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**State:** New York  
**Jurisdiction Type:** Municipal  
**Municipality:** Town of Geneseo  
**Year:** Unknown  
**Community Type – applicable to:** Rural; Suburban; Urban  
**Title:** Town of Geneseo Municipal Code, Chapter 54 Erosion and Sediment Control

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***Abstract***

This chapter guides and regulates the design, construction, and maintenance of any development or activity which disturbs the topsoil or results in the movement of earth on land in order to promote the public welfare and safeguard persons, protect property, and prevent damage to the environment, including Conesus Lake and all bodies of water or watercourses in the Town of Geneseo. Performance standards include retaining existing vegetation and constructing sediment control measures prior to beginning any land disturbance activities, with all runoff to be directed to sediment control devices. Any person, entity, organization, or public agency seeking to initiate any land disturbance activities must obtain an erosion control permit, and comply with an approved erosion control plan and performance standards.

***Resource***

## Chapter 54

### EROSION AND SEDIMENT CONTROL

#### GENERAL REFERENCES

Planning Board — See Ch. 24.

Subdivision of land — See Ch. 93.

Zoning Board of Appeals — See Ch. 33.

Zoning — See Ch. 106.

Flood damage prevention — See Ch. 62.

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#### § 54-1. Title.

This chapter shall be known as the "Erosion and Sediment Control Law of the Town of Geneseo."

#### § 54-2. Findings of fact.

The Town Board of the Town of Geneseo finds that uncontrolled drainage and runoff associated with land development has a significant impact upon the health, safety and welfare of the community by potentially causing substantial recreational, aesthetic, environmental and economic losses resulting from adverse impacts on community waters, specifically:

- A. Construction requiring land clearing and the alteration of natural topography tends to increase erosion;
- B. Stormwater runoff can carry pollutants into receiving water bodies, degrading water quality;
- C. The increase in nutrients in stormwater runoff such as phosphorus and nitrogen accelerates eutrophication of receiving waters;
- D. Improper design and construction of erosion control devices can increase the velocity of runoff thereby increasing stream bank erosion and sedimentation;
- E. Siltation of water bodies resulting from increased erosion decreases their capacity to hold and transport water, interferes with navigation, and harms flora and fauna;
- F. Development as defined in this chapter and activities associated with development, as well as land grading and earth moving can have a significant and potentially adverse impact on the environment.

#### § 54-3. Purpose. [Amended 10-26-2006 by L.L. No. 1-2006]

The purpose of this chapter is to safeguard persons, protect property, prevent damage to the environment within the Town of Geneseo, including the environment of Conesus Lake, as well as all bodies of water or watercourses in the Town of Geneseo, and to promote the public welfare by guiding and regulating the design, construction, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land in the

Conesus Lake watershed, or any other watershed potentially impacted by such activities in the Town of Geneseo.

**§ 54-4. Statutory authority.**

In accordance with § 10 of the Municipal Home Rule Law of the State of New York, the Town Board has the authority to enact local laws for the purpose of promoting the health, safety or general welfare of the Town.

**§ 54-5. Conformance required.**

All site preparation, construction and development activities as defined hereinafter occurring in the Town of Geneseo shall be in conformance with the provisions set forth herein.

**§ 54-6. Word usage; definitions.**

A. Unless specifically defined below, words or phrases shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most effective application. Words used in the singular shall include the plural and the plural the singular; words used in the present tense shall include the future tense. The word "shall" connotes mandatory and not discretionary; the word "may" is permissive.

B. As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL OPERATIONS (AS DEFINED IN ARTICLE 25AA OF THE NYS AGRICULTURE AND MARKETS LAW) — Land and on-farm buildings, equipment and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise.

CERTIFICATE OF COMPLIANCE — A written certificate that is issued to the applicant by the Code Enforcement Officer after all final grading and seeding is completed and all permanent erosion control measures are established as specified in the erosion control permit and to the satisfaction of the Code Enforcement Officer.

CERTIFIED PROFESSIONAL — A licensed architect, a licensed engineer, a licensed landscape architect, or an International Erosion Control Association (IECA) certified professional in erosion and sediment control.

DEVELOP — To make a site or area available for use by physical alteration.

DEVELOPMENT — Any physical alteration of a site or area, including, but not limited to, providing access to a site, clearing of vegetation, grading, earth moving, providing utilities and other services such as parking facilities, stormwater management and erosion control systems, and sewage disposal systems, altering landforms, or construction of a structure on the land.

