

ENVIRONMENTAL ORDINANCE
BOROUGH OF ROSE VALLEY
ORDINANCE # 309

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ARTICLE I - GENERAL PROVISIONS

Section 101. Title.

These rules and regulations shall be known and may be cited as the "Rose Valley Borough Environmental Ordinance."

Section 102. Purpose and Overview.

A. The purpose of this Ordinance is to provide protection to the following environmentally sensitive areas within Rose Valley Borough:

1. Woodland areas and natural areas within the Ridley Creek flood plain, which are more than fifty (50') feet from existing occupied structures.
2. Woodland areas and natural areas on steep and very steep slopes within three hundred (300') feet of the top of the Ridley Creek stream bank, which are more than fifty (50') feet from existing occupied structures.

3. Wetlands.

B. A building permit shall be required before any site disturbance activities are undertaken within the environmentally sensitive areas identified above. Issuance of a building permit shall be contingent upon the approval of a Conservation Plan, which documents how the environmental impact of the proposed site disturbance activities will be minimized.

Note: Refer to Article II for definitions of the terms woodland areas, natural areas, Ridley Creek flood plain, steep and very steep slopes, wetlands, site disturbance activities, and minimize.

Section 103. Repealer.

To the extent the provisions of this Ordinance are inconsistent with, or in conflict with, the provisions of any other existing Borough ordinance, or any part of an existing Borough ordinance, including but not limited to the Subdivision Ordinance; the Storm Water Management Ordinance; the Zoning Ordinance; and the Flood Plain Ordinance; the conflicting provisions of those ordinances are hereby repealed to the extent of such inconsistency or conflict, unless the conflicting provisions of those ordinances are more restrictive than the corresponding provisions of this Ordinance, in which case the more restrictive provisions shall apply.

Section 104. Severability.

Should any section or provision of this Ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

Section 105. Compatibility with Other Ordinance Requirements.

Approvals issued pursuant to this Ordinance do not relieve any applicant of the responsibility to comply with or to secure required permits or approvals for activities regulated by any other applicable code, rule, statute, or ordinance.

ARTICLE II - DEFINITIONS

Section 201. Definitions.

Unless otherwise expressly stated, the words and phrases listed in this Article shall be construed throughout this Ordinance to have the meanings indicated herein. Words in the singular include the plural, and those in the plural include the singular. Words in the present tense include the future tense. The word "person" includes corporations, unincorporated associations, firms, organizations, and partnerships, as well as individuals. The word "structure" includes the meaning of "building," and each shall be construed as if followed by the phrase "or part thereof." The word "may" is permissive. The word "shall" or "must" is mandatory. The word "occupied" includes the words "intended, designed, maintained, or arranged to be occupied."

APPLICANT - Any person who seeks approval to engage in site disturbance activities within the following environmentally sensitive areas:

1. Woodland areas and natural areas within the Ridley Creek flood plain, which are more than fifty (50') feet from existing occupied structures.
2. Woodland areas and natural areas on steep or very steep slopes within three hundred (300') feet of the top of the Ridley Creek stream bank, which are more than fifty (50') feet from existing occupied structures.
3. Wetlands.

DBH - The diameter of a tree at breast height, measured four and one half (4.5') feet from the highest point where the tree emerges from the ground surface.

DISTANCE - All distances are measured horizontally.

DRIP LINE -A generally circular line, the circumference of which is determined by the outer reaches of a tree's widest branching points.

MINIMIZE - To reduce to the smallest amount practicable using best management practices. "Minimize" shall not mean complete elimination but shall require that the most substantial efforts possible under the circumstances have been taken to reduce the adverse effect of the proposed site disturbance activities.

NATURAL AREA - An area containing plants existing in a natural state such as trees, grasses, brush/shrubs or wetlands vegetation, which is not maintained as a grass lawn, garden or landscaped area.

NATURAL FEATURE - A component of a landscape existing or maintained as a part of the natural environment and having significant ecological value in contributing beneficially to erosion control, ground water recharge, stream bank stabilization, stream water quality, growth of wildlife, riparian plant and animal communities and reduction of climatic stress.

RIDLEY CREEK FLOOD PLAIN - The areas of the Borough of Rose Valley along Ridley Creek which are subject to the one hundred (100) year flood, as identified in the Flood Insurance Study (FIS) and the accompanying FIRM maps prepared for the County of Delaware by the Federal Emergency Management Agency (FEMA), dated September 30, 1993, or the most recent revision thereof. The Vernon Run flood plain is not included herein.

