

APPENDIX K

**DRAFT OF A MODEL
EROSION AND SEDIMENT CONTROL LAW**

APPENDIX K: DRAFT OF A MODEL EROSION AND SEDIMENT CONTROL LAW

Section 1: Title

This law shall be known as the Town of Stony Point Erosion and Sediment Control local law.

Section 2: Findings of Fact

- a) The extensive alteration of the natural landscape, resulting from clearing and grading of land during construction and the creation of impervious areas has greatly increased the rate and volume of stormwater runoff and accelerated the natural processes of erosion and sedimentation.
- b) The public health, safety and general welfare of the Town of Stony Point has been adversely affected by erosion and sedimentation into its surface waters. In the Town of Stony Point, stormwater runoff is an important nonpoint contributor to surface water degradation.
- c) Regulation of development by means of performance standards governing site design and construction of development projects will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

Section 3: Statement and Purpose

It is the purpose of this local law to promote the public health, safety and general welfare by:

- a) Minimizing development-induced soil erosion, sedimentation and stormwater runoff.
- b) Controlling, restricting or prohibiting development activities which alter natural drainage systems, flood plains, stream channels and natural protective barriers, including beaches and wetlands, which contribute to the accommodation of flood waters and retention of sediment.
- c) Controlling, restricting or prohibiting land use activities which increase non-point source pollution due to erosion and sedimentation.
- d) Assuring that future land and water uses in the Town are design and constructed using best management practices to control flooding, erosion and sedimentation.

Section 4: Statutory Authorization

This local law is enacted pursuant to Section 10 of the Municipal Home Rule Law to promote the public health, safety and general welfare of Town citizens through land use regulations intended to control erosion or sedimentation within the entire Town.

The variance provisions of this local law shall supersede any inconsistent portions of the Town Law Section 267-a, and govern the subject of variances in this local law.

Section 5: Definitions

- a) **Best Management Practice** - Procedures and methods pertaining to construction activities which are intended to prevent erosion and sedimentation, retain valuable topsoil and minimize water pollution.
- b) **Building Inspector** - the person(s) appointed by the Town Board to enforce the provisions of Chapter 39 and this Chapter.
- c) **Construction** - The siting, building, erection, extension, or material alteration of any structure, the use of which requires permanent or temporary location on the ground.
- d) **Development** - Any man-made change to improved or unimproved real property, including but not limited to constructing buildings or other structures, creating access to and circulation within the site, clearing of vegetation, grading, providing utilities and other services, parking facilities, drainage systems, methods of sewage disposal and other services, and creating landforms. Development also includes significant alteration of natural resources in preparation for development, such as the dredging or filling of wetlands, ponds or other natural drainage areas.
- e) **Drainage Systems** - Includes gutters, swales, pipes, conduits and superstructures for the collection and conduction of stormwater to an adequate facility for its storage and disposal.
- f) **Erosion** - The wearing away of land as a result of the action of natural forces of man-related activities.
- g) **Erosion, Sedimentation and Stormwater Runoff Control Plan** - A drawing prepared by a New York State licensed professional engineer showing the proposed use of the site and the methods, techniques and improvements, both during and after construction, that will be employed to control erosion, sedimentation and stormwater runoff, which shall employ best management practices.

- h) **Excavation - The removal, addition, or alteration of soil, sand, or vegetation by digging, dredging, drilling, cutting, scooping, or hollowing out.**
- i) **Filling - The deposition of natural or artificial material so as to modify the surface or subsurface conditions of upland or underwater land.**
- j) **Grading - The alteration of the surface or subsurface conditions of land, lakes, ponds, or watercourses.**
- k) **Municipal Permit - Any permit, grant, approval, license, certificate or other authorization issued by the Town of Stony Point, including but not limited to permits for building, grading, demolition, clearing and excavation and subdivision and site plan approvals.**
- l) **Natural Drainage - The stormwater runoff resulting from topographical and geological surface conditions, prior to clearing, regrading or construction.**
- m) **Natural Watershed - An area of land which in its natural state and prior to any and-made change, and due to its topography and geology, drains to as particular location within that area.**
- n) **Natural Protective Feature - A nearshore area, beach, or wetland and the vegetation thereon.**
- o) **One-Hundred Year Flood Plan - The land area subject to the highest level of flooding that, on the average, is likely to occur once every one hundred (100) years (i.e., that has a one percent chance of occurring each year), as said level is shown on the Federal Emergency Management Agency Flood Insurance Rate Maps on file in the Town Clerk's office, Town of Stony Point.**
- p) **Sedimentation - The processes that operate at or near the surface of the ground to deposit soils, debris and other materials either on other ground surfaces or in water channels.**
- q) **Site Preparation - The activities of stripping, excavating, filling, and grading to facilitate construction or other use of the land.**
- r) **Stormwater Runoff - That part of precipitation that flows over the land surface.**
- s) **Stripping - The process of mechanically scraping away topsoil.**
- t) **Structure - Any object constructed, erected, installed or placed on land or in water, including buildings, sheds, mobile homes, tanks, bulkheads, piers and docks and any additions or alterations thereto.**
- u) **Topsoil - The natural surface layer of soil.**

