to other remedies, the Tree Specialist or other authorized official may institute any appropriate legal action to prevent a continuing violation of the terms of this chapter.

BE IT FURTHER ORDAINED that Chapter 10, entitled "Fees and Permits" be supplemented with a new section number 18 entitled "Forest Management and Tree Removal" as follows:

10-18 FOREST MANAGEMENT AND TREE REMOVAL

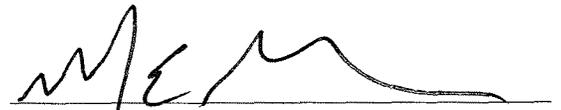
- a. Application Fees
 - 1. Twenty-Five (\$25.00) dollars for each tax lot.
- b. Inspection Fees
 - 1. Fifty (\$50.00) dollars for each tax lot.
- c. Tree Escrow Fund Contribution

Diameter of Removed Trees at Breast Height in Inches	Tree Escrow Fund Contribution (Value For Each Tree To be Removed and Not Replaced)
Greater than 10" up to 16"	\$ 480.00
Greater than 16" up to 23"	\$ 840.00
Greater than 23" up to 30"	\$1,680.00
Greater than 30"	\$2,100.00

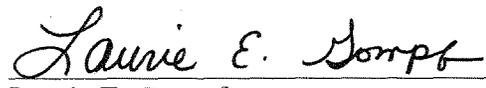
SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Date Introduced: June 11, 2012
Date Advertised: June 14, 2012
Date Adopted: July 9, 2012


Michael Markulec
Mayor

Attest:


Laurie E. Gompf
Municipal Clerk

CERTIFICATION
I HEREBY CERTIFY THE FOREGOING TO BE
A TRUE COPY OF AN Ordinance ADOPTED
BY THE HOPEWELL TOWNSHIP COMMITTEE
AT A MEETING HELD
July 9, 2012
DATE
Laurie E. Gompf
LAURIE E. GOMPf, MUNICIPAL CLERK

**TOWNSHIP OF HOPEWELL
MERCER COUNTY, NEW JERSEY**

ORDINANCE NO. 16-

**AN ORDINANCE TO AMEND AND SUPPLEMENT
CHAPTER 12 “ENVIRONMENTAL”
SECTION 4 “FOREST MANAGEMENT AND TREE REMOVAL”
OF THE REVISED GENERAL ORDINANCES OF
THE TOWNSHIP OF HOPEWELL**

**Explanation: Material Bracketed [] is deleted
Material Underlined _____ is added**

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hopewell, County of Mercer, State of New Jersey, that Chapter 12, “Environmental”, Section 4 “Forest Management and Tree Removal” be hereby amended as follows:

12-4.1 Intent and Purpose

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CALIPER: ANSI Z60 FOR NURSERY STOCK – Caliper is a type of diameter measurement used in the nursery industry. The height measurement shall be taken from ground level for field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare. Caliper measurement of the trunk shall be taken six (6”) inches above the top of root flare up to and including four-inch caliper size. If the caliper at six inches above the ground exceeds four inches (4”), the caliper should be measured at twelve (12”) inches above the top of root flare. Seldom are tree trunks perfectly round. The most accurate measurement will result from the use of a diameter tape. Caliper measurements taken with manual or electronic “slot” or “pincer” type caliper tools should be the average of the smallest and largest measurements.

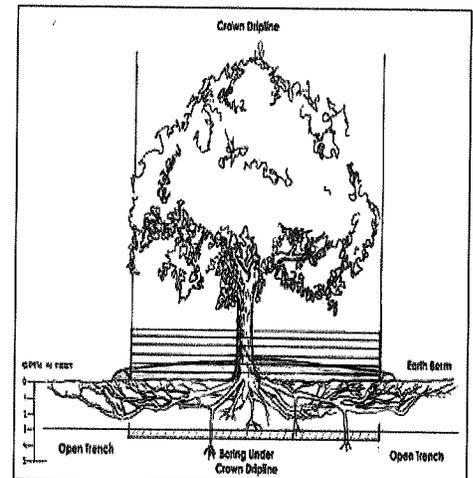
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EROSION – The detachment and movement of soil or rock fragments by water, ice, wind and gravity.

