

Topic:	Erosion & Sedimentation Control; Stormwater Management; Watershed Protection; Flood Prevention; Quality of Life
Resource Type:	Regulations
State:	New York
Jurisdiction Type:	Municipal
Municipality:	Town of Mamaroneck
Year (adopted, written, etc.):	1992-2003
Community Type – applicable to:	Suburban; Rural
Title:	Town of Mamaroneck Erosion & Sediment Control Ordinance
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Abstract

The intent of the enactment of the below regulations is to control and regulate land-disturbing activities to assure that best management practices are used which minimize water pollution, retain valuable topsoil and vegetation and prevent flooding, erosion and sedimentation. The Town 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 Mamaroneck.

Resource

Town of Mamaroneck NY Erosion and Sediment Control
Code of the Town of Mamaroneck NY
Chapter 95: Erosion and Sediment Control
General Code

[http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0239%2D095%2Ehtm&cn=277&n=\[1\]\[120\]](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0239%2D095%2Ehtm&cn=277&n=[1][120])

[HISTORY: Adopted by the Town Board of the Town of Mamaroneck 10-21-1992 as L.L. No. 8-1992. Amendments noted where applicable.]

§ 95-1. Title.

This chapter shall be known as the "Surface Water, Erosion and Sediment Control Law of the Town of Mamaroneck."

§ 95-2. Statutory authority.

This chapter is enacted pursuant to the authority of municipalities to promote the public health, safety and general welfare of their citizenry under New York State Municipal Home Rule Law § 10, New York Environmental Conservation Law Article 36, the Waterfront Revitalization and Coastal Resources Act of the State of New York, Article 42 of the Executive Law, and other applicable provisions of state and federal law.

§ 95-3. Findings; intent; purpose.

- A. Findings. Stormwater runoff from developing areas can lead to off-site problems, including flooding, erosion and water quality degradation. Pollutants and sediment in runoff from construction sites can have a significant effect on the quality of downstream waters. It may also destroy fish habitats, impair viability of aquatic plants and reduce the channel capacity of watercourses, thereby affecting the public, business and commerce. These effects are caused partly by faults in the design of development and partly by inadequate control of surface water, erosion and sediment during construction.
- B. Intent. It is the intent of these regulations to control and regulate land-disturbing activities to assure that best management practices are used which minimize water pollution, retain valuable topsoil and vegetation and prevent flooding, erosion and sedimentation.
- C. Purpose. The Town of Mamaroneck 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 of Mamaroneck.

§ 95-4. Definitions and word usage.

- A. Use of words. Words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word "lot" includes the word "plot;" the word "building" includes the word "structure."
- B. Definitions. Certain words in this chapter are defined for the purpose thereof as follows:

ADJOINING PROPERTY — Any property facing a work site across any street or highway shall be deemed "adjoining property," as well as any property contiguous on any side.

BASE FLOOD — The one-hundred-year-frequency storm.

BEST MANAGEMENT PRACTICES/MANUALS — Procedures, methods and publications pertaining to construction activities which are intended to minimize water pollution, retain valuable topsoil and prevent erosion and sedimentation, such as those practices contained in the Westchester County Best Management Practices Manual for Erosion and Sediment Control (WCBMPM), December 1991, the New York State Department of Environmental Conservation Division of Water, Technical and Operations Guidance Series numbers 5.1.8 and 5.1.10, the Metropolitan Washington Council of Governments' Controlling Urban Runoff: A Practical Manual for Planning and Designing Urban BMPs and Urban Hydrology for Small Watersheds, Technical Release No. 55, prepared by the United States Department of Agriculture Soil Conservation Service, as from time to time amended, supplemented or replaced. **Editor's Note: The definition of "Building Inspector," which immediately followed this definition, was repealed 10-16-2002 by L.L. No. 10-2002. See now the definition of "Director of Building Code Enforcement and Land Use Administration."**

