

**Topic:** Erosion & Sedimentation Control  
**Resource Type:** Regulations  
**State:** New York  
**Jurisdiction Type:** Municipal  
**Municipality:** Town of North Castle  
**Year** (*adopted, written, etc.*): Unknown  
**Community Type – applicable to:** Suburban; Rural  
**Title:** Town of North Castle Erosion and Sediment Control Ordinance  
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### ***Abstract***

Through Chapter 101 of the Town Code for the Town of North Castle, the Town Board declares that the purpose of this 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 town.

### ***Resource***

Town of North Castle NY Erosion and Sediment Control  
Code of the Town of North Castle NY  
Chapter 101: Erosion and Sediment Control

General Code

[http://www.e-codes.generalcode.com/codebook\\_frameset.asp?t=tc&p=0492%2D101%2Ehtm&cn=335&n=\[1\]\[137\]](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0492%2D101%2Ehtm&cn=335&n=[1][137])

#### **§ 101-1. Title; repealer.**

This chapter shall be known and cited as the "Erosion and Sediment Control Law of the Town of North Castle." The Flooding, Erosion and Sediment Control Law is hereby repealed.

#### **§ 101-2. Statutory authority.**

This chapter is enacted pursuant to the authority of the town to promote the public health, safety and general welfare of its citizenry under New York State Municipal Home Rule Law, § 10, and New York Environmental Conservation Law, Article 36, and other applicable provisions of state and federal laws.

### **§ 101-3. Findings; purpose.**

Findings. The Town Board of the Town of North Castle hereby finds that:

- A. 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 construction of recreational facilities.
- B. 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.
- C. Soil erosion necessitates the costly cleaning of gullies and repair of washed-out fills and embankments.
- D. Sediment from soil erosion clogs culverts, fills ditches and pollutes and silts rivers, streams, lakes, ponds and reservoirs.
- E. Sediment limits the use of water and watercourses for some beneficial purposes, promotes the growth of undesirable aquatic weeds, destroys fish and other desirable aquatic life and is costly and difficult to remove.
- F. Sediment reduces the channel capacity of watercourses and increases the likelihood of flooding.
- G. Purpose. The Town Board therefore declares that the purpose of this chapter 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 town.

### **§ 101-4. Definitions and word usage.**

- A. Unless specifically defined below, words and phrases used in this chapter shall be interpreted to have the meaning they have in common English usage, to give effect to the purpose set forth in § 101-3B and to provide reasonable application of this chapter.
- B. As used in this chapter, the following terms shall have the meanings indicated:

ADDITION — Any work on an existing structure which changes the external dimensions of such structure.

**AGENT** — The Town Engineer who is designated to administer and enforce this chapter.

**APPEAL** — A request for a review of the Town Board's interpretation of any provision of this chapter or a request for a variance.

**BEST MANAGEMENT PRACTICES** — 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)** The 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** — A permit issued by the municipality for the construction, erection or alteration of a structure or building.

**CERTIFICATION** — Formal attestation that the specific inspections and tests, where required, have been performed, and that such tests comply with the applicable requirements of this chapter.

**CUBIC YARDS** — The amount of material in excavation and/or fill measured by the method of average end areas.

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

**DEVELOPMENT PERMIT** — 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 AND SEDIMENT CONTROL PLAN** — A plan or set of plans prepared by a New York State licensed engineer or licensed landscape architect, indicating the specific measures and sequencing to be used in controlling sediment and erosion on a development site both during and after construction.

**EXCAVATION** — Any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced or spread, and shall include the conditions resulting therefrom.

**EXISTING GRADE** — The elevation of the existing ground surface prior to excavation or filling.

**FILL** — Any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, dumped, transported or moved by man to a new location, and shall include the conditions resulting therefrom.

**FINAL GRADE** — The elevation of the ground or pavement surface after the grading work is completed in accordance with the site development plan.

FLOODWAY — The channel of a river, stream, brook or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

GRADING — Excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

LAND-DISTURBING ACTIVITY — Any land change which may result in soil erosion from water or wind and the movement of soil into watercourse or onto lands, or increased runoff of waters, including but not limited to clearing, grading, excavating, transporting and filling of land.

