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Municipality: Village of Croton-on-Hudson
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Title: Village of Croton-on-Hudson Erosion and Sediment Control Ordinance
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Abstract

Chapter 118 of the Municipal Code for the Village of Croton-on-Hudson is designed to prevent erosion and to protect property, roadways, and waterways from the negative effects of erosion, including deposition on roadways, creation of gullies, flooding, clogging of sewers, pollution, the increase of weeds in waterways, and the death of fish.

Resource

Village of Croton-on-Hudson Erosion and Sediment Control
Code of the Village of Croton-on-Hudson
Chapter 118: Erosion and Sediment Control

11-1988. Sections 118-4B and 118-38B(1) amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

ARTICLE I General Provisions

§ 118-1. Title.

This chapter shall be known and cited as the "Erosion and Sediment Control Law of the Village of Croton-on-Hudson" (hereinafter called the "village").

§ 118-2. Statutory authority.

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

§ 118-3. Findings and purpose.

A. Findings. The Board of Trustees of the village hereby finds that:

(1) Excessive quantities of soil may erode from areas undergoing development for certain uses, including but not limited to the construction of dwelling units, commercial buildings and industrial plants, the building of roads and highways and the creation of recreational facilities.

(2) The washing, blowing and deposition of eroded soil across and upon roadways endangers the health and safety of users thereof by decreasing visibility and reducing traction of road vehicles.

(3) Soil erosion necessitates the costly repair of gullies, washed-out fills and embankments, causes the undermining of trees with danger to passersby and utility lines and reduces the capacity of an area to grow ground cover and thus reduce runoff.

(4) Sediment from soil erosion clogs sewers and ditches and pollutes and silts rivers, streams, lakes, harbors and reservoirs.

(5) Sediment limits the use of water and watercourses for beneficial purposes, promotes the growth of undesirable aquatic weeds, destroys fish and other desirable aquatic life and is costly and difficult to remove.

(6) Sediment reduces the channel capacity of watercourses and increases the likelihood of flooding.

B. Purpose. The Board of Trustees 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 village.

§ 118-4. Definitions.

A. Unless specifically defined below, words and phrases used in this chapter shall be interpreted to have common English usage, to give effect to the purpose set forth in § 118-3B 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.

ANGLE OF REPOSE — The gradient at which a slope is naturally stable. The angle differs according to the soil composition.

APPEAL — A request for a review of the Village Engineer's interpretation of any provision of this chapter.

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.

BOARD OF TRUSTEES — The Board of Trustees of the Village of Croton-on-Hudson.

BUILDING PERMIT — A permit issued by the Village Engineer for the construction, erection or alteration of a structure or building.

CERTIFICATION — Formal attestation that 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 improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, removal of vegetation, excavation, blasting or drilling operations.

EROSION AND SEDIMENT CONTROL PLAN — A set of plans prepared by a New York State licensed engineer or registered 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, bulldozed or otherwise disturbed, and shall include the conditions resulting therefrom.

EXCEPTION — 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 and the exceptions enumerated in §§ 118-24 and 118-39 below.

EXISTING GRADE — The vertical location 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, pushed, dumped, pulled, transported or moved by man to a new location, and shall include the conditions resulting therefrom.

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

GRADING — The purposeful creation of a change of grade, and shall include the conditions resulting from the reordering of the grade.

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

MATERIAL — Substances, including but not limited to soil, silt, gravel, rock, sand, clay, peat, mud, debris and refuse, any organic or inorganic compound, chemical agent or matter (excluding pesticides, herbicides, algacides and agricultural or radioactive waste, to the extent that the same are exempt or regulated exclusively by New York State), sewage, sludge or effluent or solid waste (industrial or municipal).

NATURAL DRAINAGE — Seasonal and year-round channels formed in the existing surface topography of the earth which convey surface water runoff from its source to its ultimate point of discharge prior to changes made by unnatural causes.

PARCEL — All contiguous land under one 1) ownership.

PERMANENT VEGETATION — Ground cover mature enough to control soil erosion satisfactorily and to survive severe weather conditions.

PERMITTEE — Any person to whom a building permit is issued or to whom a site plan approval is granted.

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.

PLANNING BOARD — The Planning Board of the Village of Croton-on-Hudson.

REMOVAL — Cutting vegetation to the ground or leaving it as stumpage, complete extraction, killing by spraying or a similar destructive act.

SITE — An area or areas of land, or contiguous combination thereof, where grading work is to be performed.

SITE APPROVAL — Approval issued by the Planning Board for the construction or alteration of ground improvements or structures for grading and/or the control of erosion and runoff in connection with approval of a site plan or subdivision.

