

## **Fact Sheet**

### Nonstructural Measures (Land Acquisition Measures)

**Option: Easements and Deed Restrictions**

**Description:** Easements allow owners to retain full ownership of property but can either restrict certain uses or permit the use of land by the public or particular entities for specified purposes. Easements are generally established as part of the deed restrictions.

**Example(s):** Property owner can sell development rights and establish a conservation easement on environmentally sensitive lands. State, local and municipal governments and not-for-profit conservation organizations would purchase and hold the easement.

The NJ Department of Environmental Protection has adopted Flood Hazard Area Control Act rules (N.J.A.C. 7:13) to incorporate more stringent standards for development in flood hazard areas and riparian zones adjacent to surface waters throughout the State. These rules were adopted to better protect the public from the hazards of flooding, preserve the quality of surface waters, and protect the wildlife and vegetation that exist within and depend upon such areas for sustenance and habitat. To minimize the impacts of development on flooding, a 0% net-fill requirement now applies to all non-tidal flood hazard areas of the State. The new rules also expand the preservation of near-stream vegetation (previously protected within 25 or 50 feet of streams) by implementing new riparian zones that are 50, 150 or 300 feet in width along each side of surface waters throughout the State. A property owner retains ownership of any portions of their property that falls within these buffer zones, but is not permitted to build within them.



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**Option:**      **Easements and Deed Restrictions, cont.**

**Benefits:**      Restricts development in scenic and environmentally sensitive areas; landowner retains full ownership of property and qualifies for tax benefits, can be more cost effective than other nonstructural alternatives; can increase recreational/public access; can be used in conjunction with purchase of development rights to preclude future development/redevelopment (i.e., a structure could not be rebuilt once it is damaged beyond a certain percentage).

**Challenges:**      Many waterfront properties are developed and their increased real estate value makes use restrictions for long-term preservation difficult; requires that fair compensation be provided to landowners; difficult to maintain/enforce restrictions; easements/deed restrictions can be subject to legal challenges; has limited value for small properties; applicable to a limited number of properties; easements must be maintained and enforced by government entity or not-for-profit organization.