EROSION — The removal of soil particles by the action of the water, wind, ice or other geological agents.

EROSION CONTROL PERMIT — A permit that is issued by the Code Enforcement Officer before any development and/or land clearing activities can occur on a site.

EROSION CONTROL PLAN — A document prepared by a certified professional that identifies predevelopment and postdevelopment conditions on a site and outlines the

erosion control measures that will be used on a site. This document is required for projects exposing more than 10,000 square feet of soil.

**FLOODPLAIN** — For a given flood event, that area of land temporarily covered by water which adjoins a watercourse.

**GARDEN** — A plot of ground where herbs, fruits, flowers, or vegetables are cultivated, excluding agricultural operations as defined herein.

**GABION** — A galvanized wire basket filled with stone used for structural purposes. When they are fastened together, they are used as retaining walls, slope protection and similar structures.

**GRADING** — Excavation or fill of material, including the resulting conditions thereof.

**NATURAL DRAINAGE CHANNEL** — A swale, watercourse in a gully, or an unprotected stream.

**PERFORMANCE STANDARDS** — The set of standards outlining the erosion control requirements for construction and soil disturbing activities.

**PERIMETER CONTROL** — A barrier that prevents sediment from leaving a site either by filtering sediment laden runoff, or diverting it to a sediment trap or basin.

**PHASING** — Clearing a parcel of land in distinct phases, with the stabilization of each phase occurring before the clearing of the next.

**RIPRAP** — A combination of large stone, cobbles and boulders used to line channels, stabilize stream banks, and reduce run off velocities.

**STABILIZATION** — The use of practices that prevent exposed soil from eroding.

**START OF CONSTRUCTION** — The first land disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets, driveways, parking areas and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

**STEEP SLOPE** — Grade change of 15% or more.

**STOP-WORK ORDER** — A written order issued by the Code Enforcement Officer to cease and desist all activity and development on a site until such time as the violation is corrected.

**STREAM CORRIDOR** — The landscape features on both sides of a stream, including soils, slope and vegetation, whose alteration can directly impact the stream's physical characteristics and biological properties.

**SWALE** — A natural or man-made depression or wide shallow ditch used to temporarily route or filter runoff.

**UTILITIES** — Public and private services, including, but not limited to, public water and sewer connection, private wells and septic systems, and telephone, natural gas, electric, and cable television services.

**WATERSHED** — A region or area bounded by a greater elevation and draining ultimately to a particular body of water.

**§ 54-7. Applicability of provisions.**

- A. This chapter shall apply to all development, as defined herein, which involves the uncovering, exposure or disturbance of 500 or more square feet of soil. Excepted herefrom are agricultural operations, whether or not within an agricultural district, as defined in Article 25AA of the New York State Agriculture and Market Laws, and private gardens.
- B. No person, corporation, entity, organization, or public agency shall initiate any development activities, land clearing, land grading, or earthmoving activities (hereinafter also collectively referred to as "land disturbance activity") unless in conformity with the regulations of this chapter.
- C. No person, agency, corporation or other entity shall commence any development or land disturbing activities without obtaining an erosion control permit issued by the Town Enforcement Officer.
- D. No person shall be granted an erosion control permit for land disturbing activity that would require the disturbance or uncovering of 10,000 or more square feet without the approval of an erosion control plan by the Town Planning Board.
- E. Exemptions. The following activities are exempt from the erosion control plan requirements but must comply with the performance standards listed in § 54-11 and have the applicable erosion control measures approved by the Code Enforcement Officer:
- (1) Development or land disturbing activities involving at least 500 square feet of soil, but less than 10,000 square feet of soil;
  - (2) Development of one single-family residential structure or one duplex unit and accessory structures and utilities thereto;
  - (3) The installation of a lawn for one single-family residential structure; and
  - (4) The installation of a driveway for one single-family residential structure.
  - (5) The installation of all septic systems which are subject to the review, inspection and/or approval of the Livingston County Department of Health. **[Amended 8-8-2002 by L.L. No. 4-2002]**
- F. NYSDEC Phase II stormwater requirements. Developing an erosion control permit or plan that complies with the requirements of this chapter herein does not relieve an operator from the obligation of complying with stormwater management requirements of the NYSDEC Phase II Stormwater Program having jurisdiction over the project. **[Added 10-26-2006 by L.L. No. 1-2006]**

**§ 54-8. Erosion control permit; inspections; certificate of compliance; certificate of occupancy.**

- A. Erosion control permit.
- (1) An applicant shall submit an erosion control permit application to the Code Enforcement Officer, who shall inform the applicant within seven days if the application is incomplete.