SELECTIVE LOGGING AND WOOD CUTTING -The removal of single, scattered, or small groupings of trees from forest stands in a manner designed to preserve or enhance healthy forest ecosystems, while removing trees.

SITE DISTURBANCE ACTIVITIES - Any activities within an environmentally sensitive area identified in Section 301 which involve construction or which would change the character of a woodland, natural area or wetlands. Such activities include paving, clearing, excavating, removing, grading, tilling, digging, or filling of land, stockpiling of materials, clear cutting, application of impervious cover on the ground, stripping of vegetation or any other activity that alters, disturbs or exposes the existing land surface to erosion, or presents a threat to the quality of surface or ground water. Selective logging and wood cutting is permitted as long as woodland and natural areas are maintained as such.

STEEP AND VERY STEEP SLOPES.

1. Slopes shall be deemed steep when they involve terrain elevation changes of 15% to 25% with a vertical change of at least eight (8') feet, as indicated, for example, by four (4) adjacent rising contour intervals of two (2') feet each.
2. Slopes shall be deemed very steep when they involve terrain elevation changes greater than 25% with a vertical change of at least ten (10') feet, as indicated, for example, by five (5) adjacent rising contour intervals of two (2') feet each.

SWALE - A natural channel or other low-lying stretch of land which collects or carries surface water runoff.

WETLANDS - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support - and that under normal circumstances do support - a prevalence of vegetation typically adapted for life in saturated soil conditions; or alluvial soils and certain hydric soils, as defined by the Soil Conservation Service; including swamps, marshes, bogs and similar areas; or as further defined and delineated by the United States Army Corps of Engineers, the United States Environmental Protection Agency or the Pennsylvania Department of Environmental Protection.

WOODLAND AREA - An area containing a plant community predominately consisting of trees and other woody vegetation characterized by extensive tree cover and a floor of accumulating leaves and vegetation, as opposed to a floor of maintained lawn grass or ground cover.

ARTICLE III - CONSERVATION STANDARDS

Section 301. Applicability.

A. The provisions of this Ordinance apply to the following environmentally sensitive areas within Rose Valley Borough:

1. Woodland areas and natural areas within the Ridley Creek flood plain which are more than fifty (50') feet from existing occupied structures.
2. Woodland areas and natural areas on steep or very steep slopes within three hundred (300') feet of the top of the Ridley Creek stream bank, which are more than fifty (50') feet from existing occupied structures.
3. Wetlands.

B. A building permit shall be required before any site disturbance activities are undertaken within the environmentally sensitive areas identified above. Issuance of a building permit shall be contingent upon the approval of a Conservation Plan, which documents how the environmental impact of the proposed site disturbance activities will be minimized.

Note: Refer to Article II for definitions of the terms woodland areas, natural areas, Ridley Creek flood plain, steep and very steep slopes, wetlands, site disturbance activities, and minimize.

Section 302. Conservation of Ridley Creek Flood Plain.

A. Woodland areas within the Ridley Creek flood plain, which are more than fifty (50') feet from existing occupied structures, shall be maintained as woodland areas for the purposes of controlling water runoff, protecting the ecosystem, riparian plant and animal communities and stream water quality, and to stabilize the stream banks. Similarly, natural areas within the Ridley Creek flood plain, which are more than fifty (50') feet from existing occupied structures shall also be maintained as natural areas. Persons with properties along Ridley Creek are encouraged to allow natural areas to develop into woodlands as conditions permit. Walking trails within the Ridley Creek flood plain are permitted and may be maintained. Selective logging and wood cutting is permitted as long as woodland and natural areas are maintained as such. The flood plain portions of the Old Mill and the Sewer Plant properties are acknowledged to be either developed or landscaped and therefore are not natural or woodland areas.

B. A building permit shall be required before any site disturbance activities are undertaken in woodland or natural areas within the Ridley Creek flood plain which are more than fifty (50') feet from existing occupied structures. Issuance of a building permit shall be contingent upon the approval of a Conservation Plan, which documents how the environmental impact of the proposed site disturbance activities will be minimized. Applicable State and Federal Regulations and the Borough's Flood Plain and Zoning Ordinances shall also apply.

Section 303. Conservation of Steep and Very Steep Slopes Along Ridley Creek.

A. Woodland areas on steep or very steep slopes within three hundred (300') feet of the top of the Ridley Creek stream bank which are more than fifty (50) feet from existing occupied structures, shall be maintained as woodland areas for the purpose of controlling water runoff, preventing erosion, and stabilizing the soil. Similarly, natural areas on steep or very steep slopes within three hundred (300') feet of the top of the Ridley Creek stream bank which are more than fifty (50') feet from existing occupied

structures, shall also be maintained as natural areas and allowed to develop into woodlands as conditions permit: On properties for which no construction is proposed, the USGS Quadrangle 7.5 minute series (Topographic) Map for Media, PA may be used as a general guide for determining slope information. Selective logging and wood cutting is permitted as long as woodland and natural areas remain as such.