EXEMPT AREA – The lot area as provided in this chapter for which tree replacement shall not be required.



FOREST MANAGEMENT PLAN – A plan for the management of timbered or forested lands approved by the New Jersey Department of Environmental Protection, New Jersey Forest Service, or similar state or federal agency.

OPEN SPACE – Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use and enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open spaces, provided that such areas may be improved with only those buildings, structures, streets and off-street parking and other improvements that are designated to be incidental to the natural openness of the land.

SPECIMEN TREE - an individual tree that measures 60% or more of the circumference at breast height of a State Record Tree for that species.

STATE RECORD TREE – the largest tree of each species found in New Jersey as listed on the NJ State Big Tree Register, available from the NJDEP Division of Parks & Forestry, State Forest Service, PO Box 404, Trenton, NJ 08625

TREE – any State Record Tree, Specimen Tree or any other woody perennial plant greater than 20 feet in height.

TREE ESCROW FUND – A fund established by the governing body for the administration and promotion of tree and shrubbery resource sustainability projects and practices which may be consistent with the Community Stewardship Incentive Program as outlined within the New Jersey Shade Tree and Community Forestry Assistance Act P.L. 1996, chapter 135.

TREE PLANTING PLAN – A specific plan adopted by Hopewell Township for the location and placement of trees on public property.

TREE PRESERVATION AND REMOVAL PLAN – A specific plan that contains tree locations and other information required by this subchapter.

TREE REMOVAL PERMIT – A permit issued by the Administrative Officer.

TREE REPLACEMENT PLAN – A specific plan for replacement of removed trees in accordance with the provision of this subchapter.

TREE EXPERT – A Forester qualified by the State of New Jersey and having a minimum of 5 years' experience working in New Jersey, a Conservation Officer qualified by the State of New Jersey and having a minimum of 5 years' experience working in New Jersey or an arborist qualified by the State of New Jersey and having a minimum of 5 years' experience working in New Jersey.

§ 12-4.3 Applicability.

The terms and provisions of this chapter shall apply as follows:

- a. It shall be unlawful for any person to remove or cause to remove trees above and beyond a combined total of 150 inches of DBH within a 10 year period unless a tree removal permit has first been obtained. (e.g. combined total of 150 inches of DBH equals 15 trees of 10 inches DBH; 5 trees of 30 inches DBH; 10 trees of 15 DBH; etc.)
- b. It shall be unlawful for any person to remove or cause to remove trees which are state record trees or specimen trees unless a tree removal permit has first been obtained..
- c. Exceptions. The provisions of this chapter shall not apply to the following:
 1. Any property upon which no trees are located, as confirmed by a site visit of the Administrative Officer.
 2. Any tree less than ten (10") inches DBH.
 3. Any tree or trees removed or cut in accordance with a forest management plan, provided that such plan is filed with the Tax Assessor.
 4. Any tree or trees removed or cut in accordance with an approved conservation plan prepared by the Soil Conservation District, provided that such plan has been filed with the Tax Assessor.
 5. Any tree or trees planted and grown for commercial purposes on property used as a commercial nursery, tree farm, garden center, Christmas tree plantations or tree orchards.

6. Any tree located within or adjacent to an existing cleared area of an existing utility right-of-way/easement and required to be removed as part of a vegetation management plan for an existing utility as approved by the New Jersey Board of Public Utilities. All new utility construction, whether above or below ground and regardless of whether located within an existing or new right-of-way/easement, shall be subject to all requirements of this ordinance.
[Any tree growing in a utility right-of-way or clear areas as established by the FAA for runway safety.]
7. Clear area as established by the FAA for runway safety.
- [7]8. Weather emergencies such as hurricanes, fire, windstorm, ice storm, flood, freezing temperatures or other disaster.
- [8]9. Dead or diseased trees which are a hazard to persons or property.
- [9]10. Qualified Right-To-Farm activities.

12-4.4 Tree removal permits; general.

