

Westchester County Soil & Water Conservation District
MODEL ORDINANCE FOR EROSION & SEDIMENT CONTROL

A MODEL ORDINANCE for
**EROSION & SEDIMENT
CONTROL**

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Westchester County Soil & Water Conservation District
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The Westchester County Soil and Water Conservation District, created in 1967, is charged with providing for “the prevention of soil erosion, and for the prevention of flood-water and sediment damages and for furthering the conservation, development, utilization, and disposal of water and thereby to preserve natural resources, assist in the control of floods, assist in the drainage and irrigation of agricultural lands, prevent impairment of dams and reservoirs, assist in the drainage and irrigation of agricultural lands, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety and general welfare of the people of the state.”

Over the past several years, Westchester County has experienced rapid growth and development. The land disturbing activities associated with construction have caused erosion and sedimentation of wetlands and surface waters due to inadequate environmental controls and monitoring. The consequences of these impacts include pollution of rivers, streams, harbors, and reservoirs; reduced channel capacities of watercourses hence increased flooding; costly repair of gullies, washed out fill, and embankments; and more frequent, more expensive maintenance of bridge abutments, culverts, and channels. The “Model Ordinance for Erosion and Sediment Control” has been developed by the District to provide a tool for use by Westchester municipalities to prevent the potential adverse impacts due to construction.

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ARTICLE I TITLE

This local law shall be known and cited as the Erosion and Sediment Control Law of the (municipality).

ARTICLE II STATUTORY AUTHORITY

This local law is enacted pursuant to the authority of the (municipality) **to promote the public health, safety, and general welfare of its citizenry under New York State Municipal Home Rule Law, Section 10, and New York Environmental Conservation Law, Article 36, and other applicable provisions of State and Federal law.**

ARTICLE III FINDINGS AND PURPOSE

A. FINDINGS

The (**Board of Trustees**) of the (**municipality**) hereby finds that:

1. excessive quantities of soil may erode from areas undergoing development for certain uses, including, but not limited to, the construction of dwelling units, commercial buildings, and industrial plants, the building of roads and highways, and the creation of recreation facilities;
2. the washing, blowing, and deposition of eroded soil across and upon roadways endangers the health and safety of users thereof by decreasing visibility and reducing traction of road vehicles;
3. soil erosion necessitates the costly repair of gullies, washed-out fills, and embankments;
4. sediment from soil erosion clogs sewers and ditches and pollutes and silts rivers, streams, lakes, harbors, and reservoirs;
5. sediment limits the use of water and watercourses for beneficial purposes, promotes the growth of undesirable aquatic weeds, destroys fish and other desirable aquatic life, and is costly and difficult to remove; and
6. sediment reduced the channel capacity of water courses and increases the likelihood of flooding.

B. PURPOSE

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The (**Board of Trustees**) therefore declares that the purpose of this local law is to safeguard persons, protect property, prevent damage to the environment, and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land situated in the (**municipality**).

ARTICLE IV DEFINITIONS

Unless specifically defined below, words and phrases used in this local law shall be interpreted to have the meaning they have in common English usage, to give effect to the purpose set forth in Article IIIB, and to provide reasonable application of this local law.

“**Addition**” means any work on an existing structure which changes the external dimensions of such structure.

“**Agent**” means the (**municipal officer**) who is designated to administer this local law.

“**Appeal**” means a request for a review of the Agent’s interpretation of any provision of this local law or a request for a variance.

“**Best Management Practices**” are procedures and measures pertaining to construction activities, which are intended to minimize water pollution, retain valuable topsoil, and prevent erosion and sedimentation, and include, but are not limited to, those practices contained in the Westchester County Best Management Practices Manual series.

“**Best Management Practices Manual**” (**BMP**) is a series of manuals, prepared, published, and occasionally amended by Westchester County, consisting of various volumes on best management practices for certain described activities, and, specifically, the volume for “Construction Related Activities,”

“**Building Permit**” means a permit issued by the municipality for the construction, erection, and alteration of a structure or building.

“**Certification**” means formal attestation that the specific inspections and tests, where required, have been performed, and that such tests comply with the applicable requirements of this local law.

“**Cubic Yards**” means the amount of material in excavation and/or fill measured by the method of “average and areas.”

“**Development**” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, removal of vegetation, excavation, blasting, or drilling operations.

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“**Development Permit**” means any permits, grants, or licenses issued by the municipality including, but not limited to, building grading, clearing, demolition, wetlands, and excavation permits, and subdivision and site plan approvals.