B. A building permit shall be required before any site disturbance activities are undertaken in woodland or natural areas on steep or very steep slopes within three hundred (300') feet of the top of the Ridley Creek stream bank, which are more than fifty (50') feet from existing occupied structures. Issuance of a building permit shall be contingent upon the approval of a Conservation Plan, which documents how the environmental impact of the proposed site disturbance activities will be minimized. The following regulations shall also apply:

1. Any site disturbance on steep slopes shall be minimized.
2. No site disturbance shall be allowed on very steep slopes, except under the following circumstances:
 - a. Selective logging and wood cutting is permitted. Appropriate precautions shall be taken to avoid destruction of, or injury to, underlying brush and trees.
 - b. Grading for a portion of a driveway accessing an occupied structure when it can be demonstrated that no other routing which avoids slopes exceeding 25% is feasible.
3. Grading or earthmoving on steep or very steep slopes shall not result in earth cuts or fills whose highest vertical dimensions exceed ten (10') feet, except where no reasonable alternatives exist for construction of public roads, drainage structures, and other public improvements, in which case such vertical dimensions shall not exceed twenty (20') feet. Finished slopes of all cuts and fills shall not exceed three to one, unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately. The landscape shall be preserved in its natural state insofar as practicable.
4. Where trees are proposed to be removed for the construction of a house or addition on steep slopes within three hundred (300') feet of the top of the Ridley Creek stream bank, which are more than fifty (50') feet from existing occupied structures, no replacement shall be required if the trees are inside the footprint of the new construction plus fifty (50') feet on any side. Where trees are proposed to be removed for the installation of a driveway or sewer line on steep or very steep slopes within three hundred (300') feet of the top of the Ridley Creek Stream Bank, no replacement shall be required if the trees are inside the footprint

of the new construction plus ten (10') feet on any side. The removal of other trees pursuant hereto shall require replacement. Such replacement shall be done in compliance with the standards outlined below, and the following table, or the approved equivalent:

<u>DBH of Tree to be Removed Required Replacement Tree(s)</u>	
One, 8" to 12" tree_	One, at least 3" or two, at least 2 ½"
One, 12" to 18" tree.	One, at least 4" or three, at least 2 ½"
One, 18" to 24" tree.	One, at least 5" or four, at least 2 ½"
One, greater than 24" tree.	Two, at least 5" or five at least 2 ½"

If the remainder of the property is wooded or not suitable for planting, then the Borough may waive the replacement requirements.

5. Plantings shall be limited or carefully selected if proposed for locations where they may be disturbed or contribute to conditions hazardous to public safety or impact parking areas, rights-of-way, or underground or above ground utilities.
6. Plantings shall be installed and maintained by accepted practices as recognized by the American Association of Nurserymen. Plantings shall be maintained in a healthy and/or sound condition or otherwise be replaced by equivalent improvements at the time of final inspection. Plantings shall be guaranteed through one full growing season.

Section 304. Conservation of Wetlands.

- A. Wetlands shall be maintained as wetlands for the purposes of controlling storm water runoff and protecting the wetland's ecosystem. Existing trails within wetlands and their associated structures such as bridges and boardwalks are permitted and may be maintained. Selective logging and wood cutting is permitted as long as woodland and natural areas are maintained as such. This section applies to all wetlands within the Borough including those along Vernon Run.
- B. A building permit shall be required before any site disturbance activities are undertaken within wetlands. Issuance of a building permit shall be contingent upon the approval of a Conservation Plan, which documents how the environmental impact of the proposed site disturbance activities will be minimized. The following regulations shall also apply:
 1. The applicant shall submit a wetlands assessment performed by a licensed professional engineer, hydrologist, soil scientist, or similarly qualified professional experienced in wetlands ecology. The qualifications of the

professional are subject to review and approval of the Borough. The determination of the need for a wetlands assessment shall be made by the Borough.

2. The Borough may require the applicant to obtain verification of the wetlands assessment and/or delineation report from the Pennsylvania Department of Environmental Protection or the U.S. Army Corps of Engineers. The determination of the regulatory body shall govern the wetlands boundary.
3. The applicant shall be required to obtain any and all federal, state and county permits and approvals for site disturbance activities within any wetlands. Approval from the Borough shall be contingent upon the applicant receiving the necessary wetlands permits and approvals.

