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**STEEP SLOPE
CONSERVATION DISTRICT
MODEL ORDINANCE**

For the Whippany River Watershed Action Committee

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STEEP SLOPE CONSERVATION DISTRICT MODEL ORDINANCE

1. PURPOSE

The purpose of this Ordinance in general is to regulate the intensity of land development and use in areas with steep slopes in order generally to minimize the negative impacts of land development activity and to maintain the natural topography and drainage patterns of the land. The purpose of this Ordinance specifically is:

- A. To promote the public health, safety, and welfare through the protection of steep slope areas and by encouraging the retention of open space located and designed so as to constitute a harmonious and appropriate part of ____.
- B. To permit only those uses of steep slope areas which are compatible with conservation of natural conditions and which maintain the natural terrain, stable soil conditions, and undisturbed drainage patterns by minimizing disturbances to vegetated ground covers and restricting grading of steep slope areas.
- C. To limit erosion, loss of soil, and resultant destruction of the land, siltation of streams and related degradation of surface water, and damage to property owners.
- D. To protect low lying areas from flooding by limiting the increase in stormwater runoff caused by grading of sloped areas, changes in vegetated cover, and the erection of structures and other impervious areas.
- E. To maintain the ecological integrity and habitat value of steeply sloped areas, including indigenous vegetation and wildlife which could be adversely affected by otherwise permitted disturbances.
- F. To allow the continued replenishment of groundwater resources.

2. APPLICABILITY

This Ordinance shall be applicable to any major subdivision or site plan application as defined in the Municipal Land Use Law or any project as defined by the Soil Erosion and Sediment Control Act located within _____. The provisions of this Ordinance shall also apply to any land disturbance. Land disturbance for the purpose of this Ordinance shall mean any activity involving the clearing, cutting, excavation, grading, filling, storing, transporting of land or any other activity which causes land to be exposed to the danger of erosion.

No area within the Steep Slope Conservation District shall hereafter be used without full compliance with the terms of this Ordinance and other applicable regulations.

3. STEEP SLOPE CONSERVATION DISTRICT

- A. Definition of the Steep Slope Conservation District

The Steep Slope Conservation District consists of two specially designated areas defined below. Steep Slope Conservation District calculations are to be based on a site survey by a registered surveyor, on topographic information plotted from a verified aerial survey, or on analysis of US Geological Survey topographic maps where such the calculated slope category (i.e., greater than 25 percent or greater than 15 percent and less than or equal to 25 percent) exists for an area which spans five contiguous 10-foot contour intervals.

1. Prohibitive Slope: those slopes greater than 25 percent
2. Precautionary Slope: those slopes greater than 15 percent and less than or equal to 25 percent.

B. Steep Slope Conservation District Use Restrictions

1. General: The Steep Slope Conservation District shall be deemed to be an overlay on any zoning district now or hereinafter enacted by _____.
 - a. The Steep Slope Conservation District shall have no effect on the permitted uses in the underlying zoning district, except where said uses are intended to be located within the boundaries of the Steep Slope Conservation District and said uses are in conflict with the permitted uses set forth in this Ordinance. These regulations apply only to those portions of the tract or lot which fall within the Steep Slope Conservation District.
 - b. The requirements of the Steep Slope Conservation District, as defined, shall supersede the requirements of the underlying zoning district.
2. Prohibitive Slope: On Prohibitive Slopes, no development, regrading or stripping of vegetation shall be permitted unless the disturbance is for roadway crossings or utility construction and unless it can be demonstrated that the roadway or utility improvements are necessary in the sloped area. The sloped area to be developed, regraded or stripped of vegetation shall be drawn on the development plans. Uses permitted as of right, provided that they are consistent with requirements of the underlying zoning district and other applicable requirements, include:
 - a. Parks and outdoor recreational uses, consistent with the goals of watershed protection. Site disturbance and impervious surfaces are to be minimized and/or avoided.
 - b. Logging and woodcutting, where such activity is limited to highly selective removal of trees. Maximum precautions shall be taken to avoid destruction of or injury to understory brush and trees.
 - c. Grading for the minimum portion of a driveway necessary to access the proposed building or land use, when it has been demonstrated that no other routing which avoids steep slopes is feasible.
 - d. Yard area of any permitted building, so long as the building itself is not within the Prohibitive Slope area.