- (2) The Code Enforcement Officer shall refer all complete erosion control permit applications for lands within the Conesus Lake Watershed District to the Conesus Lake Watershed Inspector within seven days of receipt for review and comment.
    - (a) The Watershed Inspector shall have 14 days to comment on the application and return those comments to the Code Enforcement Officer; and
    - (b) The Code Enforcement Officer shall consider comments from the Watershed Inspector if the comments are received within this period of time.
  - (3) If an erosion control plan is not required, the Code Enforcement Officer shall review the application to determine whether the proposed erosion control measures comply with the performance standards outlined in § 54-11 of this chapter and approve or deny the erosion control permit based on that review. A preconstruction meeting with the Code Enforcement Officer, the Conesus Lake Watershed Inspector, and the applicant may be required prior to the issuance of an erosion control permit.
  - (4) If an erosion control plan is not required, an erosion control permit must be approved or denied within 60 days of receipt of a complete erosion control application by the Code Enforcement Officer.
  - (5) Issuance of an erosion control permit does not authorize development of the site unless and until all other applicable permits or approvals, including a building permit, are issued pursuant to federal, state and local law.
- B. Inspections. The applicant shall arrange with the Code Enforcement Officer for scheduling inspections of the site. The Code Enforcement Officer shall inspect the work and either approve it or notify the applicant in writing of any failure to comply with the requirements of the approved erosion control plan and/or erosion control permit. The Code Enforcement Officer and the Watershed Inspector may conduct inspections at reasonable times to ensure effective control of erosion and sedimentation during all phases of construction. The Code Enforcement Officer may have the Town Engineer assist on site inspections. If the Town Engineer is consulted for an inspection, the applicant shall be responsible for the cost of such consultation, pursuant to Article VI of Chapter 106 of the Code of the Town of Geneseo.
- C. A certificate of compliance shall be issued by the Code Enforcement Officer after all final grading and seeding are completed and all permanent erosion control measures are established as specified in the erosion control permit and to the satisfaction of the Code Enforcement Officer.
- D. A permanent certificate of occupancy shall not be issued until a certificate of compliance is issued for the satisfactory installation and/or completion of erosion control measures.

#### **§ 54-9. Contents of erosion control plan.**

- A. Erosion control plans shall be prepared by a certified professional. Plans must contain the information set forth in this section to enable the Town Planning Board to determine whether the plan will prevent the development from adversely affecting the water quality of the surface water due to erosion. In making this determination, plans shall be evaluated pursuant to the performance standards in § 54-11 hereof, and must therefore contain sufficient information to permit such evaluation.

- B. The erosion control plan shall contain the name, address, and telephone number of the owner, contractor, and developer. In addition, the legal description of the property shall be provided, and its location with reference to such landmarks as major water bodies, adjoining roads, railroads, subdivisions, or towns shall be clearly identified on a map.
- C. The structure and content of the erosion control plan shall be as follows:
- (1) Background information.
    - (a) Project description which shall include, but not be limited to, a sequence of construction of the development site, including stripping and clearing, rough grading, construction of utilities, infrastructure, and buildings, and final grading and landscaping. Sequencing 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 erosion and sediment measures, and establishment of permanent vegetation.
    - (b) Existing (predevelopment) conditions, including, but not limited to, an identification of soils, slopes, and existing vegetative cover and drainage conditions.
    - (c) Proposed future (development) conditions, including, but not limited to, an identification of drainage conditions and changes in vegetative cover anticipated to result from the proposed activity.
  - (2) Erosion and sediment control.
    - (a) Identification of temporary erosion and sediment control measures, including, but not limited to, seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, and type and quantity of mulching for both temporary and permanent vegetative control measures.
    - (b) Identification of permanent erosion and sediment control measures.
  - (3) Implementation schedule and maintenance, including, but not limited to, easements and estimates of the cost of maintenance.