- a. Any person wishing to obtain a tree removal permit shall make application to the Administrative Officer by filing a written application which shall include a Tree Preservation and Removal Plan and payment of application fees as set forth in Chapter 10. No application shall be considered without the payment of the required fees.
- b. Removal of state record trees and specimen trees shall require approval of the Township Committee with consideration of recommendations by the Environmental Commission.
- c. Where an application as required by this chapter has been submitted, no permit shall be issued until an application for a Tree Removal Permit meeting all of the criteria of this subchapter has been reviewed and approved by the Administrative Officer.
- d. Where an application for a Tree Removal Permit is made in connection with the construction of a building or other improvement, no building permits shall be issued until the tree removal permit has been issued.
- e. All fees, including outstanding permit fees, inspection fees and tree escrow fund contributions, shall be paid prior to the issuance of the tree removal permit.
- f. The Administrative Officer shall approve or deny the tree removal permit within ten (10) business days after receipt of a completed application and payment of application

fees. An additional ten (10) business days shall be added to the review period if the Administrative Officer requests additional information as may reasonably be required to review a Tree Removal Permit within the original review period.

- g. A tree removal permit shall require the Administrative Officer to inspect the site from time to time to enforce the permit conditions. An inspection fee shall be paid as a condition of any tree removal permit in accordance with Chapter 10, Fees and Permits.
- g. The Administrative Officer shall notify the applicant in writing of the factual basis and criteria for any denial.
- h. The final decision of the Administrative Officer may be appealed to the Township Administrator by filing written notice within ten (10) days of the final decision. The Township Administrator shall issue its decision within sixty [(30)] (60) days after notice of appeal is filed. The Township Administrator may delegate its appeal responsibilities to the Environmental Commission. The Township Administrator's decision may be appealed to the Hopewell Township Committee who shall render a final decision within 45 days after a public hearing on the appeal.

12-4.5 Tree Preservation and Removal Plan.

Tree preservation and removal plans shall contain the following minimum information. The Administrative Officer reserves the right to request additional information as may reasonably be required to review a Tree Removal Permit:

- a. The name and address of the applicant.
- b. The name and address of the owner of the property from which the trees are to be removed.
- c. The street address and lot and block of the property.
- d. A certification from the lot owner that the applicant is specifically authorized to make the application for tree removal.
- e. The shape and dimensions of the lot or parcel, including the location of all existing and proposed easements.
- f. Tree removal plans shall consist of a tree location sketch containing at least the minimum amount of pertinent information to enable the determination of compliance with the regulations in this subchapter.
- g. Tree preservation limits.

- h. Limits of all tree protection with appropriate construction details.
- h. All state record and specimen trees to be removed. The applicant shall provide documentation demonstrating that all reasonable efforts have been made to preserve state record and specimen trees, including, but not limited to, if feasible, relocation of existing and proposed infrastructure, roadways and buildings.
- i. Tree replacement plan in accordance with this chapter. A tree replacement plan may be integrated with landscape plans submitted for other separate land use approvals.
- j. A North arrow.
- k. The location of existing and proposed infrastructure, roadways and buildings, if any.
- l. Soils disturbed during any tree removal shall be stabilized in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey.

12-4.6 Criteria for issuance of permits.

The tree removal permit shall be approved by the Administrative Officer following his determination that the following criteria have been met:

- a. A Tree Preservation and Removal Plan has been provided meeting all of the criteria in Section 12-4.5;
- b. A Tree Replacement Plan has been provided meeting all of the criteria in Section 12-4.9;
- c. The Administrative Officer, after consultation with the municipal engineer, has determined that the proposed tree removal will NOT:
 1. Result in additional stormwater runoff which will impact adjacent properties;
 2. Create new erosion or will not require a soil erosion and sediment control plan approval by the Mercer County Soil Conservation District; or
 3. Impair growth or impair development of remaining trees on the applicant's property or upon adjacent properties;
 4. Create unusual dust or other nuisances during tree removal;

5. Cause damage to on or off site utilities including but not limited to wastewater discharge and treatment systems, water supply and distribution systems;
6. Result in dangerous or hazardous conditions.

