

City of Lambertville
Ordinance 16-2011
An Ordinance to Amend the Steep Slopes Ordinance of the City of Lambertville

WHEREAS, the Planning Board of the City of Lambertville reviewed the proposed changes to the Steep Slope Ordinance at the June 1, 2011 regularly scheduled session and unanimously voted in favor of approving the amended ordinance, and

WHEREAS, Mayor and Council of the City of Lambertville reviewed the proposed changes to the Steep Slope Ordinance at their June 20, 2011 regularly scheduled session, and

WHEREAS, neighboring municipalities and Hunterdon County Planning Board were noticed by the Clerk's Office via regular mail and certified mail on _____, and

WHEREAS, the notice of pending ordinance was published in the _____ issue of the _____, and

WHEREAS, it was the subject of a public hearing and final approval at the July 18, 2011 regularly scheduled session of Mayor and Council where it was finally adopted, and

WHEREAS, the notice of adoption was published in the _____ issue of the _____, and

NOW THEREFORE BE IT RESOLVED by Mayor and Council of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that Ordinance Number 16-2011 to amend the Steep Slope Ordinance of the Zoning Ordinances of the City of Lambertville is hereby adopted after adequate notice being provided to Hunterdon County Planning Board, Adjoining Municipalities, and to members of the public.

FIRST READING AND INTRODUCTION: JUNE 20, 2011

SECOND READING AND PUBLIC HEARING: JULY 18, 2011

ADOPTED:

NOTE: Additions indicated in boldface **thus**; deletion indication in italics and brackets [*thus*]

ARTICLE V ADDITIONAL REQUIREMENTS AND PERFORMANCE STANDARDS

§ 500 Deviations from Article V Standards and Guidelines.

Deviations from the performance and design standards of Article V shall be considered as exceptions within the meaning of N.J.S.A. 40:55D-51; provided however, that any deviation [*from Article V that is within the enumerated categories of §400.11*] **from Section 519 and the subsections thereto related to steep slopes** shall be considered as variances pursuant to N.J.S.A. 40:55D-60(a) and/or N.J.S.A. 40:55D-70. [Ord. 2001-07]

§ 519 Steep Slopes

519.1 PURPOSE. A significant percentage of the undeveloped land within the City of Lambertville and particularly that acreage which is east of NJ Route 29 is characterized by slopes in excess 15% (hereinafter referred to as steep slopes). The Environmental Resources Inventory, which was adopted as part of the Lambertville Master Plan on January 15, 1992 **and updated on May 2008** includes a description of the environmental impacts associated with development on steep slopes and includes a map, entitled "Slopes", which depicts the areas of steep slope and their relative gradients.

Lands which slope greater than 15% are widely recognized to warrant special development standards in order to protect properties below the steep slopes from **nuisances, such as stormwater flooding and slope erosion with sediment and debris deposition**, to minimize the cost of public services and facilities related to new development, to preserve significant woodlands and wildlife habitat and to preserve natural visual amenities such as ridgelines and scenic vistas. The special requirements of steep slopes have been recognized by the NJ State Planning Commission, the NJ Department of Environmental Protection [*and Energy (Coastal Resources Regulations)*], the NJ Council on Affordable Housing, the NJ Department of Community Affairs (Model Subdivision and Site Plan Ordinance), the Regional Plan Association and many municipalities through local land use regulations.

It is the purpose of this section to protect the health, safety and welfare of people and property within the City of Lambertville from improper construction and site development on steep slopes and hillside areas within the City. More particularly, but without limitation, this [§] **section** is intended to establish performance standards and design guidelines for development to address the peculiar hazards which exist in hillside areas by reason of [to] erosion, siltation, flooding, soil slippage, surface water runoff, pollution of potable water supplies from nonpoint sources, elimination of mature woodlands and wildlife habitat and destruction of unique and predominant views.

It is a further purpose of this section to encourage the appropriate planning design and development of sites within hillside areas to permit reasonable utility of the land for its zoned use while achieving the legitimate public purposes of preservation of significant natural resources, protection of private property and efficiency of governmental operations.