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

DIRECTOR OF BUILDING CODE ENFORCEMENT AND LAND USE ADMINISTRATION — The Director of Building Code Enforcement and Land Use Administration or duly authorized representatives of the Building Department or the Engineering Department. **[Added 10-16-2002 by L.L. No. 10-2002]**

EROSION AND SEDIMENT CONTROL PLAN — A drawing prepared by a New York State licensed professional engineer, certified erosion control specialist, person with demonstrable educational and experiential qualifications in the field or the Westchester County Soil and Water Conservation District showing the proposed use of the site and showing the methods, techniques and improvements, both during and after construction, that will be employed to control erosion and sedimentation, which shall employ best management practices.

FACING — Any property within the opposite area of the projection of the line of the side property lines.

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

MUNICIPAL PERMIT — Any permits, grants or licenses issued by the Town of Mamaroneck, including but not limited to building, grading, demolition, clearing and excavation permits and subdivision and site plan approvals.

PERSON — Includes any individual or group of individuals, corporation, partnership, association or any other entity, including state and local governments and agencies, authorities or other political subdivisions thereof.

STEEP SLOPES — Ground areas with a slope greater than 25%; slopes that exceed one foot of vertical rise to four feet of horizontal distance.

SURFACE WATER CONTROL IMPROVEMENTS — Improvements to property by the use of the following facilities: drainage pipes, ditches, culverts, water-retention and detention areas and structures, swales, slopes and other conduits and reservoirs.

SURFACE WATER CONTROL PLAN — A drawing prepared by a New York State licensed professional engineer or registered architect showing the methods, techniques and improvements, both during and after construction, that will be employed to control surface water runoff and shall contain all surface water control calculations, unless set forth in an accompanying document.

TOWN ENGINEER — The Town Engineer, Consulting Engineer or duly authorized representative of the Town of Mamaroneck Building and Engineering Department.

§ 95-5. Permit required.

No person shall commence or carry out any development or land-disturbing activity in the Town of Mamaroneck without first obtaining a surface water and/or erosion and sediment control permit(s) from the Building Department upon approval of plans for such control by the Town Engineer, all other necessary local, state and federal permits and thereafter complying with the requirements of this chapter.

§ 95-6. Application for permit; waiver.

- A. An application for a surface water and/or erosion and sediment control permit shall be made on forms provided by the Director of Building Code Enforcement and Land Use Administration. If the application is determined by the Town Engineer to be in accord with this chapter and if the application is accompanied by the appropriate fees, the Building Department shall issue the permit. The permit will be valid for the concurrent time as the associated municipal permit is valid. **[Amended 10-16-2002 by L.L. No. 10-2002]**
- B. Each application shall include certification that any land-disturbing activity, land clearing, construction or development involving the movement and storage of earth shall be in accordance with the plans approved upon issuance of the permit.
- C. Failure of the Town Engineer to act on original or modified applications within 45 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 Town Engineer. When an original plan has been approved and an applicant wishes to modify the original plan, pending preparation and approval of a modified plan, development activities may be allowed to proceed in accordance with conditions established by the Town Engineer.

- D. Modifications of the surface water control and/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. Filed modifications of a minor nature may be authorized by the Director of Building Code Enforcement and Land Use Administration by written authorization to the permittee. **[Amended 10-16-2002 by L.L. No. 10-2002]**
- E. The Town Engineer may waive the requirement for the issuance of the surface water control and/or erosion and sediment control permit(s) when such plans are submitted as part of an application for compliance with Ch. 110, Flood Damage Prevention, freshwater wetlands and watercourses permit, site plan approval permit or tree preservation permit, provided that the Building Department shall not issue a building permit or a subsequent certificate of occupancy until approval thereof has been received from both the Town Engineer and the Director of Building Code Enforcement and Land Use Administration. **[Amended 10-16-2002 by L.L. No. 10-2002]**

§ 95-7. Permit not required.