12-4.7 Term of permit.

Approved tree removal permits shall be valid for a period not-to-exceed 12 calendar months from the date of issuance by the Administrative Officer and shall be conditioned upon payment of all permit and inspection fees. An extension may be granted by the Township Administrator for a period not to exceed 3 months for good cause shown. All work not completed within the term of permit or term of extension shall be the subject a new application and the payment of new fees.

12-4.8 Display of Permit and Right of Entry.

- a. The tree removal permit shall be prominently displayed on the site continuously while trees are being removed or replaced or work done as authorized by the tree removal permit and for ten (10) days thereafter.
- b. All persons cutting or removing trees, if other than the applicant, shall carry with him/her authorization from the owner and applicant authorizing such person to cut or remove trees.
- c. In the event that trees are being cut or removed in accordance with a forest management plan or a soil conservation plan, a copy of said plans shall be in the possession of the person cutting or removing such trees, if not the owner of the lot.
- d. As a condition for the issuance of the permit, the applicant shall agree in writing to the entry onto his/her premises by the Administrative Officer or his designee as necessary to inspect the site in review of the application for a tree removal permit and to inspect the permitted tree removal work to effectuate the provisions of this chapter. Failure to allow such entry shall constitute a violation of the permit and this chapter.

12-4.9 Tree Replacement Plan.

Unless deemed an exception by 12-4.3.c, trees to be removed shall be replaced in accordance with a tree replacement plan which shall be prepared in accordance with the following:

- a. For each tree ten (10") inches in DBH or greater that is removed, the applicant shall prepare a replanting plan for other areas on the same tax lot which is subject to the tree removal.
- b. Tree replacement on the subject tax lot to compensate for the tree removals shall be as follows:
 1. Number and size of replacement trees to be used for each tree ten (10") inches in DBH or larger that is to be removed beyond a combined total of 150 inches (150") DBH and replacement shall be as follows:

Diameter of Removed Trees at Breast Height in Inches	Number of Replacement Trees for Each Tree Removed	[Size Caliper of Replacement Trees
Greater than 10" up to 16"	2	2 – 2½"
Greater than 16" up to 23"	2	3"
Greater than 23" up to 30"	4	3½ – 4"
Greater than 30"	5	3½ – 4"

2. Tree replacement species shall be indigenous to the area and site.
 3. Trees planted within other existing natural stands of trees on-site may be spaced five (5') feet to twenty (20') feet on center.
- c. Unless otherwise set forth in this subchapter, Tree replacement shall follow the guidelines set forth in the "New Jersey No Net Loss Reforestation Act", P.L. 1993, c.106 (c:13:1L-14.2).
 - d. All proposed replacement tree species shall be selected from Trees For New Jersey Streets as published by the New Jersey Shade Tree Federation; Street Tree Factsheets, a publication of the Municipal Tree Restoration Program; and the adopted Hopewell Township Community Forestry Plan.
 - e. Tree replacement materials shall be provided in accordance with the standards set forth in ANSI Z60.1, American Standard for Nursery Stock.
 - f. Removal of state record trees or specimen trees requires approval of the Hopewell Township Committee. Replacement requirements for any state record tree or specimen tree approved to be removed shall be established by the governing body.

- g. Credits for tree replacement shall be given on a one-to-one basis when one of the following conditions are proposed on the Tree Replacement Plan:
1. Preservation of stands of ten (10) or more trees with a DBH of six (6") inches or greater within the limit of the disturbance line. Credit will only be given for native trees located within the stand.
 2. Preservation of one (1) acre or more of on-site areas having stands of trees with a DBH of six (6") inches or greater which are to be left in natural condition. Preservation shall be provided by a deed of conservation easement from the lot owner to Hopewell Township which deed shall be filed with the Mercer County Clerk's Office by the applicant as a condition of the tree removal permit after approval by the Township Committee. This credit excludes all previous dedicated easements.
- h. Soils disturbed during tree replacement shall be stabilized in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey.
- i. All replacement trees shall be maintained in healthy condition for no less than two years from the date of planting.
- j. When the site in question cannot physically accommodate the total replacement amount of trees required by the this subchapter, as certified by the applicant and verified by the Administrative Officer, tree replacement may be accomplished by a contribution of the monetary value of non-replaced trees to the Township Tree Escrow Fund in an amount as set forth in Chapter 10, Fees and Permits. Payment shall be a condition of the tree removal permit.