NATURAL DRAINAGE — Channels formed in the existing surface topography of the land prior to changes made by cultural activities.

PARCEL — All contiguous land under one ownership.

PERMANENT VEGETATION — Mature ground cover to control soil erosion satisfactorily and to survive severe weather conditions.

PERMITTEE — Any person to whom a site development permit is issued.

PERMITTING AUTHORITY — The administrative board or public official empowered to grant permits under this chapter as follows:

- (1) The duly appointed Planning Board shall act as permitting authority for all permit applications relating to activities that require approval of any major or minor subdivision or site development plan from such Board.
- (2) The Town Engineer, in addition to his duties in administering this chapter, or his duly appointed representative, shall act as permitting authority for all permit applications relating to activities that do not require subdivision or site development plan approval, and that involve an estimated aggregate cost of less than \$4,000 including labor, materials and equipment and involve the removal, deposit or regrading of less than 500 cubic yards of materials.
- (3) The duly elected Town Board shall act as permitting authority on all permit applications not subject to Subsection B(1) or (2) above, and all projects that are subject to the jurisdiction of the Excavation Ordinance, the Landfills, Littering and Dumping Ordinance and the Watercourses Ordinance.

PERSON — 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 instrumentalities, and any agent, servant, officer or employee of any of the foregoing.

**REMOVAL** — Cutting vegetation to the ground or leaving it as stumpage, complete extraction or killing by spraying.

**REVIEWING AUTHORITY** — The duly appointed Conservation Board.

**SEDIMENT BARRIER** — A temporary barrier of fixed straw or other bales with a life expectancy of six months or less, installed across or at the bottom of a slope in development sites and disturbed soil areas.

**SITE DEVELOPMENT** — Altering terrain and/or vegetation and any type of construction.

**SITE DEVELOPMENT PERMIT** — A permit issued by the town for the construction or alteration of ground improvements and structures for the control of erosion, runoff and grading.

**SITE PLAN (Engineer/Building Department)** — The map or drawn representation of a proposed development, which is submitted to the Town Engineer and/or Building Inspector for consideration and approval.

**SITE PLAN (Planning Board)** — The map or drawing of a proposed development, which is submitted to the Town Planning Board for consideration and approval.

**SOIL STABILIZATION** — Measures which protect soil from the erosive forces of rain impact and flowing water and include but are not limited to vegetative establishment, mulching and the early application of gravel or stone base on areas to be paved.

**START OF CONSTRUCTION** — 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, tests and exploratory pits, borings and well installations.

**STRIPPING** — Any activity which removes the vegetative surface cover including tree removal, clearing and storage or removal of topsoil.

**SUBDIVISION** — 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 Town of North Castle.

**TEMPORARY STREAM CROSSING** — A temporary structural span installed across a watercourse for use by construction traffic. Structures may include bridges, pipes, culverts or fords.

**TOWN ENGINEER** — Any person employed full-time as the Town Engineer or his assistant or any consultant engineer retained to act in his stead.

TOWN OF NORTH CASTLE ("the town") — Any area within the Town of North Castle.

VARIANCE — A grant of relief from the requirements of this chapter which permits a person to undertake construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship by the Town Board.

WATERCOURSE — Any body of water, including but not limited to lakes, ponds, 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 United States Geological Survey 7.5 minutes quadrangle sheet(s) for the town and/or any area defined as a "wetlands" in the town's Freshwater Wetlands and Drainage Law and/or the Freshwater Wetlands and Drainage Law of New York State.

### **§ 101-5. Objective; principles.**

The objective of this chapter is to control soil erosion and sedimentation caused by development activities in the town. 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 town and to the preparation of the submissions required under § 101-6 of this chapter:

- A. Selection of control measures. The selection of erosion and sedimentation control measures shall be based on assessment of the probable frequency of climatic and other events likely to contribute to erosion, and on an evaluation of the risks and benefits involved.
- B. Protection of adjacent properties.
  - (1) 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, filter screens, dikes or sediment basins or by a combination of such measures.
  - (2) Vegetated buffer strips may be used alone only where runoff in sheet flow is expected and the location of the proposed construction is such that a vegetated buffer strip of at least 20 feet in width can be provided. 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.