519.2 APPLICABILITY. *[The provisions of this ordinance shall apply to all lots in any zone to all applications for development and improvement including subdivisions, site plans, building permits, zoning permits, conditional uses, and variances and to all site disturbance unless specifically exempted under other sections of this ordinance. For purposes of this section site disturbance shall constitute any removal of vegetative cover, clearing, grading, excavating, filling or other disruption of the natural terrain and/or vegetation on steep slopes except for activities which qualify as normal property maintenance which shall be exempt from the requirements of this section.]*

For purposes of this section normal property maintenance means activities which are typically associated with routine maintenance of the open lot areas surrounding existing houses. These activities include lawn mowing, pruning of trees and shrubs and removal of dead or diseased plant material, planting and maintenance of foundation landscaping, cultivation of existing gardens and the development of new gardens not exceeding 150 square feet in area.]

This ordinance shall be applicable to any application for development or land disturbance to steep slopes with an area of greater than 150 square feet within the City of Lambertville.

519.3 DEFINITIONS

“Disturbance” means the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

“Impervious surface” means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

“Redevelopment” means the construction of structures or improvements on areas which previously contained structures or other improvements.

“Steep Slopes” means any slope equal to or greater than 15 percent as measured over any minimum run of 10 feet. Steep slopes are determined based on contour intervals of two feet or less.

519.4 DESIGNATION OF AREA

The percent of slope (rise in feet per horizontal distance) shall be established by measurement of distance perpendicular to the contour of the slope. The percent of slope shall be calculated for each two-foot contour interval. For example, any location on the site where there is a one-foot rise over a 10-foot horizontal run constitutes a 10 percent slope; a 1.5 foot rise over a 10-foot horizontal run constitutes a 15 percent slope; a two foot rise over a 10-foot horizontal run constitutes a 20 percent slope (see Steep Slopes Illustration diagram at 519.12). Applicants shall submit a steep slope analysis to the board having jurisdiction showing slope classes: 1) 0 – 15%; 2) 15.1 – 20%; 3) 20.1 – 30%; and 4) greater than 30%, all of which shall be delineated on a plat conforming to the requirements of sections 513, 516.5, and 516.6. The analysis shall be based upon a topographic survey, prepared by a licensed NJ surveyor (PLS) or engineer (P.E.), which shows elevations at 2 foot intervals with slopes measured between adjacent contour lines.

519.5 STEEP SLOPE LIMITS

For steep slopes any disturbance shall be prohibited except as provided below:

1. Redevelopment within the limits of existing impervious surfaces; and
2. Disturbance on areas of steep slopes shall be limited according to the following schedule:

<u>Extent of Slope</u>	<u>Maximum Extent of Disturbance of Sloped Area</u>
0 – 15%	No limit, but adhere to design guidelines
15.1 – 20%	30%
20.1 – 30%	10%
30.1 % +	No disturbance permitted

The applicant shall demonstrate through site plans to the appropriate board having jurisdiction over the development application that the proposed development and topography of the new disturbance is not located in areas with a thirty percent (30%) or greater slope and does not exceed the limit of development in subsection 519.5 above.

519.6 APPLICATIONS WHICH REQUIRE PLANNING BOARD AND/OR ZONING BOARD APPROVAL.

A. Applications for development of any lot containing slopes in excess of 15% shall be accompanied by a steep slope analysis showing slope classes of 0% to 15%, 15.1% to 20%, 20.1% to 30%, and greater than 30% (see Steep Slopes Illustrations diagram at 519.12). Any application pertaining to a lot depicted with steep slopes on the Master Plan map entitled “Slopes” shall include a steep slopes analysis. The analysis shall be based upon a topographic survey, prepared by an appropriately licensed NJ professional, which shows elevations at 2 foot intervals with slopes measured between adjacent contour lines.