3. Precautionary Slope: Site design and grading on Precautionary Slopes shall provide the minimum disruption of view corridors and scenic vistas and shall preserve significant natural topographic features to the greatest extent possible. Uses permitted as of right, provided that they are consistent with requirements of the underlying zoning district and other applicable requirements, include:
 - a. Parks and outdoor recreational uses, consistent with the goals of watershed protection. Site disturbance and impervious surfaces are to be minimized and/or avoided.
 - b. Tree farming, forestry, and other agricultural uses when conducted in conformance with conservation practices, including minimum tillage methods, as approved by the Morris County Conservation District.
 - c. Access roads for the passage of emergency vehicles.
 - d. Accessory uses excepting swimming pools necessary for the operation and maintenance of the above uses.
 - f. Yard area of any permitted building or land use.

4. ADMINISTRATION OF THE STEEP SLOPE CONSERVATION DISTRICT

- A. For all earth moving activities within the Steep Slope Conservation District, the Applicant shall submit a site plan prepared by a New Jersey-licensed engineer which includes at a minimum the following:
 - Slopes in classes of 0 through 15%, greater than 15 through 25%, and greater than 25% based at minimum on ten foot (10') contour intervals
 - Location of all waterbodies including but not limited to streams, lakes and wetlands
 - Existing natural and topographic features
 - Location of all proposed and existing buildings and streets
 - Location of all existing vegetation including meadow, forest, and scrub lands broken down by those areas of vegetation which will be removed as well as vegetation to be preserved; specifications for revegetation shall also be included
 - Specific methods which will be utilized to control soil erosion and sedimentation, soil loss, and excessive stormwater runoff both during and after construction
 - A statement and description of the stability of the soils on-site and the appropriateness of the construction method proposed
 - Hydrology, drainage and flooding analysis to include a statement on the affect of the proposed development upon water bodies or wetlands in the vicinity of the project
 - A statement describing the underlying geology attesting to the stability of the site
 - Calculations of the area of proposed disturbance of each slope class on each proposed lot as well as within any proposed road right-of-way
 - Grading plan for the construction site and all access routes
- B. The site plan submitted shall be reviewed by the municipal engineer. The

municipal engineer shall accept or reject the plan as submitted or may require that specific conditions be complied with in order for the plan to meet approval. In evaluating the site plan for developments where development encroaches up the Steep Slope Conservation District, the following criteria shall apply:

- Disturbance to especially sensitive features, including the most steeply sloping portions of the site, shall be minimized
- Disturbance to areas shall be minimized, where the length or area of steep slopes on the site and extending 200 feet into adjacent lands is extensive.
- Disturbance shall not cause runoff and/or related problems off of the site and onto adjacent properties.
- Disturbance shall be undertaken in such a way so as to minimize adverse effects on visual qualities of the site, to the maximum extent feasible, including hilltops, ridgelines, rock outcroppings, and the overall natural terrain.
- Disturbance shall be undertaken to minimize disturbance to and removal of natural vegetation at the site; vegetation removal shall be evaluated with particular regard to impacts on slope stability, transpiration and recharge of stormwater, existing drainage patterns, and the overall characteristics of the landscape. Special mitigation such as use of retaining walls to preserve the existing vegetation may be required.
- Innovative building approaches which adapt themselves to sloping terrain should be required, if disturbance to steeply sloping areas is to be permitted.
- Road construction, if it is to be permitted on steeply sloping terrain, should be required to follow the natural topography to the extent feasible.

- C. No building permit shall be issued and no grading or site clearing shall occur until a site plan including all of the above items has been reviewed and approved by the municipality.

5. SPECIAL STEEP SLOPE CONSERVATION DISTRICT REQUIREMENTS

All development proposals which propose development in the Steep Slope Conservation District shall conform to the following:

- Those lands to be undisturbed and preserved as open space due to the presence of steep slopes may be offered for dedication to the municipality, a private land trust or a non-profit agency in order to preserve and maintain the area in its natural state.
- The use of conservation easements on steep slopes shall be encouraged to preserve the area in perpetuity.

6. EXEMPTIONS

Land development plans which were approved prior to the adoption date of this Ordinance shall be exempt from these requirements.

7. COMPATIBILITY WITH OTHER PERMIT AND ORDINANCE REQUIREMENTS

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

8. SEVERABILITY

If the provisions of any part of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of this Ordinance.