C. Cut and fill slopes.

- (1) 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.
- (2) In the design of cut and fill slopes, consideration must be given to the length and steepness of the slope, the soil type, upslope drainage area, groundwater conditions and other applicable factors. Slopes which are found to be eroding excessively within one year of construction must be provided with additional measures until the problem is corrected. Fills shall not encroach on areas designated as controlled areas under the town's Freshwater Wetlands and Drainage Law or the state's Freshwater Wetlands and Drainage Law unless undertaken under an appropriate permit issued under such regulations. In no case shall fills encroach on constructed channels or floodways or adjacent properties.

D. Vegetation.

- (1) 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 ground cover is achieved which, in the opinion of the Town Engineer or his designated agent, is mature and able to control soil erosion satisfactorily and to survive severe weather conditions.
- (2) The smallest practical area of land shall be exposed for the shortest practical time during development.

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

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

G. 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 immediately after completion of construction.

- H. 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 twenty-five-year frequency storm without erosion. Stabilization adequate to prevent erosion must also be provided at the outlets of all pipes and paved channels.
- I. 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 filtered or otherwise treated to remove sediment.
- J. Working in or crossing watercourses.
  - (1) Construction vehicles should be kept out of watercourses to the greatest extent possible. Where 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.
  - (2) Where a watercourse must be crossed by construction vehicles regularly during construction, a temporary stream crossing must be provided. In the event that any work is conducted in a wetlands, as that term is defined in the town's Fresh Water Wetlands and Drainage Law, the town's wetlands law shall control.
- K. Stormwater management criteria for controlling off-site erosion.
  - (1) 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.
  - (2) Stormwater management design will follow the procedures and methodology set forth in the Westchester County Best Management Practices Manual for Stormwater Runoff or some other method acceptable to the Town Engineer and as set forth with the town's Flood Damage Prevention Law and the Land Subdivision Regulations and Zoning Ordinance. The permittee shall submit a plan for controlling stormwater runoff based upon the aforementioned manual simultaneously with the site plan to the permitting authority.
- L. Underground utility construction.



(1) 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 300 feet of trench are to be opened at one time unless approval to open a greater length is granted by the Town Engineer.

(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.

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

M. Construction access routes. Wherever construction vehicle access routes intersect paved public roads, provisions must be made to minimize the transport of sediment by runoff or vehicle tracking on to the paved surface in accordance with the Westchester County Best Management Practices. 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 and sweeping and transported to a sediment control area. Street washing shall be allowed only after sediment is removed in this manner.

N. Disposition of temporary measures. All temporary erosion and sediment control measures shall be disposed of within one month after final site stabilization is achieved or after the temporary measures are no longer needed, unless otherwise authorized by the town. Trapped sediment and other disturbed soil areas resulting from the disposition of temporary measures shall be properly removed.

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

P. Grading. During grading, operations, appropriate measures for dust control shall be exercised. Grading equipment shall not be allowed to enter into or cross any watercourse, except in accordance with the terms of the permit issued by the Town Engineer.