**§ 54-10. Erosion control plan review process.**

- A. The applicant shall submit a complete erosion control plan to the Code Enforcement Officer.
- B. The Code Enforcement Officer shall inform the applicant in writing within 14 days if the erosion control plan is incomplete. The erosion control plan shall automatically be deemed complete if the Code Enforcement Officer does not inform the applicant within 14 days.
- C. When the erosion control plan is determined to be complete, the Code Enforcement Officer shall then schedule it for review at the next available Town Planning Board meeting, to be held not later than 31 days after the erosion control plan is determined to be complete.
- D. All erosion control plans for development in the Conesus Lake Watershed must be referred to the Conesus Lake Watershed Inspector for review and comment within five days of Code Enforcement Officer receipt of the plan. Comments received from the Conesus Lake

Watershed Inspector prior to the Town Planning Board meeting will be considered by the Code Enforcement Officer and the Town Planning Board.

- E. The applicant shall receive written notice of the time and place of the Town Planning Board meeting where the erosion control plan will be reviewed no less than five days prior to the Town Planning Board meeting.
- F. An erosion control plan shall also be reviewed by the Town Engineer or any other certified professional retained by the Town. The Engineer or certified professional may then recommend approval or disapproval of the plan to the Town Planning Board prior to the scheduled Planning Board meeting where the plan will be discussed. A recommendation for approval or disapproval of the plan must be based on conformance to the performance standards listed in § 54-11.
- G. The Town Planning Board shall have the authority to impose reasonable conditions to ensure that the objectives of this chapter are met.
- H. The Town Planning Board shall approve or disapprove the erosion control plan. Approval or disapproval of the plan must be based on conformance to the performance standards listed in § 54-11, so as to protect the water quality of Conesus Lake, and should clearly identify why it does not, in the instance of a disapproval, conform to the performance standards.
- I. The Town Planning Board shall report the decision to the Code Enforcement Officer and the applicant within 10 days of approval or disapproval of the plan.
- J. If the erosion control plan is approved, the Code Enforcement Officer shall issue the applicant an erosion control permit within 10 days of receipt of the Town Planning Board decision.

**§ 54-11. Performance standards.**

The following performance standards must be applied to all land disturbing activities described in this chapter, including those exempted under § 54-5 hereof, as well as those for which a permit is required hereunder:

- A. Existing vegetation on a project site shall be retained and protected as much as possible to minimize soil loss from the project site.
- B. Sediment control practices/measures shall be designed to protect the natural character of water bodies on-site as well as off-site. The practices must be in place before the start of land disturbance activities until the establishment of permanent stabilization.
  - (1) The off-site impacts of erosion and sedimentation from the development site shall not be any greater during and following land disturbance activities than under predevelopment conditions.
  - (2) Water in stream reaches on-site and downstream of construction areas shall not have substantial visible contrast relative to color, taste, odor, turbidity and sediment deposition from the water in reaches upstream of the construction area.

- (3) Sediment laden runoff shall not be allowed to enter any water body and result in deposition on the bottom of the water body, degrade its natural biological functions, or be deleterious to the classified usage of the water.
- C. All erosion and sediment control measures shall be constructed prior to beginning any land disturbance activities. All runoff from disturbed areas shall be directed to sediment control devices. These devices shall not be removed until the disturbed land areas are stabilized.
- D. Specific guidance.
- (1) Exposure restrictions. No more than five acres of unprotected soil shall be exposed at any one time. Previous earthwork shall be stabilized in accord with approved design standards and specifications referenced in § 54-11D(8) before additional area is exposed. **[Amended 10-26-2006 by L.L. No. 1-2006]**
  - (2) Grading. Perimeter grading shall blend with adjoining properties.
  - (3) Vegetative protection. Where protection of trees and/or other vegetation is required, the location shall be shown on the erosion control plan or on the drawings for the proposed development project. The method of protecting vegetation during construction shall conform to the design specifications referenced in Subsection D(8).
  - (4) Drainage control.
    - (a) Surface runoff that is relatively clean and sediment free shall be diverted or otherwise prevented from flowing through areas of construction activity on the project site. (This will greatly reduce sediment loading in surface runoff.)
    - (b) A fill associated with an approved temporary sediment control structure or permanent stormwater management structure shall not be created which causes water to pond off-site on adjacent property, without first having obtained ownership or permanent easement for such use from the owner of the off-site or adjacent property.
    - (c) Natural drainage channels shall not be altered. Pursuant to Article 15 of the Environmental Conservation Law, a protected stream and banks thereof shall not be altered or relocated without the approval of the Department of Environmental Conservation.
    - (d) Runoff from any land disturbing activity shall not be discharged or have the potential to be discharged off-site or into storm drains or into watercourses unless such discharge is directed through a properly designed, installed and maintained structure, such as a sediment trap, to retain sediment on-site. Accumulated sediment shall be removed when it takes up 50% of the storage capacity of the sediment retention structure. [See § 54-11D(8) below for design specifications.] **[Amended 10-26-2006 by L.L. No. 1-2006]**
    - (e) For finished grading, adequate gradients shall be provided so as to prevent water from standing on the surface of lawns for more than 24 hours after the end of a rainfall, except in a swale flow area which may drain as long as 48 hours after the end of rainfall.