Section 305. Conservation of Vegetation and Topsoil During Construction Within the Environmentally Sensitive Areas Covered by This Ordinance.

The conservation measures listed below shall be taken during site disturbance activities within the environmentally sensitive areas specified in Section 301 of this Ordinance. The nature and extent of construction shall determine the specific minimization measures required. The Borough may require a meeting with the applicant or site contractor prior to construction to further determine methods to minimize environmental damage.

A. Protection of vegetation from mechanical injury and grading change.

1. All trees, shrubs and bushes which are to be retained on the building site, parking area or other proposed improvement shall be protected from equipment damage. Trees which are located in areas of heavy equipment transit shall be protected by snow fencing at the dripline.
2. Heavy equipment operators shall not damage existing tree trunks and root systems by driving heavy equipment within or otherwise disturbing the area circumscribed by the dripline of any tree. In addition, roots shall not be cut or disturbed within the area circumscribed by the dripline of any tree. If there is no alternative to locating a utility line within the tree dripline, it is strongly encouraged that tunneling, rather than trenching, be used to minimize potential damage to tree root systems. Where trenching is unavoidable, trenched holes shall be filled as quickly as possible and compacted lightly to avoid the creation of air spaces.
3. Tree trunks and exposed roots damaged during construction shall be protected from further damage by fencing or other structural barrier. Treatment of damaged

areas shall be performed by a qualified person and dictated by the nature of the injury, e.g. damaged bark, shall be cut back to a point where the bark is intact and tight to the tree; exposed roots shall be cleaned up and covered with topsoil; tree limbs shall be cut back in proportion to root area loss. In addition, liquid or dry fertilizer shall be applied to trees with disturbed root zones to compensate for loss of roots.

4. Trees shall not be used for attaching ropes, cables, signs, fencing or lighting; and nails or spikes shall not be driven into trees during construction.
5. The area around the base of existing woody vegetation shall be left open and no impervious cover, storage of equipment, materials, debris or fill shall be allowed within the dripline of any existing tree during construction.
6. Grade changes to occur at any location on the property shall not result in an alteration to soil or drainage conditions which would adversely affect existing vegetation to be retained following site disturbance, unless adequate provisions are made to protect such vegetation and its root systems.
7. Should any existing non-weedy vegetation on the site not scheduled or permitted to be removed be irreparably damaged during site preparation, such vegetation shall be replaced with similar vegetation prior to final inspection.

B. Protection of vegetation from excavations.

1. When digging trenches for utility lines or similar uses, disturbance to the root zones of all woody vegetation shall be minimized.
2. If trenches must be excavated in the root zone, all disturbed roots shall be cut as cleanly as possible. The trench shall be backfilled as quickly as possible and compacted lightly to avoid the creation of air spaces. Tree limbs shall be cut back in proportion to root area loss.

C. Protection of topsoil.

1. No topsoil shall be removed from a site unless a sufficient amount is retained to provide at least six inches of topsoil cover over all of the site's exposed earth surfaces. In addition, sufficient soil shall be retained for planting. Silt fencing shall be utilized where appropriate to prevent the runoff of topsoil.
2. Topsoil removed by grading operations shall be redistributed and stabilized as quickly as possible following the completion of a project or project phase. All

exposed earth surfaces shall be stabilized by the following methods or approved equal:

- a. Seeding, sodding, hydro-seeding or planting on slopes of 10% or less.
- b. Sodding, hydro-seeding, or similar erosion control methods on slopes exceeding 10%.

3. Grading and earthmoving operations shall be minimized during the period November 15 to April 1, when replanting of exposed ground surfaces is difficult.

D. Protection during cleanup.

1. All construction debris shall be hauled away from the property.
2. Fences and barriers placed around woody vegetation during construction shall be removed if they impede the growth and maintenance of such vegetation.

E. Protection of vegetation from hazardous and toxic materials.

Hazardous or toxic materials, including but not limited to petroleum hydrocarbons, oils, pesticides, herbicides, thinners, solvents, cleaners, abrasives, acids and bases are strictly prohibited within or around woody vegetation or within ten (10') feet of the dripline of any existing tree. This restriction does not apply to existing garages and storage facilities where less than 10 gallons of hazardous or toxic materials are stored in appropriate containers.

ARTICLE IV - PLAN REQUIREMENTS

Section 401. Conservation Plan.