“**Erosion & Sediment Control Plan**” means a set of plans prepared by a New York State licensed engineer indicating the specific measures and sequencing to be used in controlling sediment and erosion on a development site both during, and after, construction.

“**Excavation**” means any act by which organic matter, earth, sand, gravel, rock, or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, or bulldozed, and shall include the conditions resulting therefrom.

“**Existing Grade**” means the vertical location of the existing ground surface prior to excavation or filling.

“**Fill**” means any act by which earth, sand, gravel, rock, or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved by man to a new location and shall include the conditions resulting therefrom.

“**Final Grade**” means the vertical location of the ground or pavement surface after the grading work is completed and in accordance with the site development plan.

“**Grading**” means excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

“**Land-Disturbing Activity**” means any land change which may result in soil erosion from water or wind and the movement of soil into waters or onto lands, or increased runoff of waters including, but not limited to, clearing, grading, excavating, transporting, and filling of land.

“**Natural Drainage**” means channels formed in the existing surface topography of the earth prior to changes made by unnatural causes.

“**Parcel**” means all contiguous land under one ownership.

“**Permanent Vegetation**” means ground cover mature enough to control soil erosion satisfactorily and to survive severe weather conditions.

“**Permittee**” means any person to whom a site development permit is issued.

“**Person**” means any individual, firm, or corporation, public or private, the State of New York and its agencies or political subdivisions, and the United States of America, its agencies and instrumentality’s, and any agent, servant, officer, or employee of any of the foregoing.

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“**Removal**” means cutting vegetation to the ground or leaving it as stumpage, complete extraction, or killing by spraying.

“**Site**” means a lot or parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

“**Site Development**” means altering terrain and/or vegetation and constructing improvements.

“**Site Plan**” means the map or drawn representation of a proposed development, which is submitted to the municipal Planning Board of consideration and approval.

“**Site Development Permit**” means a permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

“**Soil Stabilization**” means measures which protect soil from the erosive forces of raindrop impact and flowing water and include, but are not limited to, vegetative establishment, mulching, and the early application of gravel base on areas to be paved.

“**Start of Construction**” means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

“**Stripping**” means any activity which removes the vegetative surface cover including tree removal, clearing, and storage or removal of topsoil.

“**Subdivision**” means any tract of land which is divided into two or more habitable building sites, or parcels on any site along an existing or proposed street, highway, easement, or right-of-way, or other means or proposed means of access, road, or street, for sale, lease, or rent, regardless of whether the sites are to be sold or offered for sale or leased for any period of time, are described by metes and bounds, or by reference to a map or survey of the property or by any other method of description. Subdivision also has any meaning it presently has under the laws of the (**municipality**).

“**Temporary Stream Crossing**” means a temporary structural span installed across a flowing watercourse for use by construction traffic. Structures may include bridges, round pipes, or pipe arches.

“**Variance**” means a grant of relief from the requirements of this local law, which permits a person to undertake construction in a manner otherwise prohibited by this local law where specific enforcement would result in unnecessary hardship.

“**Watercourse**” means any body of water, including, but not limited to, lakes, ponds,

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rivers, streams, intermittent streams, and bodies of water which are classified by the New York State Department of Environmental Conservation under Part 6 of the New York Code of Rules and Regulations, and/or delineated on the Hydrologic Features Map of the Westchester County Environmental Planning Atlas, and/or delineated on the USGS 7.5-Minute Quadrangle Sheet(s) for the (**municipality**).

ARTICLE V GENERAL PRINCIPLES

The objective of this local law is to control soil erosion and sedimentation caused by development activities in the (**municipality**). Measures taken to control erosion and sedimentation shall be adequate to ensure that sediment is not transported from the site by a storm event of ten-year frequency or less. The following principles shall apply to all development activities within the (**municipality**) and to the preparation of the submissions required under Article VI of this local law:

1. **Selection of Control Measures**

The selection of erosion and sedimentation control measures shall be based on assessment of the probably frequency of climatic and other events likely to contribute to erosion, and on an evaluation of the risks, costs, and benefits involved.

2. **Protection of Adjacent Properties**

Properties adjacent to the site of a land disturbance shall be protected from sediment deposition. This may be accomplished by preserving a well-vegetated buffer strip around the lower perimeter of the land disturbance, by installing perimeter controls such as sediment barriers, filters, dikes, or sediment basins, or by a combination of such measures.