- (f) Permanent swales or other points of concentrated water flow shall be stabilized. Biotechnical approaches using certain types of grasses, such as reed canary grass, are preferable to using sod, gabions and riprap where water quality enhancement is a high priority and the swale design allows. However, sod, gabions, or riprap may be used to stabilize swales where soils and gradient preclude the use of grasses. Use of grasses may require an erosion control matting as provided for in the design specifications referenced in Subsection D(8) below.
  - (g) Surface lows over cut and fill slopes shall be controlled as provided for in the design specifications for vegetating waterways referenced in Subsection D(8).
- (5) Timing.
- (a) Except as noted below, all sites in sensitive areas, including, but not limited to, the Conesus Lake watershed, may be required to be seeded and mulched with erosion control materials such as rye grass, straw mulch, jute, or excelsior (wood shavings) within 14 days of initial disturbance. If construction has been suspended, or sections completed, areas shall be seeded immediately and stabilized with erosion control materials. Maintenance shall be performed as necessary to ensure continued stabilization. **[Amended 10-26-2006 by L.L. No. 1-2006]**
  - (b) For active construction areas, such as borrow or stockpile areas, roadway improvements, and areas within 50 feet of a building under construction, a perimeter sediment control system consisting, for example, of silt fencing or hay bales, shall be installed and maintained to contain soil.
  - (c) On cut sides of roads, ditches shall be stabilized immediately with rock riprap or other nonerrodible liners or, where appropriate, vegetative measures such as sod. When seeding is approved, an anchor mulch shall be used and soil shall be limed and fertilized in accord with recommendations referenced in Subsection D(8).
  - (d) Permanent seeding shall optimally be undertaken in the spring from April 1 through June 15, and in late summer from August 1 to October 15. During the peak summer months and in the fall after October 15 when seeding is found to be impracticable, an appropriate mulch shall be applied. Permanent seeding may be undertaken during summer if plans provide for adequate watering of the seedbed.
  - (e) All slopes steeper than 15%, as well as basin or trap embankments, and perimeter dikes shall, upon completion, be stabilized with sod, seed and anchored straw mulch, or other approved stabilization measures. Areas outside of the perimeter sediment control system shall not be disturbed. Maintenance shall be performed as necessary to ensure continued stabilization.
  - (f) Temporary sediment trapping devices shall be removed within 30 calendar days following establishment of permanent stabilization in all contributory drainage areas. Stormwater management structures used temporarily for sediment control shall be made permanent within this time period as well. Accumulated sediments removed from temporary sediment traps or permanent stormwater

management facilities shall be disposed in a manner so as not to erode and enter a water body.

- (6) Stream corridor management. The bed and banks of all on-site and off-site streams which may be impacted by land clearing, grading, and construction activities shall be protected to prevent sedimentation, stream bank erosion, stream enlargement, or degradation or loss of fisheries habitat. Measures for protecting the bed and/or banks of a stream may include gabion baskets, riprap, log cribbing, and vegetative measures. Whenever possible, vegetative stream bank stabilization practices are recommended over structural practices, such as riprap and gabion linings, that may unnecessarily alter the existing stream ecosystem. Native species of vegetation shall be used for stream bank stabilization wherever practical. In undertaking stream bank stabilization activities for protected streams, the applicant shall comply with appropriate protection of water provisions in Article 15 of the Environmental Conservation Law of the State of New York.
- (7) Maintenance.
  - (a) All points of construction ingress and egress shall be protected to prevent the deposition of materials onto traversed public thoroughfares either by installing and maintaining a stabilized construction entrance or by maintaining a vehicle wash area in a safe disposal area to wash vehicle shells and undercarriage. All materials deposited onto public thoroughfares shall be removed immediately. Proper precaution shall be taken to assure that the removal of materials deposited onto public thoroughfares will not enter catch basins, storm sewers, or water bodies.
  - (b) Accumulated sediment shall be removed when 50% of the storage capacity of sediment retention structures is reached. All removed sediment shall be disposed of in a spoil area where it can be graded, mulched and seeded to prevent erosion and sedimentation. **[Amended 10-26-2006 by L.L. No. 1-2006]**
- (8) Design standards/documents. The designs, standards and specifications for controlling erosion and sedimentation found in the most recent version of the following publication are acceptable for use and shall be identified and shown in the Erosion Control Plan: NYS Standards and Specification for Erosion and Sediment Control. **[Amended 10-26-2006 by L.L. No. 1-2006]**