## **§ 101-6. Site development permit; exceptions.**

### **A. Permit required.**

- (1) The Town Engineer, or his designated agent, is hereby designated as the agent for administering and implementing the provisions of this chapter.
- (2) Except as otherwise provided in this chapter, 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. Neither shall preexisting erosion control devices be removed without first obtaining a site development permit from the permitting authority.
- (3) The Best Management Practices Manual of the County of Westchester shall be used as a guide and reference of performance standards in the issuance of all development permits and for all work done pursuant to town authority.
- (4) Applicants shall also obtain all other permits required by state and federal law as required.
- (5) The Westchester County Soil and Water Conservation District shall be consulted for review and recommendations for all applications for any permits involving any land-disturbing activity which involves excavation or dumping of 2,000 cubic yards or more, or for any applications for any permits involving any land disturbing activities in the town and a contiguous municipality. Failure on the part of the Westchester County Soil and Water Conservation District to make any recommendation within 30 days after such referral shall be deemed to constitute no objection to the application.
- (6) 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 Town 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) Alteration of the exterior of a building, provided that such exterior alteration does not increase land coverage.
  - (4) Any emergency activity which is immediately necessary for the protection of life, property or natural resources.
- C. Application for permit. Application for a site development permit shall be made by the owner of the property or his authorized agent to the Town Engineer on a form furnished for that purpose. Each application shall bear the name(s) and addresses 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 \$50. 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.
- (1) Each application for a site development permit shall be accompanied by the following information:
    - (a) 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.
    - (b) A plan for controlling stormwater runoff as defined in § 101-5K of this chapter.
    - (c) A development plan of the site showing.
      - [1] 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.
      - [2] The location of existing buildings, structures, stone walls, utilities, water bodies, floodplains, drainage facilities, vegetative cover, paved areas, watershed divides septic systems and wells and other significant natural or manmade features on the site and adjacent land within approximately 100 feet of the boundary.

[3] A map and description of the predominant soil types on the site, their location and their limitations for the proposed use.

[4] 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.

(d) An erosion and sediment control plan or plans showing:

[1] All erosion and sediment control measures necessary to meet the objectives of this chapter 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.

[2] 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.

[3] Provisions for maintenance of control facilities, including easements.

[4] Identification of the person(s) or entity which will have legal responsibility for maintenance of erosion control structures and measures after development is completed.

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

(2) 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 chapter by reference.

- (3) 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 chapter. The permitting authority may approve, approve with conditions or disapprove the erosion and sediment control plan.

E. Bonds. The applicant may be required to file with the town a faithful performance bond or bonds, letter of credit or other improvement security satisfactory to the Town 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 town, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

F. Review and approval.

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

- (a) The permitting authority will review each application for a site development permit to determine its conformance with the provisions of this chapter. The permitting authority shall upon receipt of the application refer the application and supporting plans and documents to the Conservation Board. The Conservation Board shall review the application and within 45 days of receipt thereof, shall file a written report with the permitting authority with its recommendations concerning the application. Such report shall evaluate the proposed operation or project in terms of the environmental management objectives of this chapter and shall include the effect of such operation or project on the controlled area. Failure on the part of the Conservation Board to report its recommendation within 45 days after receipt of such referral shall be deemed to constitute no objection to the application. The permitting authority will also refer any application, where applicable, to the Westchester County Soil and Water Conservation District and/or any other local governmental or public agency within whose jurisdiction the site is located, for review and comment. Within 60 days after receiving an application, the permitting authority shall, in writing:

- [1] Approve the permit application if it is found to be in conformance with the provisions of this chapter, and issue the permit;

[2] Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially all the objectives of this chapter and issue the permit subject to these conditions; or

[3] Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

(b) No site development permit shall be issued for an intended development site unless:

[1] The development has been approved by the town where applicable;

[2] Such permit is accompanied by or combined with a valid building permit issued by the town; or

[3] The proposed earth moving is coordinated with any overall development program previously approved by the town for the area in which the site is situated.

(2) Failure of the permitting authority to act on original or revised applications within 60 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 § 101-6F(2) to the Town Board. 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 30 days after the hearing. Factors to be considered on review shall include but shall 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, reports and as built plans upon completion for all site development shall be retained in original form or on microfilm by the Town Engineer as required.

**§ 101-7. Operation standards and requirements.**

A. Applicability. All grading, stripping, excavating and filling which is subject to the permit requirements of this chapter and any grading, stripping, excavating and filling which is exempted from the permit requirements by § 101-6B, shall be subject to the applicable standards and requirements set forth in this section.

B. Responsibility. The permittee shall not be relieved of responsibility for damage to persons or property otherwise imposed by law, and the town or its officers will not be made liable for such damage, by:

(1) The issuance of a permit under this chapter;

(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 requirement of this chapter.

C. Manual adopted by reference. The standards and specifications contained in the Westchester County Best Management Practices Manuals cited in § 101-6D, are hereby incorporated into this section and made a part hereof by reference for the purpose of delineating procedures and methods of operation under site development and erosion and sedimentation control plans approved under § 101-6. In the event of conflict between provisions of said manual and of this chapter, this chapter shall govern.