For the purpose of this chapter, a surface water and/or erosion and sediment control permit(s) shall not be required for the following activities:

- A. Routine lawn and landscaping maintenance of existing cultivated areas.
- B. Existing nursery and agricultural operations conducted as a permitted use.
- C. Grading of land in a uniform manner, provided that the existing 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.
- D. Alteration of the interior of a building and alteration of the exterior of a building, provided that such exterior alteration does not increase land coverage by the building or pavement or the alteration does not involve the demolition of a part or all of the exterior of an existing building.
- E. Any addition to a structure of 100 square feet or less or any structure of 100 square feet or less and/or any deck. **[Amended 3-31-1993 by L.L. No. 5-1993]**
- F. Any emergency activity which is immediately necessary for the protection of life, property or natural resources, as determined by the Town Engineer.

§ 95-8. Approval of surface water control permit.

A. The Town Engineer or his representative shall not approve the issuance of a surface water control permit or authorize the release of a performance bond or, when a waiver of the requirements for the issuance of a separate surface water control permit has been granted as herein provided, authorize the issuance of a building permit or certificate of occupancy except in accordance with the following requirements and shall visit the site to observe the progress of the work and immediately after completion to further ensure compliance with these requirements:

- (1) A surface water control plan may at the discretion of the Town Engineer be referred to the Westchester County Soil and Water Conservation District for its review and comments, in accordance with the Memorandum of Agreement between the Town and the county. Any expense or fees caused by the referral to the District shall be the responsibility of the applicant and will be in addition to any other fee items in this chapter.
- (2) Surface water control plans shall reduce the rate of runoff from land development to prevent increases in flooding and flood damage except as described in § 95-8A(6)(e), (f) or (g). Surface water control plans shall also reduce erosion potential, assure the adequacy of existing and proposed culverts and bridges, increase water recharge into the ground, decrease nonpoint source pollution and water quality degradation, maintain stream channels for their biological functions as well as for drainage through reduced streambank erosion and maximize preservation and protection of stream corridors, floodplains and wetlands.
- (3) The natural drainage features of the site, including natural drainageways and permanent and periodic ponding areas, shall be preserved, except for those reasonable alterations deemed necessary by the Town Engineer to allow for the development of the site in accordance with the provisions of Chapter 106, Fire prevention and building construction, and Chapter 240, Zoning.
- (4) Surface water control improvements shall be constructed so as not to discharge waters onto adjoining property or public ways in such a manner as to impair the permitted use or development of those properties or be detrimental to public safety.
- (5) Temporary surface water and soil erosion and sediment control facilities, such as stream diversions, ponds, silt fences, hay bales and check dams, adequate to protect adjacent property, shall be installed prior to the commencement of construction, grading, excavation or removal of vegetation.
- (6) The applicant shall be required by the Town Engineer to offset the increase in the rate of surface water runoff resulting from the proposed development in accordance with the following requirements:

- (a) Sites of four acres or more or sites with a proposed net increase in impervious surfaces of 75% or more shall provide for a one-hundred-year stormwater detention facility or facilities designed using those methods contained in Urban Hydrology for Small Watersheds, Technical Release No. 55. The Town Engineer may modify or waive this one-hundred-year detention requirement after consultation with the Westchester County Soil and Water Conservation District.
- (b) Sites of less than four acres or sites with a proposed net increase in impervious surfaces of less than 75% shall provide for a twenty-five-year stormwater detention storage facility or facilities designed using those methods contained in Urban Hydrology for Small Watersheds, Technical Release No. 55. The Town Engineer may modify or waive this twenty-five-year detention requirement after consultation with the Westchester County Soil and Water Conservation District.
- (c) Rainfall depth in 24 hours used in calculating required stormwater detention facilities shall be as indicated in the Westchester County Best Management Practices Manual for Stormwater Runoff Control. In each case, a Type III distribution shall be used.
- (d) Detention facility maximum discharge rates for preconstruction conditions for the one-hundred-year storm and the twenty-five-year storm shall be as follows:
 - [1] One-hundred-year storm: one-hundred-, fifty-, twenty-five-, ten- and two-year storms.
 - [2] Twenty-five-year storm: twenty-five-, ten-, five- and two-year storms.
- (e) When the Town Engineer finds that the increase cannot be offset by on-site retention, he may permit the increment of the increase which cannot be retained to be carried away by the land's natural drainage, provided that the increased rate and quantity of flow will not impair the permitted use or development of those lands over which such water will naturally flow nor impress undue economic hardship upon any downstream owner of such other lands.
- (f) When the Town Engineer finds that the increase cannot be offset by on-site retention or as provided for in Subsection A(6)(e) above, he may permit that increment of the increase that cannot be so controlled to be discharged into a Town surface water control facility, provided that he has determined that the

