

**17-29. MAINTENANCE OF CREEKS, BROOKS, STREAMS, CANALS, WATERWAYS.
[Added 11-7-2018 by Ord. No. 2018-31]**

17-29.1. Responsibility of property owner.

- a. The owner of any property that contains a creek, brook, stream, canal, or other nonnavigable waterway (collectively referred to as "waterways") has the duty to perform cleaning and maintenance activities to the waterways that do not require the submission of a formal application to or written permission from the Division of Land Use Regulation in the New Jersey Department of Environmental Protection so that the natural flow of the water runs unimpaired.
- b. The property owner shall be responsible for keeping the section of the waterway on their property clear and free of any fallen tree, fallen tree branches, brush, or garbage/trash of any kind (collectively referred to as "debris"). Pursuant to N.J.A.C. 7:13-7.5, the removal of such debris shall be performed by hand according to the following:
 1. No machinery is used within the waterway except for handheld equipment;
 2. The material removed consists solely of accumulated debris and does not alter the natural bed and banks of the waterway;
 3. Where work is proposed along a trout production or maintenance water, the appropriate timing restrictions set forth at N.J.A.C. 7:13-11.5(d) are observed;
 4. No riparian zone vegetation is cleared, cut, and/or removed, unless such disturbance is unavoidable, necessary to gain access to the waterway, and minimized; and
 5. No trees are cleared, cut, and/or removed in a riparian zone.
- c. If the use of machinery is required to remove an obstruction that cannot be removed by hand, such as a fallen tree, abandoned vehicles, furniture, and other large debris then, pursuant to N.J.A.C. 7:13-7.6, removal of same shall be performed according to the following:
 1. All machinery is situated outside the waterway, except for handheld equipment such as chainsaws. Heavy machinery such as backhoes may be used to reach into the waterway to remove material, but cannot be driven or otherwise placed in the waterway;
 2. No fill material or accumulated sediment is removed from the waterway; and
 3. No riparian zone vegetation is cleared, cut, and/or removed, unless such disturbance is unavoidable, necessary to gain access to the waterway, and minimized.
- d. The maintenance described above is the property owner's responsibility even if the object washed down the waterway from upstream.
- e. Property owners who have waterways or canals with either natural or man-made retaining walls must keep the retaining walls in good condition. Pursuant to N.J.A.C. 7:13-7.27, repair and maintenance of canals must be performed according to the following:
 1. A public entity having jurisdiction over the canal determines that the proposed repair and/or maintenance is necessary for proper operation of the canal;
 2. No fill is placed in any floodway or fluvial flood hazard area, except where necessary to restore a failed embankment to its pre-failure condition; and

3. No trees are cleared, cut, and/or removed in a riparian zone outside the canal and its embankment.
- f. If these measures require any physical repair or if the property owner wishes to install a measure to stabilize the slope in the waterway, the property owner must obtain all necessary permits from all appropriate state, county, and/or municipal agencies.