Vegetated buffer strips may be used alone only where runoff in sheet flow is expected. Buffer strips should be at least 20 feet in width. If, at any time, it is found that a vegetated buffer strip alone is ineffective in preventing sediment movement onto adjacent property, additional perimeter controls must be provided.

3. **Cut and Fill Slopes**

Development shall reflect the topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

4. **Vegetation**

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Natural vegetation shall be retained and protected wherever possible. A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized. Permanent vegetation and related structures shall be installed as soon as practical, or within the time specified in the permit. Permanent vegetation shall not be considered established until a groundcover is achieved which, in the opinion of the (**permitting authority**) or designated agent, is mature enough to control soil erosion satisfactorily and to survive severe weather conditions.

5. Stabilization of Denuded Areas and Soil Stockpiles

Permanent or temporary soil stabilization must be applied to denuded areas within 15 days after final grade is reached on any portion of the site. Soil stabilization must also be applied within 15 days to denuded areas which may not be at final grade but will remain dormant (undisturbed) for longer than 60 days.

Soil stabilization refers to measures which protect soil from the erosive forces of raindrop impact and flowing water. Applicable practices include vegetative establishment, mulching, and the early application of gravel base on areas to be paved.

6. Sediment Basins

Sediment basins, debris basins, silt traps or filters shall be installed and maintained to remove sediment from runoff waters from land undergoing development.

7. Timing and Stabilization of Sediment Trapping Measures

Sediment basins and traps, perimeter dikes, sediment barriers and other measures intended to trap sediment on-site must be constructed as a first step in grading and must be made functional before upslope land disturbance takes place. Earthen structures such as dams, dikes, and diversions must be seeded and mulched within 15 days of installation.

8. Stabilization of Waterways and Outlets

All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a 10-year frequency storm without erosion. Stabilization adequate to prevent erosion must also be provided at the outlets of all pipes and paved channel.

9. Storm Sewer Inlet Protection

All storm sewer inlets which are made operable during construction shall be protected so that sediment-laden water will not enter the conveyance system without first being

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filtered or otherwise treated to remove sediment.

10. Working In or Crossing Watercourses

Construction vehicles should be kept out of watercourses to the greatest extent possible. Where in-channel work is necessary, precautions must be taken to stabilize the work area during construction to minimize erosion. The channel (including bed and banks) must be restabilized immediately after in-channel work is completed.

Where a live (wet) watercourse must be crossed by construction vehicles regularly during construction, a TEMPORARY STREAM CROSSING must be provided.

11. Stormwater Management Criteria for Controlling Off-Site Erosion

Provision shall be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development. Drainageways shall be designed so that the final gradients and the resultant velocities of discharges will not create additional erosion.

Stormwater management design will follow the procedures and methodology set forth in the *Westchester County Best Management Practices Manual for Stormwater Runoff* unless a comprehensive stormwater management plan and model has been adopted by the municipalities which compose the watershed in which the development is located.

12. Underground Utility Construction

The construction of underground utility lines involving installation, maintenance or repair which disturbs more than 10,000 square feet shall be subject to the following criteria:

- a. No more than 500 feet of trench are to be opened at one time.
- b. Where consistent with safety and space considerations, excavated material is to be placed on the uphill side of trenches.
- c. Trench dewatering devices shall discharge in a manner which will not adversely affect flowing streams, drainage systems, or off-site property.

Individual service connections, telephone and electric lines, and underground public utility lines under existing hard-surfaced roads, streets, or sidewalks, provided such land-disturbing activity is confined to the area which is hard-surfaced, are exempt from the above requirements.

13. Construction Access Routes

Wherever construction vehicle access routes intersect paved public roads, provisions must be made to minimize the transport of sediment (mud) by runoff or vehicle

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tracking onto the paved surface. Where sediment is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day. Sediment shall be removed from roads by shoveling or sweeping and transported to a sediment control area. Street washing shall be allowed only after sediment is removed in this manner.

14. Disposition of Temporary Measures

All temporary erosion and sediment control measures shall be disposed of within 30 days after final site stabilization is achieved or after the temporary measures are no longer needed, unless otherwise authorized by the (**permitting authority**). Trapped sediment and other disturbed soil areas resulting from the disposition of temporary measures shall be permanently stabilized to prevent further erosion and sedimentation.

15. Maintenance

All temporary and permanent erosion and sediment control practices must be maintained and repaired as needed to assure continued performance of their intended function.

16. Aesthetics

In the design of erosion control facilities and practices, aesthetics and the requirements of continuing maintenance shall be considered.