Town facility has sufficient capacity.

- (g) The Town Engineer may waive or reduce the requirements of this section if it is determined by him that existing storm drains or storm drains proposed to be constructed are of adequate size and will discharge surface water runoff directly to Long Island Sound or any large inlet or harbor thereof. However, no stormwater shall be discharged off-site in a manner which will allow such stormwater to reach surface waters unless the quality is improved or equal to predevelopment conditions.
 - (h) In the event that the Town Engineer exercises his option to waive any requirement or permit as set forth in Subsection A(6)(a), (b), (e), (f) and (g), he shall be required to submit supporting calculations and engineering data to substantiate the findings on which this waiver or permission is predicated.
- B. If the Town Engineer determines that the surface water control facilities which can be provided in accordance with the provisions of this section will not provide for the control of the increase in the rate and quantity of flow of surface water runoff resulting from the proposed development, he shall disapprove the application unless the applicant has, within 30 days of being advised of the Town Engineer's determination, modified the development proposal so that the increase in the surface water runoff will not exceed the capacity of the permissible surface water control facilities, nor will it impair use of or do damage to any downstream property. Such modification by the applicant shall be deemed a modification under § 95-12A(2).
- C. If the Town Engineer determines that the proposed methods of controlling surface water are not provided in accordance with this section, he shall disapprove the application unless the applicant has, within 30 days of being advised of the Town Engineer's determination, modified the development proposal so that the requirements of this section are satisfied. Such submittal shall be considered modifications under § 95-12A(2).

§ 95-9. Approval of erosion and sediment control permit.

- A. The Town Engineer shall not approve the issuance of an erosion and sediment control permit or authorize the release of a performance bond or, when a waiver of the requirement for the issuance of a separate erosion and sediment control permit has been granted as herein provided, authorize the issuance of a building permit or certificate of occupancy except in accordance with the following requirements and shall visit the site to observe the progress of work and immediately after completion to further ensure compliance with these minimum requirements:

- (1) An erosion and sediment control plan may at the discretion of the Town Engineer be referred to the Westchester County Soil and Water Conservation District for their review and comments, in accordance with the Memorandum of Agreement between the Town and the county. Any expense or fees caused by the referral to the District shall be the responsibility of the applicant and will be in addition to any other fee items in this chapter.
- (2) Development.
 - (a) Development shall reflect the topography and soils of the site so as to create the least potential for erosion. Areas of steep slope where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible. Clearing or grading shall generally not occur on slopes in excess of 25%.
 - (b) 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 must be provided with additional measures until the problem is corrected. Fills shall not encroach on areas designated as control areas under Ch. 114, Freshwater Wetlands, or the state's Freshwater or Tidal Wetlands Laws **Editor's Note: See Environmental Conservation Law § 24-0101 et seq. and § 25-0101 et seq.** or designated as critical environmental areas and/or significant fish and wildlife habitat under Ch. 92, Environmental Quality Review, unless undertaken under an appropriate permit issued under such regulations.
 - (c) Development shall preserve salient natural features, keep cut-and-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential based upon the Westchester County Best Management Practices Manuals. Aesthetics and the requirements of continuing maintenance shall be considered.
- (3) Natural vegetation and trees shall be retained and protected wherever possible. The applicant shall be guided by the requirements of the Best Management Practices Manuals and the Town Tree Commission. In the event of a conflict, the most stringent regulations shall apply. Disturbed soils shall be stabilized as soon as practicable and in any event within the time specified in the permit. Properties adjacent to the site of land disturbance shall be protected from sediment deposition. Specific timing for stabilization of denuded areas and soil stockpiles, sediment trapping measures and waterways and outlets shall be as follows:

- (a) Stabilization of denuded areas and soil stockpiles. Adequate barriers to prevent erosion/siltation shall be applied at the end of each day. Permanent or temporary soil stabilization must be applied to denuded areas within two days after final grade is reached on any portion of the site. Soil stabilization must also be applied within two days to denuded areas which may not be at final grade but may remain dormant (undisturbed) for longer than two weeks. Soil stabilization refers to measures which protect soil from the erosive forces of raindrop impact and flowing water and high wind. Applicable practices include vegetative establishment, mulching, covering and the early application of gravel base on areas to be paved.
 - (b) 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 two days of installation and prior to any first step in the disturbance of upslope land, whichever comes first.
 - (c) 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 ten-year-frequency storm without erosion. Stabilization adequate to prevent erosion must also be provided at the outlets of all pipes and paved channels.
- (4) All storm drain inlets 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.
 - (5) Temporary vegetation and/or mulching shall be used to protect exposed land areas during development. The applicant shall restore vegetative cover in disturbed areas as directed by the Town Engineer. The permanent (final) vegetation and erosion control measures shall both be installed within the time specified in the permit and in accordance with the Westchester County Best Management Practices Manual for Erosion and Sediment Control (WCBMPM). Permanent vegetation shall not be considered established until a ground cover is achieved which, in the opinion of the Town Engineer, is mature enough to control soil erosion satisfactorily and to survive severe weather conditions.
 - (6) Until a disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or similar measures or as more specifically may be determined by the Town Engineer in accordance with the Westchester County Best Management Practices Manual for Erosion and

Sediment Control (WCBMPM).

- (7) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills.
- (8) All fills shall be compacted to provide stability of material and to prevent undesirable settlement in accordance with the Westchester County Best Management Practices Manual for Erosion and Sediment Control (WCBMPM).
- (9) Fills shall not encroach on natural watercourses or constructed channels without proper walls or sheet piling, provided that such walls or sheet piling do not result in an unacceptable increase in the elevation of the one-hundred-year flood as described in Chapter 110, Flood Damage Prevention.
- (10) Fills placed adjacent to or having an impact upon natural watercourses, constructed channels or floodplain shall have suitable protection against erosion during periods of flooding, as determined by the Town Engineer.
- (11) Stripping of vegetation, regrading or other land-disturbing activity shall be done in such a way as to minimize erosion and dust. Appropriate measures for dust control shall be exercised in accordance with the Westchester County Best Management Practices Manual for Erosion and Sediment Control (WCBMPM).
- (12) Construction vehicles shall be kept out of watercourses to the greatest extent possible. Where in-channel work is necessary, precautions must be taken, including the use of rubber-wheeled vehicles and geofabric, 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 in accordance with the Westchester County Best Management Practices Manual for Erosion and Sediment Control (WCBMPM). Where a watercourse must be crossed by construction vehicles regularly during construction, a temporary stream crossing must be provided in accordance with the Westchester County Best Management Practices Manual for Erosion and Sediment Control (WCBMPM).
- (13) Where no acceptable paved access exists for construction vehicles to enter the site, a stabilized construction entrance shall be created. This shall consist of an area 10 feet by 40 feet in size, to be paved with three inches of one-and-one-half-inch gravel or crushed stone. This construction entrance shall be placed at an area acceptable to the Town Engineer and shall be shown on the plans filed with the Building and Engineering Department.