D. Inspection.

(1) The Town Engineer 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 a stamp affixed by the Town Engineer indicating work has been performed in general accordance with the plans shall be

maintained at the site during progress of the work. In order to obtain inspections, the permittee shall notify the Town Engineer or designated agent at least three working days before the completion of:

- (a) Stripping and clearing.
  - (b) Rough grading.
  - (c) Final grading.
  - (d) Final landscaping.
- (2) 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 working days after notice is received by the town from the permittee, the permittee may continue work at his own risk, without presuming acceptance by the municipality. Notification of the results of the inspection shall be given in writing at the site.
- (3) 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 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 Town Engineer at the time interval specified in the approved permit.

E. Special precautions.

- (1) If, at any stage of the grading at any development site, the Town Engineer 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 Town Engineer 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 reduced grade of exposed slope, construction of additional drainage facilities, berms, terracing, compaction or cribbing, installation of plant materials for erosion control, and recommendations of a registered engineer and/or 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 Town Engineer 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 Town Engineer 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 Town Engineer 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 180 days or is not completed by a date which shall be specified in the permit, except that the Town Engineer may, if the permittee presents satisfactory evidence that unusual difficulties have prevented the start of work or completion of the same within the specified time limits, grant a reasonable extension of time if written application is made before the expiration date of the permit.

**§ 101-8. Authorization of exceptions; revocation of permit; penalties.**

- A. Exceptions. The Town Board may, in accordance with the following procedures, authorize exceptions to any of the requirements and regulations set forth in this chapter:
- (1) Application for any exception shall be made by a verified petition of the application 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 chapter.

- (b) That the exception is necessary to prevent unreasonable and unnecessary hardship.
  - (c) That the granting of the exception will not be detrimental to the public welfare or injurious to the other property in the vicinity of the subject property.
- (2) Each application for an exception shall be referred to the Town Engineer for review. The Town Engineer shall transmit its recommendations to the Town Board which shall review such recommendations prior to granting or denying the exception.
  - (3) The Town 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 Town 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.
  - (4) The Town Engineer may enter upon any land or water for the purpose of making any investigation, examination, survey or other activity that the Town Engineer may deem necessary for any purposes of this chapter.

B. Stop-work order; revocation of permit.

- (1) In the event that any person holding a site development permit pursuant to this chapter 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 Town Engineer may suspend or revoke the site development permit.
- (2) Suspension of a permit shall be by a written stop-work order issued by the Town Engineer 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 effect 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 Town Board at which the conditions of Subsection B(3) below can be met.

- (3) No site development permit shall be permanently suspended or revoked until a hearing is held by the Town 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 and concise language.
  - (b) The time and place of the hearing to be held.
- (4) Such notice shall be served on the permittee at least one week 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 Town Board shall determine whether the permit shall be reinstated, suspended or revoked.

C. Violations and penalties.

- (1) 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 chapter.
- (2) Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this chapter 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 chapter shall be required to restore the site to the condition existing prior to commission of the violation, or the Town Board may cause the violation to be corrected if the permittee fails to act and the cost thereof shall be assessed against the land or property upon which the violation occurred by the Town Engineer. Such amount shall be an assessment against the land or property. It shall be levied against the land or property in such manner as town taxes are levied, and it shall constitute a lien upon the land or property affected.

- D. The Town of North Castle may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with, or to restrain by injunction the violation of any provision of this chapter or the terms and conditions of any permit granted hereunder.

**§ 101-9. Miscellaneous provisions.**

- A. Conflicts. Wherever this chapter is inconsistent with any other law of the Town of North Castle, whichever imposes the more stringent restrictions shall prevail.
  
- B. Severability. The provisions of this chapter shall be severable, and if any clause, sentence, paragraph, subdivision or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part thereof directly involved in the controversy in which such judgment shall have been rendered.
  
- C. Variance procedure. The Town Board shall hear and decide appeals and requests for variances from the requirements of this chapter.
  
- D. Effective date. This chapter shall take effect immediately and shall apply to all development permit applications filed after the effective date.