17. Review by the Westchester County Soil & Water Conservation District

The Westchester County Soil and Water Conservation District shall be consulted for review and recommendations for all erosion and sediment control plans for proposed developments submitted to the (**municipality**).

ARTICLE VI SITE DEVELOPMENT PERMIT

A. PERMIT REQUIRED

1. Except as otherwise provided in this local law, no person shall commence or perform any land-disturbing activity, including, but not limited to, grading stripping, excavating, or filling, without first obtaining a site development permit from the (**permitting authority**) upon approval by the Municipal Engineer in consultation with the Westchester County Soil and Water Conservation District, all other necessary local, state, and federal permits, and thereafter comply with the requirements of this local law.
2. An application for a site development permit shall be made in the same manner as prescribed for a building permit except that such application shall be made to the

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Municipal Engineer.

B. EXCEPTIONS

A permit shall not be required for any of the following activities:

1. Normal lawn and landscaping maintenance.
2. Existing nursery and agricultural operations conducted as either a permitted main, or accessory, use.
3. Grading of land in a uniform manner, provided the elevation of land is not altered by more than three (3) inches, the normal flow of surface water at the property lines is not altered and, upon completion of the grading, the exposed surfaces are permanently stabilized with vegetation.
4. Alteration of the exterior of a building and alteration of the exterior of a building, provided such exterior alteration does not increase land coverage.
5. Installation, renovation, or replacement of a septic system to serve an existing dwelling or structure.
6. Any emergency activity which is immediately necessary to the protection of life, property, or natural resources.

C. APPLICATION FOR PERMIT

An application for a site development permit shall be made by the owner of the property or his authorized agent to the (**permitting authority**) on a form furnished for that purpose. Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee of \$_____. Each application shall include a certification that any land clearing, construction, or development involving the movement of earth shall be in accordance with the plans approved upon issuance of the permit.

D. SUBMISSIONS

Each application for a site development permit shall be accompanied by the following information:

1. A vicinity map in sufficient detail to easily locate, in the field, the site for which the permit is sought, including the boundary line and approximate acreage for the site, existing zoning, and a legend and scale.

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2. A development plan of the site showing:
 - a. Existing topography of the site and adjacent land within approximately 100 feet of the boundaries, drawn at no greater than two-foot contour intervals and clearly portraying the conformation and drainage pattern of the area.
 - b. The location of existing buildings, structures, utilities, waterbodies, floodplains, drainage facilities, vegetative cover, paved areas, watershed divides, and other significant natural or man-made features on the site, and adjacent land within approximately 100 feet of the boundary.
 - c. A description of the predominant soil types on the site, their location, and their limitations for the proposed use.
 - d. Proposed use of the site, including both present development and planned utilization; areas of excavation, grading, and filling; proposed contours, finished grades, and street profiles; provisions for storm drainage, including the control of accelerated runoff, with a drainage area map and computations; kinds and locations of utilities; and areas and acreages proposed to be paved, covered, sodded or seeded, vegetatively stabilized, or left undisturbed.
3. An erosion and sediment control plan, or plans, showing:
 - a. All erosion and sediment control measures necessary to meet the objectives of this local law throughout all phases of construction and permanently, after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate erosion and sediment control plans also may be required.
 - b. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
 - c. Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.
 - d. Identification of the person(s) or entity which will have legal responsibility for maintenance of erosion control structures and measures after development is completed.
4. The proposed phasing of development of the site, including stripping and clearing, rough grading and construction, and final grading and landscaping. Phasing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, and the sequence of clearing, installation of temporary

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sediment control measures, installation of storm drainage, paving of streets and parking areas, and establishment of permanent vegetative cover.

These submissions shall be prepared in accordance with the standards and requirements contained in the *Westchester County best Management Practices Manuals* prepared by the County of Westchester, which standards and requirements are hereby incorporated into this local law by reference.

The **(permitting authority)** may waive specific requirements for the content of submissions upon finding that the information submitted is sufficient to show that the work will comply with the objectives and principles of this local law.