12-4.10 Tree Protection During Construction.

- a. Prior to any tree removal protection shall be installed. Tree protection shall remain until tree removal is complete.
- b. Tree Protection shall be provided, as a minimum, in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey.
- c. There shall be no wires or attachments to trees being protected.
- d. Protection is required for any soil disturbance within the drip line of any tree not being removed.

- e. Any trees damaged during construction must be inspected and treated if required in accordance with written guidance from a Tree Expert. If the damage is unable to be treated as certified by the Tree Expert the damaged tree shall be removed and replaced in accordance with this subchapter.
- f. No materials of any kind shall be stored and no construction machinery shall be placed within the drip line of any tree to be protected.
- g. When the tree protection area is adjacent to street rights-of-way and utility easements, the location said street rights-of-way and utility easements shall be identified during construction.

12-4.11 Tree Replacement Escrow Fund.

A Tree Escrow Fund shall be established to receive and disburse replacement tree contributions. The primary purpose of the Tree Escrow Fund is to provide for the planting and maintenance of trees and shrubs on public property. The fund will also pay administrative costs to implement the provisions of this subchapter, including but not limited to fees for processing of permits, site inspections, consultants, and supervision of tree replacements. Administrative costs imposed in accordance with this chapter shall not exceed thirty (30%) percent of the fund, as determined on an annual basis. Appropriations from the Tree Fund shall be authorized by the Township Committee in accordance with a municipal tree planting plan with consideration of recommendations made by the Environmental Commission. The Tree Escrow Fund shall maintained by the Chief Financial Officer.

12-4.12 Guarantees

- a. Performance Guarantee – When a tree replacement plan is proposed as part of residential construction, compliance with the tree replacement plan shall be required prior to release of the final certificate of occupancy. When a tree replacement plan is part of non-residential construction or new utility construction a performance bond guaranteeing compliance with the tree replacement plan be provided to the township. The performance guarantee shall in a form and in an amount prescribed by the Municipal Land Use Law.
- b. Maintenance Guarantee - When a tree replacement plan is proposed as part of residential construction the two (2) year maintenance obligation shall be required as a performance condition of the final certificate of occupancy. When a tree replacement plan is

part of non-residential construction or new utility construction a 2 year maintenance bond in the amount of 15% of the performance bond shall be provided to the township. The maintenance guarantee shall be shall in a form and in an amount prescribed by the Municipal Land Use Law.

[12-4.12]12-4.13 Violations and penalties.

A. Any person, firm, partnership, corporation, association or other legal entity violating any of the provisions of this chapter shall, upon conviction of such violation be punished by a fine of up to two thousand (\$2,000.00) dollars for each [offense] violation, in the discretion of the Judge before whom conviction may be had. Each illegally removed tree shall be considered a separate violation. Each violation of any of the provisions of this chapter and each day the same is violated shall be defined and taken to be a separate and distinct offense. In addition, the court may order restitution (fine and/or appraised value, whichever is greater) and/or replacement of the tree illegally removed.

B. In addition to other remedies, the Tree Specialist or other authorized official may institute any appropriate legal action to prevent a continuing violation of the terms of this chapter.

BE IT FURTHER ORDAINED that this ordinance shall take effect upon final adoption and publication in accordance with law.

Date Introduced:
Date Advertised:
Date Adopted:

Kevin D. Kuchinski
Mayor

Attest:

Laurie E. Gompf
Municipal Clerk

Date Introduced:
Date Advertised:
Date Adopted:

Kevin D. Kuchinski
Mayor

Attest:

Laurie E. Gompf
Municipal Clerk

EXHIBIT B

Hopewell Township Steep Slope Protection Ordinances

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17-116 STEEP SLOPES.