(14) 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 Director of Building Code Enforcement and Land Use Administration. Trapped sediment and other disturbed soil areas resulting from the disposition of temporary measures shall be removed from the site and disposed of in accordance with pertinent regulations or permanently stabilized to prevent further erosion and sedimentation. **[Amended 10-16-2002 by L.L. No. 10-2002]**

(15) 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.

B. If the Town Engineer determines that the proposed method of controlling erosion and sedimentation are not provided in accordance with this section, he shall disapprove the application unless the applicant has, within 30 days of being advised of the Town Engineer's determination, modified the development proposal so that the requirements of this section are satisfied. Such submittal shall be considered modifications under § 95-12A(2).

C. A copy of the approved erosion and sediment control plan shall be on file in the Building and Engineering Department and shall be maintained on-site at all times for the duration of the project and available to the Town Engineer and/or Director of Building Code Enforcement and Land Use Administration on request. **[Amended 10-16-2002 by L.L. No. 10-2002]**

§ 95-10. Contents of plans.

The following information shall be shown on surface water control and erosion and sediment control plans unless otherwise noted:

A. The name of the development or identifying title. The name, address and telephone number of the owner and/or developer of the site and the consulting firm retained by

the applicant for preparation of this plan. If the applicant is a corporation, it must list the name, home address and telephone number of at least two officers of the applicant.

- B. The date, approximate true North point and minimum graphic scale of one inch equals 50 feet.
- C. The proposed site layout including the boundary line and acreage for the site and existing zoning. A vicinity map that specifies state and local wetlands. The location of existing buildings, structures, utilities, water bodies, floodplain, drainage facilities, vegetative cover, paved areas, watershed divides and other significant natural or man-made features on the site and adjacent land within 250 feet of the boundary.
 - (1) For a surface water control plan, a schematic layout of the proposed methods of controlling surface water runoff.
 - (2) For an erosion and sediment control plan, a schematic layout of the proposed methods of providing for erosion and sediment control consistent with best management practices, including but not limited to seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application and kind, quality and quantity of mulching for both temporary and permanent negative control measures.
- D. Existing and proposed contours of the site and adjacent land within approximately 250 feet of the boundaries, drawn at no greater than two-foot contour intervals, and critical spot elevations. This provision shall not take effect until the Town has prepared base maps for the area for which an application is submitted and which shall be made available by the Town to applicants for preparation of the contour maps required by this section. However, to the extent practicable, all other provisions of this chapter shall be enforced pending the preparation of the base maps. **[Amended 3-31-1993 by L.L. No. 5-1993]**
- E. For a surface water control plan, surface water control calculations using TR-55, TR-20 or the rational method or other method approved by the Town Engineer, unless superseded by a comprehensive local watershed and/or stormwater model and plan.
- F. Base flood elevation data using National Geodetic Vertical Datum.
- G. Construction schedule showing the sequencing of the installation of the required surface water control improvements, erosion and sediment control devices and other site construction activities, which shall be supplemented as directed by the Town Engineer to show required inspections and site inspections required to be done by the permittee or his agent per § 95-15C.

- H. Signature block language, including the seal of a licensed New York professional engineer, certification of an erosion control specialist or person(s) with demonstrable educational and experiential qualifications in the field.
- I. For an erosion and sediment control plan:
- (1) Existing tree lines, grassy areas or unique vegetation.
 - (2) Identification and boundaries of the different soil types existing on the site.
 - (3) The dividing lines and direction of flow for different drainage areas.
 - (4) Areas with potentially significant erosion problems.
 - (5) Areas which are to be cleared and graded or used for storage.
 - (6) Any structural practices used that are not referenced to the Best Management Practices Manuals shall be explained and illustrated with detail drawings.

§ 95-11. Bond; maintenance requirements.