E. BONDS

The application may be required to file with the **(municipality)** a faithful performance bond or bonds, letter of credit, or other improvement security satisfactory to the Municipal Attorney in an amount deemed sufficient by the **(permitting authority)** to cover all costs of improvements, landscaping, maintenance of improvements, and landscaping for such period as specified by the **(municipality)**, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

F. REVIEW AND APPROVAL

Each application for a site development permit shall be reviewed and acted upon according to the following procedures:

1. The **(permitting authority)** will review each application for a site development permit to determine its conformance with the provisions of this local law. The **(permitting authority)** will also refer any application to the Westchester County Soil and Water Conservation District and/or any other local government or public agency within whose jurisdiction the site is located, for review and comment. Within thirty (30 days after receiving an application, the **(permitting authority)** shall, in writing,
 - (a) approve the permit application if it is found to be in conformance with the provisions of this local law, and issue the permit;
 - (b) approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this local law, and issue the permit subject to these conditions; or
 - (c) disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application an/or submission.
2. No site development permit shall be issued for an intended development site unless:
 - a. The development has been approved by the **(municipality)** where applicable, or
 - b. Such permit is accompanied by or combined with a valid building permit issued

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by the (**municipality**), or

- c. The proposed earth moving is coordinated with any overall development program previously approved by the (**municipality**) for the area in which the site is situated.

- 3. Failure of the (**permitting authority**) to act on original or revised applications within thirty (30) days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the (**permitting authority**). Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the (**permitting authority**).

G. APPEALS

The applicant, or any person or agency which received notice of the filing of the application, may appeal the decision of the (**permitting authority**) as provided in paragraph F(3) of this Article VI, to the (**Board of Appeals**). Upon receipt of an appeal, the (**Board**) shall schedule and hold a public hearing, after giving 15 days notice thereof. The (**Board**) shall render a decision within thirty (30) days after the hearing. Factors to be considered on review shall include, but not be limited to, the effects of the proposed development activities on the surface water flow to tributaries and downstream lands; any comprehensive watershed management plans, or the use of any retention facilities; possible saturation of fill and unsupported cuts by water, both natural and domestic; runoff surface waters that produce erosion and silting of drainageways; nature and type of soil or rock which, when disturbed by the proposed development activities, may create earth movement and produce slopes that cannot be landscaped; and excessive and unnecessary scarring of the natural landscape through grading or removal of vegetation.

H. RETENTION OF PLANS

Plans, specifications, and reports of all site developments shall be retained in original form or on microfilm by the (**permitting authority**).

ARTICLE VII OPERATION STANDARDS AND REQUIREMENTS

A. APPLICABILITY

All grading, stripping, excavating, and filling which is subject to the permit requirements of this ordinance, and any grading, stripping, excavating, and filling which is exempted from the permit requirements by paragraph B of Article VI, shall be subject to the applicable standards and requirements set forth in this Article VII.

B. RESPONSIBILITY

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The permittee shall not be relieved of responsibility for damage to persons or property otherwise imposed by law, and the (**municipality**) or its officers will not be made liable for such damage, by (1) the issuance of a permit under this local law, (2) compliance with the provisions of that permit or with conditions attached to it, (3) failure of municipal officials to observe or recognize hazardous or unsightly conditions, (4) failure of municipal officials to recommend denial of, or to deny a permit, or (5) exemptions from the permit requirements of this local law.

C. MANUAL ADOPTED BY REFERENCE

The standards and specifications contained in the *Westchester County Best Management Practices Manuals* cited in paragraph D of Article VI, are hereby incorporated into this Article VII and made a part thereof by reference for the purpose of delineating procedures and methods of operation under site development and erosion and sedimentation control plans approved under Article VI. In the event of conflict between provisions of said manual and local law, the local law shall govern.

D. INSPECTION

1. The (**permitting authority**) or designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the site development or erosion and sediment control plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the (**permitting authority**) shall be maintained at the site during progress of the work. In order to obtain inspections, the permittee shall notify the (**permitting authority**) or designated agent at least two (2) working days before the completion of:

1. Stripping and clearing
2. Rough grading
3. Final grading
4. Final landscaping

If stripping, clearing, grading, and/or landscaping are to be done in phases or areas, the permittee shall give notice and request inspection at the completion of each of the above work stages in each phase or area. If an inspection is not made and notification of the results given within five (5) working days after notice is received by the municipality from the permittee, the permittee may continue work at this own risk, without presuming acceptance by the municipality. Notification of the results of the inspection shall be given in writing at the site.

2. The permittee or his agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plan(s). The purpose of such inspections will be to determine the

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condition and need for replacement or repair of in-place control measures, the overall effectiveness of the control plan, and the need for additional control measures. All inspections shall be documented in written form and submitted to the **(permitting authority)** at the time interval specified in the approved permit.