SITE PLAN — The map or drawn representation of a proposed development which is submitted to the Planning Board for consideration and approval or disapproval.

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

START OF CONSTRUCTION — The first land-disturbing activity associated with a development, including but not limited to 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 building such as garages.

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 building sites or parcels on any site along an existing or proposed street, highway, easement or right-of-way or any 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, as 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 and regulations of the village

TEMPORARY STREAM CROSSING — A temporary structural span installed across a flowing watercourse for use by construction traffic. Such structures include but are not limited to bridges, round pipes and pipe arches.

VILLAGE ENGINEER — Any person employed as the Village Engineer of the Village of Croton-on-Hudson or, where appropriate, his designee. **Editor's**

WATERCOURSE — Any body of water flowing in an identifiable channel or course at least six months of the year.

ARTICLE II Principles and General Requirements

§ 118-5. Objectives and general principles.

The objective of this chapter is to control soil erosion and sedimentation caused by development activities in the village, including development activities in connection with a single structure or building on a single lot. Measures taken to control erosion and sedimentation shall be adequate to ensure that sediment is not transported from a site by a storm event of ten-year frequency or less. The following principles shall apply to all development activities within the village and to preparation of the submissions required under Article III of this chapter.

§ 118-6. 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, on an evaluation of the risks, costs and benefits involved and in accordance with Best Management Practices.

§ 118-7. Protection of adjacent properties.

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

B. Vegetated buffer strips may not be used alone except where only runoff in sheet flow is expected. Buffer strips should be at least 20 feet in width. If at any time, it is found by the Village Engineer that a vegetated buffer strip alone is ineffective in preventing sediment movement onto adjacent property, additional perimeter controls must be provided by the permittee or then-owner of the property within a time period as specified by the Village Engineer.

§ 118-8. Cut and fill slopes.

A. 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. They must be immediately seeded, and natural contours shall be followed as closely as possible. Unless protected by retaining walls, a slope must be no steeper than the angle of repose for the soil type affected.

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, in the judgment of the Village Engineer, are found to be eroding excessively within one year of construction must be provided with additional stabilizing measures until the problem is corrected.

§ 118-9. Vegetation.

A. Natural vegetation shall be retained and protected wherever possible. Permanent vegetation 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 building permit or approved site plan. Permanent vegetation shall not be considered established until a ground cover is achieved which, in the opinion of the Planning Board or the Village Engineer, is mature enough to control the soil erosion satisfactorily and to survive severe weather conditions.

B. The smallest practical area of land shall be exposed for the shortest practical time during development.

§ 118-10. Stabilization of denuded areas and soil stockpiles.

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

§ 118-11. Sediment basins.

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

§ 118-12. 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 any upslope land-disturbing activity takes place. Earthen structures such as dams, dikes and diversions must be seeded and mulched within 15 days of installation.

§ 118-13. 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.

§ 118-14. 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.

§ 118-15. Work near watercourses.

A. Construction vehicles are to be kept out of watercourses and other controlled areas as such are defined in Chapter 227, Wetlands and Watercourses. Where in-channel work is necessary, precautions must be taken to stabilize the work area during construction to minimize erosion. The channel, including bed and banks, must be restabilized immediately after in-channel work is completed.

B. Where a live (wet) watercourse must be crossed by construction vehicles during construction, a temporary stream crossing must be provided. This temporary stream crossing must be approved in accordance with the provisions of Chapter 227, Wetlands and Watercourses.

§ 118-16. Stormwater management criteria for controlling off-site erosion.

A. Provisions shall be made to minimize any 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.

B. Stormwater management design will follow the procedures and methodology set forth in the Westchester County Best Management Practices Manual for Stormwater Runoff.

§ 118-17. Underground utility construction.

A. 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:

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

B. 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.

§ 118-18. Construction access routes.

Wherever construction vehicle access routes intersect paved public roads, provisions must be made to minimize the transport of sediment (mud) by runoff or vehicle tracking onto the paved surfaces. Where sediment is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day. Sediment shall be removed from roads by shoveling or sweeping and transported to a sediment control area. Street washing shall be allowed only after sediment is removed in this manner.

§ 118-19. Disposition of temporary measures.

All temporary erosion and sediment control measures shall be disposed of within 30 days after final site stabilization is achieved, unless otherwise authorized by the Village Engineer. Trapped sediment and other disturbed soil areas resulting from the disposition of temporary measures shall be permanently stabilized to prevent further erosion and sedimentation.

§ 118-20. Maintenance.

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

§ 118-21. Aesthetics.

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

§ 118-22. Review of plans by county soil district.