- A. A performance bond or cash bond shall be posted with the Town by the applicant prior to the issuance of the permit. The bond shall be in an amount sufficient to ensure completion of the work covered by the permit and shall be fixed by the Director of Building Code Enforcement and Land Use Administration in consultation with the Town Engineer. In cases where a freshwater wetlands permit has been issued to the same applicant and the bond fixed for the freshwater wetlands permit is no less than \$1,000, the Director of Building Code Enforcement and Land Use Administration may allow a single bond for both permits if it is determined that such bond is sufficient for the purposes of this chapter and Ch. 114, Freshwater Wetlands. Any bond submitted under this chapter shall be released one year after completion of work covered by said permit, provided that such work is found to be in accordance with the provisions of the permit and such other ordinances as may apply and is completed to the satisfaction of the Town Engineer. **[Amended 3-31-1993 by L.L. No. 5-1993; 10-16-2002 by L.L. No. 10-2002]**
- B. By acceptance of the permit, the owners of the property, their heirs, successors and assignees shall be responsible for the future maintenance, repair and replacement of all required surface water, erosion and sediment control facilities to the satisfaction of the Town Engineer.

- C. Slopes which are found to be eroding excessively within one year of completion of all work must be provided with additional stabilizing measures until the problem is corrected. Control of excessive erosion after one year of completion of all work will require monitoring and extension of the bond for an additional six-month period. If erosion continues, the Town will take such measures as necessary to achieve stabilization and charge the owners of the property, their heirs, successors and assignees.

§ 95-12. Fees.

- A. Upon the filing of an application for a surface water and/or erosion and sediment control permit, the following fees shall be payable, except that no fee shall be required when the separate permit requirement has been waived by the Town Engineer in accordance with § 95-6E:

- (1) Filing fee: \$150 for each existing one- or two-family dwelling and \$350 for all other residential and commercial applications.
- (2) Fee for applicant-requested modification: \$50 for each modification, provided that no work has commenced. If work pursuant to the permit has commenced, the modification fee will be \$100 per modification.
- (3) The minimum inspection fee for an improved single-family parcel will be \$100, \$150 for all other residential applications and \$250 for all commercial applications. In the event that the anticipated cost of the work covered by the permit exceeds \$5,000, there shall be, in addition to the minimum fee, an additional fee of 6% of the anticipated cost that exceeds \$5,000. This 6% is not part of the engineering fee for site plan approval.
- (4) If work is commenced prior to the permit being issued, all fees for the project will be doubled.

- B. In the event that an application for the surface water and/or erosion and sediment control permit is not approved, the applicant shall not be entitled to a refund of any filing or modification fee(s). Inspection fees may be refunded if no work has commenced.

§ 95-13. Compliance required.

No certificate of occupancy shall be issued for any structure covered by this chapter unless the terms and conditions of this chapter have been complied with to the satisfaction of the Town Engineer.

§ 95-14. Penalties for offenses; other remedies.

A. Violations.

- (1) If the Town Engineer determines that there exists a violation of the terms and conditions of any surface water and/or erosion control permit issued pursuant to this chapter, written notification of such violation shall be given to the permit holder by posting a copy at the site of the development and by mailing a copy by mail to the permit holder's last known address.
- (2) All such notifications of violations shall contain the time, place and nature of the violation, the time within which the violation must be corrected, a statement that the permit will be suspended or revoked if the permit holder fails to correct the violation(s), a statement that the permit holder may ask for a hearing before the Town Planning Board if the permit is suspended or revoked and an explanation of the possible penalties.
- (3) Hearing.
 - (a) If the permit holder appeals the decision of the Town Engineer to the Planning Board and requests a hearing on the suspension or revocation of his permit, the Planning Board, upon receipt of an appeal, shall schedule and hold a public hearing within a reasonable period of time, but not more than 60 days. At least 10 days' notice of the time and place of such hearing shall be published in the official Town newspaper. The Planning Board shall render a decision within 30 days after the hearing.
 - (b) 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, the use of any retention facilities, possible saturation of fill and unsupported cuts by water, both natural and work-related, runoff surface waters that produce erosion and siltation of drainageways, the 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.
- (4) If the permit holder fails to correct any violation of the terms and conditions of the permit issued pursuant to this chapter within the time period specified, or within 30 days if no time is specified, the Town Engineer may cause the violation to be corrected. The cost thereof shall be assessed against the land or property upon which the violation occurred by the appropriate Town Official. 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. The Town can use the posted bond to satisfy such an assessment or lien; and the permit holder will remain liable for any amount not satisfied by the bond.