[The applicant may apply to the City Engineer for permission to limit the extent of the topographic survey to be submitted if, for instance, only a small portion of the lot will be impacted by the proposed improvements/site disturbance. Alternatively, the Applicant’s Engineer may certify that the proposed improvements/site disturbance is of such a de minimis extent that the existing City-wide topographic map is sufficient to provide adequate information for the City Engineer to review such proposed improvements/site disturbance.]

B. The *[Planning Board]* **Board of jurisdiction, when reviewing variance applications** pursuant to N.J.S.A. *[40-55D-51]* **40:55D-70** to the standards set forth in §519.5, **as part of its consideration and determination of the statutory positive and negative criteria, shall consider the following** *[may grant exceptions based upon written documentation as follows]:*

1. For applications to exceed the limits on disturbance on slopes of 15 – 20% and 20 – 30% the applicant must demonstrate that:
 - a. The site cannot be reasonably utilized for its zoned use without the requested relief;
 - b. The extent of relief is the minimum needed to permit reasonable utilization of the site;
 - c. All applicable standards regarding stormwater management will be satisfactorily addressed including the proper protection and stabilization of all disturbed areas consistent with the design techniques established by the Soil Erosion and Sediment Control Standards, adopted and amended by the New Jersey State Soil Conservation Committee; and,
 - d. The proposed development adheres to the design guidelines for steep slopes at the greatest practicable extent.

2. For application to disturb slopes greater than 30% the applicant must demonstrate that:
 - a. All utility of the site for its zoned use would be effectively foreclosed without the requested relief;
 - b. The extent of relief is the minimum needed to permit reasonable utilization of the site;

- c. All applicable standards regarding stormwater management will be satisfactorily addressed including the proper protection and stabilization of all disturbed areas consistent with the design techniques established by the Soil Erosion and Sediment Control Standards, adopted and amended by the New Jersey State Soil Conservation Committee; and,
- d. The proposed development adheres to the design guidelines for steep slopes at the greatest practicable extent;
- e. **For every 250 square feet of 30% or over steep slope disturbed, the maximum allowable impervious cover shall be reduced by 10%.**

No variance or other relief may be granted without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and the zoning ordinance. The applicant will be required to post a bond, prior to building permit issuance, of an amount satisfactory to the board's engineer, that will be held by the City to restore and/or stabilize a site that has been disturbed and not properly stabilized for more than six months (this is not to be interpreted as replacing the timing for compliance with the Soil Erosion and Sediment Control Standards and the jurisdiction of the Hunterdon County Soil Conservation District). The bond shall not be released until the City Engineer has certified that permanent stabilization has been achieved.

C. Applications for development of any lot containing slopes in excess of 15% shall conform to the design guidelines in this section [*to the greatest practicable extent*].

519.7 EXISTING LOTS THAT DO NOT REQUIRE PLANNING BOARD OR ZONING BOARD APPROVAL AND CONTAIN SLOPES GREATER THAN 15%

A. Applications for building permits or for site disturbance on pre-existing lots containing slopes in excess of 15% shall be accompanied by a steep slope analysis showing slope classes of 0% to 15%, 15.1% to 20%, 20.1% to 30%, and greater than 30% (see Steep Slopes Illustrations diagram at 519.12). Any application pertaining to a lot depicted with steep slopes on the Master Plan map entitled "Slopes" shall include a steep slopes analysis. The analysis shall be based upon a topographic survey, prepared by [*an appropriately*] a licensed NJ **surveyor (PLS) or engineer (P.E.)**, which shows elevations at 2 foot intervals with slopes measured between adjacent contour lines.

B. The applicant may apply to the City Engineer for permission to limit the extent of the topographic survey to be submitted if, for instance, only a small portion of the lot will be impacted by the proposed improvements/site disturbance. Alternatively, the Applicant's Engineer may [*certify*] **demonstrate** that the proposed improvements/site disturbance is of such a de minimis extent, **proven by analysis using** [*that the*]existing **LiDAR topographic data (New Jersey Highlands Council)** [*City-wide topographic map*],is sufficient to provide adequate information for the City Engineer to review such proposed improvements/site disturbance.