The Westchester County Soil and Water Conservation District shall be consulted for review and recommendations for all erosion and sediment control plans for proposed site plans and subdivisions submitted to the village.

ARTICLE III Administrative Procedures

§ 118-23. Permit required.

Except as otherwise provided in this chapter, no person shall commence or perform any land-disturbing activity without first obtaining the appropriate permits from the Village

Engineer and/or other municipal permitting authorities, if applicable, and, in consultation with the Westchester County Soil and Water Conservation District, all other necessary local, state and federal permits and thereafter complying with all the requirements of this chapter.

§ 118-24. Exceptions.

A. A building permit or site approval shall not be required under this chapter for any of the following activities:

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

B. Nothing in this section shall be deemed to modify or repeal any provisions of any other law relating to the requirement of a building permit or site approval.

§ 118-25. Application for permit.

Application for a site approval or for a building permit under circumstances when no site approval is required shall be made by the owner of the property or his authorized agent to the applicable permitting authority or authorities. Each application shall bear the name and address 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. Each application shall include a certification that any land clearing, construction or development involving the movement of the earth shall be in accordance with the plans approved upon issuance of the building permit or the site approval.

§ 118-26. Documents and information required with application.

A. In addition to any and all other requirements of this chapter, each application for a site approval shall be accompanied by the following information, and each application for a building permit involving the movement of earth when no site approval is required shall be accompanied by the information specified in § 118-26A(3) below:

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

(2) A development plan of the site showing:

(a) Existing topography of the site and adjacent land within approximately 100 feet of its boundaries, drawn at no greater than two-foot contour intervals and clearly portraying the conformation and drainage pattern of the area.

(b) The location of existing buildings, structures, utilities, water bodies, floodplains, drainage facilities, vegetative cover, paved areas, watershed divides and other significant natural or man-made features on the site and on the adjacent land within approximately 100 feet of the boundary.

(c) A description of the predominant soil types on the site and their location and their limitations for the proposed use.

(d) The proposed use of the site, including both present improvements and planned development; areas of excavation, grading and fill; proposed contours, finished grades and street profiles; provisions for storm drainage, including the control of accelerated runoff, with a drainage area map and computations; kinds and locations of utilities; and areas and acreages proposed to be paved, covered, sodded or seeded, vegetatively stabilized or left undisturbed.

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

(a) All erosion and sediment control measures necessary to meet the objectives of this 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.

(b) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application and kind and quantity of mulching for both temporary and permanent vegetative control measures.

(c) Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.

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

(4) The proposed phasing of development of the site, including stripping and clearing, rough grading, fill and construction, 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 structures

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

B. 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.

§ 118-27. Bond or other security.

The applicant may be required to file with the village a faithful performance bond or bonds, letter of credit or other improvement security satisfactory to the Village Attorney in an amount deemed sufficient by the Planning Board or the Board of Trustees to cover all costs of improvements, landscaping and maintenance of improvements and landscaping for such period as specified by the village, as well as engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

§ 118-28. Review and approval.

No site approval shall be issued for development of a site unless:

A. The development has been approved by the appropriate village authority or authorities in accordance with local laws; and

B. The proposed earthmoving is coordinated with any overall development program previously approved by the village for the area in which the site is situate.

§ 118-29. Appeals.

A. The applicant or any person or agency which has received notice of the filing of the application or is aggrieved by the decision of the Village Engineer under this chapter may appeal that decision to the Planning Board. Upon receipt of an appeal, the Planning Board shall schedule and hold a public hearing, after giving 15 days' notice thereof. 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:

- (1) The effects of the proposed development activities on the surface water flow to tributaries and downstream lands.
- (2) Any comprehensive watershed management plans or the use of any retention facilities.
- (3) Possible saturation of fill and unsupported cuts by water, both natural and domestic.
- (4) Runoff surface waters that produce erosion and silting of drainageways.
- (5) 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.
- (6) Excessive and unnecessary scarring of the natural landscape through fill, grading or removal of vegetation.

§ 118-30. Retention of records.

Plans, specifications and reports for all development plans for the site shall be retained in original form or on microfilm by the Village Engineer.

ARTICLE IV Operation Standards and Requirements

§ 118-31. Applicability.

All grading, stripping, excavation and fill which is subject to the requirements of this chapter and any grading, stripping, excavating and fill which is exempted from the requirements by § 118-24 above shall be subject to the applicable standards and requirements set forth in this Article.

§ 118-32. Responsibility.