- a. The following standards shall apply to all new development on lots (existing or proposed) with slopes in excess of 15 percent:
 1. In areas with slopes that exceed 25 percent, no development, regrading or removal of vegetation shall be permitted.
 2. In areas with slopes of 15 percent to 25 percent, no more than 15 percent of such areas shall be developed, regraded, or cleared of vegetation.
 3. For the purposes of subdivision each residential lot created must include a minimum of two contiguous acres of land with less than 15 percent slope on which the dwelling, septic system and accessory structures shall be located.
 4. A steep slope analysis showing slope classes 0-14.99 percent, 15-25 percent and greater than 25 percent shall be provided with all site development or subdivision plans. The slope classification shall be calculated utilizing a two-foot contour interval.
 5. A grading plan which indicates all site grading necessary for the development or subdivision of the lot shall be submitted for review and approval by the township engineer. Such plan shall also provide for the proper protection and stabilization of all disturbed areas consistent with the design techniques established by the Soil Erosion and Sediment Control Standards, adopted as amended by the New Jersey State Soil Conservation Committee. The approval of this grading plan by the township engineer shall be required prior to the issuance of a building permit.

(Ord. #07-1411, § 1)

EXHIBIT C

Hopewell Township Stream Corridor Protection Ordinance

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12-3 STREAM CORRIDOR PROTECTION.

12-3.1 Definitions.

Definitions for this section are set forth in Chapter XVII, Article X, Section 17-181 and are incorporated herein by reference. (Ord. #04-1328, § 2)

12-3.2 General Provisions.

a. *Purposes.* The purposes of the stream corridor protection provisions are to:

1. Assure that adequate water supply is available and maintain the long-term natural equilibrium of the ground and surface waters in Hopewell Township and in neighboring communities.
2. Improve and maintain the quality of the water supply and sustain diverse populations of aquatic flora and fauna.
3. Improve the currently impaired streams in the township.
4. Protect significant ecological components of stream corridors such as floodplains, woodlands, steep slopes and habitats for flora and fauna.
5. Minimize flood related damage to properties in the township and in neighboring communities.
6. Complement Federal, State, regional, county and municipal watershed, flood hazard and stream corridor protection and management programs.

b. *Applicability.* The stream corridor provisions apply to any land containing any portion of a stream corridor as defined in Chapter XVII, Article X, Section 17-181. In the event that the requirements of Section 17-115 are not applicable, then the provisions of this chapter shall be applicable.

c. *Activities Permitted in Stream Corridors.* Stream corridors shall remain in their natural state and shall not be developed or disturbed, except for the following activities:

1. Any activity subject to regulation by the New Jersey Department of Environmental Protection under the New Jersey Freshwater Wetlands Protection Act.
 2. Reconstruction of a valid nonconforming structure that predates the adoption of this section* in the event of partial destruction by fire, natural hazards,
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Hopewell Township Stream Corridor Protection Ordinance

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or other acts of God, provided the reconstruction does not have a greater footprint or total area than that of the damaged structure and no change in land use occurs.

3. Any use or related maintenance thereof that existed prior to the date of adoption of this section.*

4. Any agricultural use or structure existing prior to the date of adoption of this section,* but no new agricultural use or structure, except for fences, shall be permitted in a stream corridor, subject to approval by the New Jersey Department of Environmental Protection.

5. Existing stormwater management facilities located in stream corridors are permitted to remain in a stream corridor and may be expanded or modified in connection with an application for development in accordance with the requirements of the approving authority.

6. Surveying or activities for the purpose of establishing or re-establishing a boundary line or points, which use only hand-held equipment and do not involve the use of motorized vehicles to either clear vegetation or extract soil borings. The clearing of vegetation along the survey line or around the survey points shall not exceed three feet in width or diameter respectively and shall not be kept clear or maintained once the survey or delineation is completed.

d. *Prohibited Activities.* All activities not specifically permitted by the provisions of paragraph c. above are prohibited. Prohibited activities include, but are not limited to, the following:

1. Alteration of watercourses and stream corridors by development or disturbance of any type.

2. Clearing or cutting of any vegetation, except for removal of dead vegetation, pruning for reasons of safety and harvesting of agricultural products.