C. Any application for a building improvement, either freestanding (such as a shed) or an addition to an existing structure (including decks), which involves combined building coverage and site disturbance of not more than 150 square feet in area shall be exempt from the requirements of this section, provided

that the applicant has not previously applied for such exemptions within **three** [*one*] years of the date of application.

D. The Zoning Officer shall review and have the authority to approve applications for disturbance of slopes in connection with building permits or for site disturbance on pre-existing lots which conform to the requirements of §519.5.

[E. Exceptions to the standards may be granted by the Zoning Board of Adjustment if the applicant has satisfied the criteria set forth in §519.6B1(a)-(d) and §519.6B2(a)-(d). In evaluating the criteria for an exception, the Zoning Board shall consider whether and to what extent the disturbance on steep slopes could be reduced if the boundary lines of the subject lot were reconfigured with those of adjacent lot(s) in common ownership.]

F. In case of a plan for improvements which does not comply with the standards set forth in §519.5.2, a lot grading plan which indicates the proposed driveway plan and profile, location of the residence, and any site grading necessary for the property shall be submitted for review and approved by the applicant to the City Engineer. Such plan 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 and amended by the New Jersey State Soil Conservation Committee.

G. The City Engineer shall verify that the proposed residential driveway design is capable of providing access for emergency vehicles and equipment under all weather conditions.]

[H] E. Applications for site disturbance which are limited solely to removal of trees and/or vegetative cover need not include a grading plan in the submission, **except for operations requiring road construction and/or heavy equipment access.** [*as specified in §519.7E*].

519.8 CLUSTER DEVELOPMENT FOR PARCELS WITH STEEP SLOPES. Where permitted as a conditional use in the underlying zoning district, development of a lot or lots affected by steep slopes as defined herein may be approved by the Planning Board, provided the following criteria are met:

A. The conditions for cluster residential housing shall be as follows:

1. The site shall be served by public water and sewer.
2. A minimum of 25% of the total site area shall be constrained by steep slopes.
3. The applicant shall submit an alternative subdivision plan meeting the design requirements of the Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.) which demonstrates that the site cannot reasonably be developed with the same number of lots permitted under the conventional development of the underlying district.

B. The maximum gross density of the development shall be based on the limitations of the underlying district.

C. Allowable uses and housing types shall be the same as the limitations of the underlying district.

D. The following minimum residential lot standards shall apply:

1. Minimum Lot Area: 5,000 s.f.
2. Minimum Lot Width: 50 feet measured along the road frontage unless a curve or cul-de-sac in which case it shall be measured at the setback line.
3. Minimum Front Setback: 25 feet measured from the front property line.
4. Minimum Side Yard: 10 feet for detached; 15 feet for ends of attached unit buildings.
5. Minimum Rear Yard: 25 feet.

E. The land area that would otherwise be required for house lots but is not used by the permitted lot size reduction shall be devoted to common open space.

The cluster residential development shall be arranged to create a connected systems of common open space. The open space shall be owned and maintained by a Homeowner's Association in accordance with N.J.S.A. 40-55D-43 or dedicated to the City of Lambertville if accepted by the City Council. The open space shall be maintained and preserved in perpetuity for conservation, open space, agriculture and/or recreational uses as directed by the Planning Board. Covenants, deed restrictions, or other legal arrangements shall specify ownership of the open space; method of maintenance; responsibility for maintenance; maintenance of taxes and insurance; compulsory assessment provisions guarantees that any homeowners association formed to own and maintain open space will not be dissolved without the consent of the Planning Board; and any other specification deemed necessary by the Planning Board.

F. The open space shall be maintained in accordance with a land management plan prepared by the developer and approved by the Planning Board. The developer shall provide copies of deed covenants with prospective purchases or conservation easements with the City describing land management practices to be followed by the party or parties that are responsible for open space. Further subdivision or open space land, or its use other than agriculture, conservation and recreation shall be prohibited.