The applicant shall not be relieved of responsibility for damage to persons or property otherwise imposed by law, and the village or its officials will not be made liable for this damage, by:

- A. The issuance of a building permit or a site approval in accordance with this chapter or other applicable laws;
- B. Compliance with the provisions of that building permit or site approval or with conditions attached to it;
- C. Failure of municipal officials to observe or recognize hazardous or unsightly conditions;
- D. Failure of municipal officials to recommend denial of or to deny a building permit; or
- E. Exceptions from the requirements of this chapter.

§ 118-33. County standards incorporated.

The standards and specifications contained in the Westchester County Best Management Practices Manual cited in § 118-26 are hereby incorporated into this Article and made a part hereof by reference for the purpose of delineating procedures and methods of operation under the site and erosion and sediment control plan approved under Article III. In the event of conflict between provisions of said manual and of this chapter, the chapter shall govern.

§ 118-34. Inspections.

A. The Village Engineer shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee in what manner or manners, if any, the work fails to comply with the site plan or erosion and sediment control plan as approved. Plans for grading, stripping, excavation and fill work bearing the stamp of approval of the Village Engineer shall be maintained at the site during progress of the work.

(1) In order to obtain inspections, the permittee shall notify the Village Engineer at least two working days before 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 village from the permittee, the permittee may continue work at his own risk, without presuming acceptance by the village. Notification of the results of the inspection shall be given, in writing, at the site.

B. 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 inspection 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.

C. All inspections shall be documented in written form and submitted to the Village Engineer at the time interval specified in the site approval.

§ 118-35. Special precautions.

A. If any stage of the grading of any development the village determines by inspection that the nature of the site is such that further work authorized by an existing site approval and/or building permit is likely to imperil any property, public way, watercourse or drainage structure, the Village Engineer may require, as a condition of allowing the work to continue, 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, cribbing, installation of plant materials for erosion control and recommendations of a registered soils engineer and/or engineering geologist which may be made regarding requirements for further work.

B. Where it appears that storm damage may result from incomplete grading of any development, 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 public safety. On a development of at least five acres or where unusual site conditions prevail, the Planning Board or Village 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 prior to the advent of seasonal rains.

§ 118-36. Amendment of plans.

Major amendments of the erosion and sediment control plan shall be submitted to the Planning Board 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 Village Engineer by written authorization to the permittee.

ARTICLE V Enforcement

§ 118-37. Penalties for offenses.

No person, partnership or corporation shall construct, alter, repair or maintain any grading, excavation or fill or cause the same to be done contrary to or in violation of any of the terms of this chapter. Any person, partnership or corporation 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 shall be required to restore the site to the condition existing prior to commission of the violation or to bear the expense of such restoration.

§ 118-38. Stop-work order; revocation of permit.

In the event that any person holding a building permit or a site approval pursuant to this chapter violates the terms of the permit or approval or implements site development in such a manner as to adversely affect the health, welfare or safety of persons residing or working in the neighborhood or at the development site or so as to be detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Planning Board or Village Engineer may suspend or revoke the site approval and/or building permit.

A. Suspension of a building permit or site approval shall be by a written stop-work order issued by the Planning Board or Village 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 village or any agency thereof and shall remain in effect until the next regularly scheduled meeting of the Planning Board at which time the conditions of Subsection B below can be met.

B. No site approval or building permit shall be permanently suspended or revoked until a hearing is held by the Planning Board.

(1) Written notice of such hearing shall be served on the permittee either personally or by registered or certified mail and shall state: **[Amended 5-7-1990 as L.L. No. 2-1990]**

(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.

(2) Such notice shall be served on the permittee at least five days prior to the date set for

the hearing.

(3) 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 Planning Board shall determine whether the permit shall be suspended or revoked.

§ 118-39. Exceptions to requirements.

The Planning Board may, in accordance with the following procedures, authorize exceptions to any of the requirements and regulations set forth in this chapter:

A. Application for any exception shall be made by a verified petition of the applicant for site approval or building permit, stating fully the grounds of the petition and the facts relied upon the applicant. Such petition shall be filed with the subdivision or site plan application or building permit application. In order for the petition to be granted, it shall be necessary that the Planning Board find all the following facts with respect to the land referred to in the petition:

(1) That the site is of such shape or size or is affected by such physical conditions or is subject to such title limitations of record that is impossible or impractical for the applicant to comply with all the requirements of this chapter;

(2) That the exception is necessary to prevent unreasonable and unnecessary hardship; and

(3) That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.

B. The Planning Board shall hold a public hearing on each application for exception, within 30 days after receiving the application, in the manner provided with respect to appeals. After the public hearing, the Planning Board may approve the subdivision or site plan application or building permit application with the exceptions and conditions it deems necessary, or it may disapprove such application and exception application, or it may take such other action as it deems appropriate.