#### **§ 54-12. Performance bond.**

- A. In order to ensure the full and faithful completion of all construction activities related to compliance with all conditions set forth by the Town Planning Board in its approval of the erosion control plan, the Town Planning Board may require the applicant and/or the applicant's contractor to provide, prior to construction, a performance bond, escrow account certification, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town as the beneficiary. The security shall be in an amount to be determined by the Town Planning Board based on submission of final design plans, with reference to actual construction costs.

- B. Where erosion and sediment control facilities are to be operated and maintained by the applicant or by any person or entity that owns or manages a commercial or industrial facility, the applicant, prior to construction, may be required to provide the Town with a performance bond or an irrevocable letter of credit from an appropriate financial institution or noted surety to ensure proper operation and maintenance of all erosion control facilities for the life of the project.
- C. The performance bond or letter of credit shall remain in force until the surety is released from liability by the Town.
- D. Per annum interest on the performance bond or letter of credit shall be reinvested in the account until the surety is released from liability.
- E. If the developer or owner fails to properly operate and maintain erosion and sediment control facilities, the Town may draw upon the account or notify the surety to cover the costs of proper operation and maintenance.

**§ 54-13. Enforcement.**

- A. Any development activity that is commenced without first being granted an erosion control permit, or which is conducted contrary to an approved erosion control plan, or contrary to the performance standards listed in § 54-11 hereof may be issued a notice of violation and restrained by a stop-work order issued by the Code Enforcement Officer.
- B. Service of a notice of violation shall be sufficient if directed to the owner, agent of the owner or contractor and left at his or her last known place of business or residence, if within the municipality; and if no place of business or residence can be found, then the notice shall be served by posting in a conspicuous place on the premises which is the subject of the violation.
- C. A stop-work order shall also be issued on the project if any of the following conditions are not met during development of the land:
  - (1) There shall be no increase in turbidity that will cause a substantial visible contrast to natural conditions;
  - (2) There shall be no suspended, colloidal and settleable solids that will cause deposition or impair waters in the area for their best usages; and
  - (3) There shall be no residue from oil and floating substances, visible oil film, globules, or grease (6 NYCRR, Part 703, Surface Water and Groundwater Quality Standards and Groundwater Effluent Limitations).
- D. Civil and criminal penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be punished by a fine of not less than \$200 per day nor more than \$1,000 per day or by imprisonment for a period not to exceed 60 days, or by both such fine and imprisonment. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.
- E. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

**§ 54-14. Appeals. [Amended 10-26-2006 by L.L. No. 1-2006]**

Any person aggrieved by the action of any official charged with the enforcement of this chapter, as the result of the disapproval or approval of an erosion control permit or an alleged failure by the Code Enforcement Officer to properly enforce the chapter in regard to a specific application, shall have the right to appeal the action to the Town Zoning Board of Appeals. The appeal shall be filed in writing within 20 days of the date of official transmittal of the final decision or determination to the applicant, shall state clearly the grounds on which the appeal is based, and shall be processed in the manner prescribed for hearing appeals under § 106-38 of the Town Code.

**§ 54-15. Variances. [Amended 10-26-2006 by 1-2006]**

The Town Zoning Board of Appeals may grant a written variance from any requirement of this chapter using the following criteria:

- A. There are special circumstances uniquely applicable to the subject property or its intended use; and
- B. Such special circumstances render it impossible or impracticable for the applicant to develop the subject lands in compliance with some or all of the provisions of this chapter; and
- C. The granting of the variance shall not:
  - (1) Result in an increase or decrease in the rate or volume of surface water run-off;
  - (2) Result in an adverse impact on a wetland, watercourse or water body;
  - (3) Result in degradation of water quality; or
  - (4) Otherwise impair attainment of the objectives of this chapter.