G. All other steep slope provisions set for in §519 shall apply.

519.9 DESIGN GUIDELINES FOR DEVELOPMENT ON STEEP SLOPES. Due to the environmental sensitivity of steep slopes, development of properties which contain steep slopes should be carefully designed to minimize adverse environmental impacts. Applicants proposing development on steep slopes shall conform their site design to the following guidelines to the greatest practicable extent.

A. Development on steep slopes should produce the minimum feasible site disturbance in areas of steep slope. Site improvements should be clustered on lands of relatively low slope;

B. The development should be consistent with the natural contour of the site, and minimize grading and alterations of natural landforms. **All disturbances of steep slopes shall be stabilized with temporary and permanent erosion control consistent with anticipated sunlight levels, extent and degree of disturbance, and manufacturers criteria and methods**

C. Padding or terracing of building sites should be minimized;

D. The development should retain natural topographic features such as drainage swales, stream beds and banks, ridge line vistas, rock outcrops and mature plant formations. **Natural points of runoff discharge shall not be altered and no new locations of stormwater discharge shall be proposed. Additional volume of runoff generated shall be infiltrated to the maximum extent. Disturbed runoff paths shall receive permanent stabilization, such as with a Turf Reinforcement Mat or other substantial product acceptable to the board's engineer.**

E. The development should minimize the extent to which it impairs the visual integrity of the slopes when viewed from publicly accessible vantage points including but not limited to the developed areas of Lambertville generally west of NJ Route 29;

F. The development should provide for *[the]* **protection of** maximum feasible vegetation of the steep slope; and,

G. Mature trees should be retained and integrated into new hillside residential development. Existing live trees with a trunk diameter of at least 8 inches measured 4 feet above the grade which are located within the area of the proposed site disturbance or within any portion of the site under 30% slope within 50 feet thereof shall be located on the site survey. The removal of any such trees is prohibited unless it is specifically permitted by the *[Planning Board]* **Board of jurisdiction.**

H. Exposed soils and topsoil piles should be adequately stabilized throughout construction according to regulations and best management practices established by the United States Department of Agriculture – Natural Resource Conservation Service.

I. The scale of new buildings should be compatible with existing structures. Single story elements, setbacks, overhangs, roof pitches, and landscaping should be used to minimize the impact of exterior wall surfaces.

J. Roofs should be fragmented to avoid a monotonous appearance while following the angle of the slope.

K. The maximum height of a proposed building should not exceed the mid-point of the tallest building on the adjacent uphill lot.

L. All new structures should be setback a minimum of 50 feet from a ridge top.

M. The limits of clearing on the construction site must be tightly drawn around the area of proposed disturbance. All natural vegetation outside of this area shall be protected during construction through the placement of snow fencing at drip lines and other means of vegetative protection.

519.10 CONFLICTS AND SEVERABILITY

A. Conflicts: All other ordinances, parts of ordinances, or other local requirements that are inconsistent or in conflict with this ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this ordinance apply.

B. Severability:

- 1. Interpretation:** This Ordinance shall be so construed as not to conflict with any provisions of New Jersey or Federal law.
- 2. Notwithstanding that any provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the Ordinance shall continue to be of full force and effect.**
- 3. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.**

519.11 ENFORCEMENT, VIOLATION AND PENALTIES. A prompt investigation shall be made by the appropriate personnel (i.e. City Engineer or Zoning Officer) of the City of Lambertville, of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this Ordinance is discovered, a civil action in the Special Part of the Superior Court, or in the Superior Court, if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, by the filing and serving of appropriate process. Nothing in this Ordinance shall be construed to preclude the right of the City of Lambertville, pursuant to N.J.S.A. 26:3A2-25, to initiate legal proceedings hereunder in Municipal Court. The violation of any section or subsection of this Ordinance shall constitute a separation and distinct offense independent of the violation of any other section or subsection, or of any order issued pursuant to this Ordinance. Each day a violation continues shall be considered a separate offense.

The penalties set forth in Article X “Violations”, section 1000, of the Code of the City of Lambertville shall be applicable to violations of this Ordinance.

519.12 STEEP SLOPE ILLUSTRATION.