- (5) If the owner of the property for which a permit was issued pursuant to this chapter shall fail to maintain, repair or replace a required surface water control improvement within the time specified by the Town Engineer, after notice as in § 95-14A(1) and (2), but not more than 30 days, the Town Engineer may cause the maintenance, repair or replacement to be undertaken. The cost thereof shall be assessed against the land or property. Such amount shall be an assessment against the land or property; it shall be levied against the land or property in such manner as taxes are levied, and it shall constitute a lien upon the land or property affected.
- B. If at any stage of the grading of any development site the Town Engineer 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, it may be required, 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 licensed New York professional engineer, certified erosion control specialist or person with demonstrable educational and experiential qualifications in the field, which may be made requirements for further work.
 - C. The Town Engineer shall have the authority to summarily suspend and/or revoke a permit if there has been a violation of or deviation from the plan or if there appears to be unanticipated damage to the site or the surrounding area and if in the Town Engineer's opinion the immediate protection of the public health, safety and general welfare demands such summary action. The permit holder shall be entitled to a hearing by the Town Planning Board with notice as provided in § 95-13, as soon after such summary action as is practicable, but in no event later than 60 days thereafter.
 - D. Any person who violates any of the provisions of this chapter and who has continued the conduct giving rise to such violation after the written notification pursuant to § 95-13 herein shall be liable for a civil penalty of not more than \$2,500 for the first day and an additional penalty of \$2,000 for each additional day during which such violation continues; and shall also be liable for all costs, including the value of the time of Town employees, incurred by the Town in prosecuting and collecting any penalty.

- E. The Town of Mamaroneck 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.
- F. Every surface water and/or erosion and sediment control permit shall expire and become null and void if the work authorized by such permit has not begun within 90 days or is not completed within 180 days, except that the Town Engineer 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.

§ 95-15. Inspections.

- A. The Town Engineer 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 surface water and/or erosion and sediment control plan as approved. Plans for grading, stripping, excavating and filling work bearing the approval of the Town Engineer shall be maintained at the site during progress of the work. The permittee shall notify the Building and Engineering Department at least five working days prior to starting the work allowed under the permit. In order to obtain required inspections, the permittee shall notify the Town Engineer at least two working days before the completion of each of the following:
 - (1) Placement of erosion control measures or devices.
 - (2) Stripping and clearing.
 - (3) Rough grading.
 - (4) Final grading.
 - (5) Final landscaping.
 - (6) Final inspection.
- B. 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 phases or areas. If an inspection is not made and notification of the results given within five business 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.

- C. 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. The purpose of such inspections will be to determine the condition and need for replacement or repair of in-place control measures. All inspections shall be documented in written form and submitted to the Town Engineer at the time interval specified in the approved permit.

§ 95-16. Right of entry.

The Town Engineer may enter upon any land or water for the purpose of making any investigation, inspection, survey or other activity that he may deem necessary for any of the purposes of this chapter. If the owner of the property does not consent to such inspection entry, the appropriate Town official is empowered to apply to the Town Court for an administrative search warrant permitting such inspection.

§ 95-17. Greater restrictions to prevail; severability.

- A. Conflicts. Wherever this chapter is inconsistent with any other ordinance of the Town of Mamaroneck, whichever imposes the more stringent restrictions shall prevail.
- B. Severability. The provisions of this action shall be severable, and if any clause, sentence, paragraph, subdivision or part of this chapter 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.