3. Disposal of brush, debris or any solid or liquid waste.

4. Installation of fences and sheds.
(Ord. #04-1328, § 2)

12-3.3 Administration.

a. *Stream Corridor Permit.* A stream corridor permit shall be required before any prohibited activity is undertaken within any stream corridor as defined in Chapter XVII, Article X, Section 17-181, provided that if the approving authority has considered an application for development involving a stream corridor, a stream corridor permit may not be sought for five years after the date of completion of the development.

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Hopewell Township Stream Corridor Protection Ordinance

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b. *Duties and Responsibilities of the Administrative Officer.* The administrative officer shall be responsible for the issuance of stream corridor permits, in accordance with the procedures and standards set forth in subsections 12-3.4 and 12-3.5 below. The administrative officer shall consult with the township engineer with regard to engineering and technical issues.

c. *Application for Stream Corridor Permit.* Application for a stream corridor permit to allow prohibited activities to occur within stream corridors shall be made in accordance with the requirements of subsection 12-3.4 and subject to the considerations set forth in subsection 12-3.5.

d. *Appeal Procedure.* Appeals from determinations made by the administrative officer relative to the issuance of stream corridor permits may be made to the zoning board of adjustment in accordance with the requirements of subsection 12-3.7.

(Ord. #04-1328, § 2)

12-3.4 Application for Stream Corridor Permit/Procedures.

a. *Procedure.* The following procedures shall govern the issuance of stream corridor permits:

1. The applicant shall file an application with the administrative officer to allow prohibited activities to occur within a stream corridor. Such application shall be on a form prescribed by the township and shall include a concept sketch drawn to scale showing the proposed development or disturbance. Based on the nature of the development or disturbance proposed, and in the reasonable discretion of the administrative officer and the township engineer, the applicant may be required to submit, in addition to the application and the concept sketch, ten copies of a true and accurate plot plan, prepared by a qualified and licensed New Jersey professional, drawn to a scale of not less than one inch equals 50 feet. If required by the administrative officer or the township engineer in order to make an informed decision, the plot plan shall exhibit the following:

(a) The exact size, shape, location and elevation of existing and proposed structures and of any fill, regrading or areas of disturbance;

(b) Contour lines at intervals of not more than two feet;

(c) The stream corridor for a delineated stream as defined in Chapter XVII, Article X, Section 17-181;

(d) The location of all improvements and disturbance proposed in the stream corridor; and

(e) The extent of any proposed watercourse alterations.

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Hopewell Township Stream Corridor Protection Ordinance

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2. The administrative officer shall review the submission and shall advise the applicant in writing within 30 days of submission if the application is incomplete and shall specify the items that are lacking. If the administrative officer does not notify the applicant that the application is incomplete, then the application shall be deemed to be complete.

3. Upon determining the application to be complete, the administrative officer shall refer the stream corridor permit application and all accompanying documents relative thereto to the environmental commission and the township engineer for review and comment. If necessary, the environmental commission shall appoint a subcommittee, consisting of less than an effective majority, in order to facilitate the prompt review of permit applications without requiring the application to await the next regularly scheduled meeting of the full commission. The commission or the subcommittee, jointly with the township engineer, shall review the application, and after giving the applicant an opportunity to be heard with respect thereto, shall provide their joint findings and recommendations in writing to the administrative officer utilizing the considerations for review set forth in subsection 12-3.5 below. The commission shall render its written report within 30 days of referral. Failure to do so without written consent to an extension of time by the applicant shall be deemed to constitute a report in favor of issuance of the permit and without recommendations or conditions.