A Conservation Plan is required for site disturbance activities within the environmentally sensitive areas identified in Section 301. The purpose of the Conservation Plan is to show an inventory of existing conditions, disclose the environmental impact of a proposed site disturbance activity, and provide information on proposed mitigation measures. Applicants proposing the construction of a new building or a subdivision plan involving site disturbance activities, within the areas identified in Section 301, shall submit the full Conservation Plan outlined below. Applicants proposing improvements to an existing building, or site disturbance activities not involving construction, within the areas identified in Section 301, shall include sufficient information to assess the environmental impact and proposed mitigation measures. The Conservation Plan may be incorporated with documentation submitted pursuant to a request to subdivide a property, or pursuant to an application for a building permit.

A. Inventory.

1. Property base map. A base map of the applicant's property shall meet the requirements for preliminary plan approval, as set forth in the Borough's Subdivision Ordinance, with respect to:
 - a. Water courses.
 - b. Property lines, easements and rights-of-way.
 - c. Streets on or adjacent to the applicant's property.
2. Boundary and adjoining property conditions. The following information shall be indicated on the property base map: names of adjoining property owners; residential and institutional structures within two hundred (200') feet of the applicant's property; and existing zoning and minimum setback requirements applicable to the applicant's property and adjoining properties. A smaller scale map, drawn as an inset on the base map sheet, may be used to present information on adjoining property conditions.
3. Existing natural and man-made features. The following information also shall be shown on the property base map:
 - a. Topography, as measured at two-foot contour intervals, as determined by either aerial photogrammetric methods or by an actual field topographic survey. Degree of slope in the following ranges: 0% to 15%, 15% to 25%, and greater than 25%, on the applicant's property. The same ranges of slope as measured or obtained from existing sources at ten (10') foot contour intervals shall be indicated within an additional two hundred (200') feet surrounding the applicant's property. Location and elevation to which contour elevations refer shall be identified; where reasonably feasible, this shall be a known, established benchmark. Rock outcroppings shall be clearly indicated.
 - b. The location and delineation of ponds, streams, springs, areas of wet soils and natural drainage swales, on the applicant's property and within two hundred (200') feet of such.
 - c. The 100 year flood plain boundaries and elevations, which shall be those determined by the Federal Emergency Management Agency Flood Insurance Study.
 - d. Wetlands.

Soil series, types and phases, as mapped by the National Resource Conservation Service for the Delaware County Soil Survey, and accompanying data tabulated for each soil, including its name, agricultural capability class, hydrologic group, erodibility (if data is available), and limitations of soil type (including load-bearing capacity, drainage and plant growth) if available.

- e. Vegetative cover conditions on the property according to general cover type, e.g. cultivated land, permanent grassland, old field, hedgerow, woodland, individual freestanding trees over six (6") inches dbh, specimen trees over eight (8") inches dbh, including trees to be removed, trees to be retained and wetland vegetation. For all woodlands, the applicant shall indicate the principal species of dominant and co-dominant trees and the prevailing shrubs. Driplines for trees shall be shown on the plan.
- f. Existing structures and other improvements.

B. All applicants shall assess the on-site and off-site impacts of their proposed activities, the scale and/or magnitude of such impacts and improvements on existing natural features. The assessment shall, at a minimum, include the following:

1. Delineation of the location and tabulation of the square footage of natural features which would be disturbed. Such features shall, at a minimum, include those cited in Section 401 A . 3, above.
2. Delineation of the location and dimensions of all improvements proposed by the applicant, including tabulations of gross square foot coverage of any proposed impervious surfaces.
3. Grading plans which clearly show all proposed alterations to the property's existing topography.
4. Landscaping plans, which clearly show trees planned to be removed, shall include plans for replacement trees and all additional plantings proposed for the project.

ARTICLE V - ADMINISTRATION

Section 501. Submission of Plans.

When a Conservation Plan is submitted as part of a subdivision pursuant to the Borough's

Subdivision Ordinance, the administrative provisions of that Ordinance shall govern. When a Conservation Plan is submitted as part of an application for a building permit, the Borough's administrative procedures for building permits shall govern.

Section 502. Appeals.

Appeals from any action or decision of the Borough Manager or from other administrative actions of the Borough in relation to the terms of this Ordinance shall be to the Borough Council. Appeals from any action of the Borough Council shall be to the Court of Common Pleas of Delaware County.

ORDAINED and ENACTED this 9th day of April, 2003

BOROUGH OF ROSE VALLEY

THOMAS F. PLUMMER,
President of Council

Attested this 9th day of April, 2003.

Paula W. Healy, Borough Secretary

Approved this 9th day of April , 2003.

Gerald J. Perry, Mayor