E. SPECIAL PRECAUTIONS

1. If at any stage of the grading of any development site the **(permitting authority)** or designated agent determines by inspection that the nature of the site is such that further work authorized by an existing permit is likely to imperil any property, public way, watercourse, or drainage structure, the **(permitting authority)** may require, as a condition of allowing the work to be done, that such reasonable special precautions be taken as are considered advisable to avoid the likelihood of such peril. "Special precautions" may include, but shall not be limited to, a more level exposed slope, construction of additional drainage facilities, berms, terracing, compaction, or cribbing. Installation of plant materials for erosion control, and recommendations of a registered soils engineer and/or engineering geologist which may be made requirements for further work.
2. Where it appears that storm damage may result from incomplete grading on any development site, work may be stopped and the permittee required to install temporary structures or take such other measures as may be necessary to protect adjoining property or the public safety. On large developments, or where unusual site conditions prevail, the **(permitting authority)** may specify the time of start of grading and time of completion or may require that the operations be conducted in specific stages to ensure completion of protective measures or devices prior to the advent of seasonal rains.

F. AMENDMENT OF PLANS

Major amendments of the site development or erosion and sediment control plans shall be submitted to the **(permitting authority)** and shall be processed and approved, or disapproved, in the same manner as the original plans. Field modifications of a minor nature may be authorized by the **(permitting authority)** by written authorization to the permittee.

G. EXPIRATION OF PERMIT

Every site development permit shall expire and become null and void if the work authorized by such permit has not begun within one hundred and eighty (180) days, or is not completed by a date which shall be specified in the permit, except that the **(permitting authority)** may, if the permittee presents satisfactory evidence that unusual difficulties have prevented the start of work or completion of same within the specified time limits, grant a reasonable extension of time if written application is made before the expiration date of the permit.

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ARTICLE VIII ENFORCEMENT

A. EXCEPTIONS

The **(Board of Appeals)** may, in accordance with the following procedures, authorize exceptions to any of the requirements and regulations set forth in this local law:

1. Application for any exception shall be made by a verified petition of the applicant for a site development permit, stating fully the grounds of the petition and the facts relied upon by the applicant.

Such petition shall be filed with the site development permit application. IN order for the petition to be granted, it shall be necessary that the **(Board)** find all of the following facts with respect to the land referred to in the petition:

- a. That the land is of such shape or size or is affected by such physical conditions or is subject to such title limitations of record that it is impossible or impractical for the applicant to comply with all of the requirements of this ordinance.
 - b. That the exception is necessary to prevent unreasonable and unnecessary hardship; and
 - c. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.
2. Each application for an exception shall be referred to the **(permitting authority)** for review. The **(permitting authority)** shall transmit its recommendations to the **(Board)** which shall review such recommendations prior to granting or denying the exception.
 3. The **(Board)** shall hold a public hearing on each application for exception, within 30 days after receiving application, in the manner provided with respect to appeals. After public hearing, the **(Board)** may approve the site development permit application with the exceptions and conditions it deems necessary, or it may disapprove such site development permit application and exception application, or it may take such other action as appropriate.

B. STOP-WORK ORDER; REVOCATION OF PERMIT

In the event any person holding a site development permit pursuant to this ordinance violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or the development site or so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the **(permitting authority)** may suspend or revoke the site development permit.

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1. Suspension of a permit shall be by a written stop-work order issued by the (**permitting authority**) and delivered to the permittee or his agent or the person performing the work. The stop-work order shall be effective immediately, shall state the specific violations cited, and shall state the conditions under which work may be resumed. A stop-work order shall have the affect of suspending all authorizations and permits granted by the Town or any agency thereof, and shall remain in effect until the next regularly scheduled meeting of the (**Board**) at which the conditions of subparagraph 2 below can be met.
2. No site development permit shall be permanently suspended on revoked until a hearing is held by the (**Board**). Written notice of such hearing shall be served on the permittee, either personally or by registered mail, and shall state:
 - a. grounds for complaint or reasons for suspension or revocation, in clear or concise language;
 - b. the time and place of the hearing to be held.

Such notice shall be served on the permittee at least five (5) days prior to the date set for the hearing. At such hearing, the permittee shall be given an opportunity to be heard and may call witnesses and present evidence on his behalf. At the conclusion of the hearing, the (**Board**) shall determine whether the permit shall be suspended or revoked.

C. VIOLATIONS AND PENALTIES

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance.

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than \$1,000) for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to restore the site to the condition existing prior to commission of the violation, or to bear the expense of such restoration.

D. SEPARABILITY

The provisions and sections of this ordinance shall be deemed to be separable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

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Prepared by:

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