4. After review of the consideration set forth in subsection 12-3.5 below and the joint recommendations made by the environmental commission or its subcommittee and the township engineer, the administrative officer may approve the stream corridor permit with or without conditions or may deny the stream corridor permit as deemed necessary to further the purpose of this section. The administrative officer shall make the final determination as to approval with or without conditions or denial of the requested stream corridor permit. Such final determination shall be forwarded in writing to the applicant. The administrative officer shall specify the reasons for the action taken.

5. If the stream corridor permit is approved, the administrative officer shall issue a permit to the applicant, but such permit shall not relieve the applicant from complying with other applicable laws and ordinances.

6. If the administrative officer fails to approve or deny the permit within 90 days after the date of submission of a complete application, or within such further time agreed to by the applicant in writing, the application shall be deemed to be approved.

(Ord. #04-1328, § 2)

EXHIBIT C

Hopewell Township Stream Corridor Protection Ordinance

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12-3.5 Considerations for Review of Stream Corridor Permits.

a. The administrative officer shall be guided by the following considerations in reviewing applications for stream corridor permits:

1. The standards used to grant a design waiver set forth at N.J.S.A. 40:55D-51 a. and b., specifically whether the permit request is reasonable and within the general purpose and intent of the provisions of the section and whether the literal enforcement of the section is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

2. The extent to which all necessary permits have been obtained from applicable Federal, State or local government agencies having jurisdiction.

3. The extent to which applicant will mitigate any encroachments into the stream corridor and rehabilitate any and all degraded or disturbed areas within the stream corridor and maintain the integrity of the surrounding habitat.

4. The extent to which the proposed activity, development or disturbance will measurably increase the danger of flood damage or negatively impact the ecology of the stream corridor.

b. In the event that the administrative officer grants a stream corridor permit, the stream corridor permit shall only allow the minimum encroachment necessary to afford relief.

c. *Interpretation of Boundaries.* The administrative officer, with the advice of the township engineer and subcommittee of the environmental commission, shall make interpretations, where needed, as to the exact location of the boundaries of the stream corridors, for example, where there appears to be a conflict between the mapped or proposed mapped boundaries and actual field conditions.

(Ord. #04-1328, § 2)

12-3.6 Stream Corridor Averaging.

An applicant may undertake stream corridor averaging, as defined in Chapter XVII, Article X, subsection 17-181. Stream corridor averaging shall only be permitted along the perimeter of retention basins. Stream corridor width may be reduced to a minimum of 25 feet for buildings or other structures or zero feet for dams, pedestrian walkways, walls, and any associated landscaped areas along the perimeter of a retention basin, provided, however, that the total length of stream corridor reduction is not greater than 40 percent of the length of the perimeter of the retention basin. For every stream corridor reduced in area along a retention basin, there shall be an equivalent increase in stream corridor area provided elsewhere along the perimeter of the retention basin. (Ord. #04-1328, § 2)

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Hopewell Township Stream Corridor Protection Ordinance

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12-3.7 Appeal Procedure.

a. The zoning board of adjustment shall be designated as the agency to act as the appeal authority to hear and decide all appeals from the decision of the administrative officer.

b. Any applicant wishing to appeal the decision of the administrative officer relative to the issuance of a stream corridor permit, shall file a notice of appeal with the administrative officer within 20 days of receipt of the administrative officer's decision, specifying the grounds of such appeal. The administrative officer shall immediately transmit to the zoning board of adjustment all the documents constituting the record upon which the action appealed from was taken.

c. The zoning board of adjustment shall follow the requirements set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-70a et seq., relating to the appeal of the administrative officer's determination. However, the role of the zoning board of adjustment shall not be derived from the Municipal Land Use Law but shall be a function assigned to the zoning board of adjustment by this section as the agency to perform this appeal function.

d. The zoning board of adjustment shall render a decision no later than 120 days from the date of the notice of appeal. Failure of the board to render a decision within such 120 day period or within such further time as may be consented to by the applicant in writing shall constitute a decision favorable to the applicant.

e. Any person aggrieved by the decision of the administrative officer may appeal such decision directly to the Superior Court of New Jersey as provided by the laws of the State of New Jersey or may appeal the decision of the zoning board of adjustment, as the case may be.

(Ord. #04-1328, § 2)