Section 6: General Provisions

- a) This local law shall apply to all property within the Town of Stony Point.
- b) **Activities Requiring a Permit:** None of the following activities shall be undertaken until an approval has been issued under the provisions of this local law:
 - 1) Grading or stripping which affects more than five thousand (5,000) square feet of ground surface.
 - 2) Excavation or filling involving more than three hundred (300) cubic yards of material within any parcel or any contiguous area.
 - 3) Site preparation on slopes which exceed fifteen (15) feet of vertical rise to one hundred (100) feet of horizontal distance.
 - 4) Site preparation within one hundred (100) feet of wetlands or a beach.
 - 5) Site preparation within the one hundred (100) year flood plain of any watercourse.
- c) **Exceptions**
 - 1) Minor clearing or excavation work not incident to a substantial change in the existing use of the land, which may be reasonably expected not to contribute to any additional on-site generated runoff or degradation of any lands or water beyond the boundaries of the property involved.
 - 2) Emergency repairs on public or private objects, necessary for the preservation of life, health or property, or taken to implement and accomplish the beneficial purpose of this local law as set forth herein under such circumstances where it would be impracticable to obtain approval of the planning board prior to making such emergency repairs.
 - 3) Routine maintenance or repair work on public or private roads or utility line rights-of-way where interim and permanent erosion and sediment control measures will be undertaken. To the maximum extent practicable, vegetation, shall be used as a stabilizer and method of filtering and slowing stormwater flow from road surfaces.

Section 7: Compliance

All development construction, excavation and landscaping activities shall be conducted in accordance with the approved erosion, sedimentation and stormwater runoff control plan and the requirements of this local law.

Section 8: Application Process

- a) Any applicant for a municipal permit to conduct a development, construction or excavation activity within the Town of Stony Point which is subject to this local law shall submit an erosion, sedimentation and stormwater runoff control plan to the Building Inspector.
- b) Upon receipt by the Building Inspector of any application for a municipal permit to conduct any activity regulated by this law, the Building Inspector shall refer the applicant to the Planning Board to obtain approval of an erosion, sedimentation and stormwater runoff control plan. No municipal permit shall be issued nor shall any application therefor be deemed complete until the Planning Board has first issued its approval of the erosion, sedimentation and stormwater runoff control plan.
- c) Such plan shall contain the following elements, which may be integrated into a site plan or subdivision plat submitted for approval pursuant to applicable Town law:
 - 1) A vicinity map drawn to a scale of not less than two thousand (2,000) feet to one (1) inch showing the relationship of the site to its general surroundings.
 - 2) A plan of the site drawn to a scale of not less than one hundred (100) feet to the inch, showing the location and description of the property boundaries, site acreage, existing natural and man-made features on and within five hundred (500) feet of the site boundary, including roads, structures, water sources, utilities, topography including existing contours with intervals of not more than five (5) feet where the slope is ten percent or greater and not more than two (2) feet where the slope is less than ten percent, soil characteristics, location of wooded areas, the depth to seasonal high water table, and a copy of the Soil Conservation District Soil Survey where available.
 - 3) Location and description of proposed changes to the site and existing development on the site, which includes:
 - a) All excavation, filling, stripping and grading proposed to be undertaken, identified as to the depth, volume, and nature of the materials involved.
 - b) All areas requiring clearing, identified as to the nature of vegetation affected.

- c) All areas where topsoil is to be removed and stockpiled and where topsoil is to be ultimately placed.
 - d) All temporary and permanent vegetation to be placed on the site, identified as to planting type, size, and extent.
 - e) All temporary and permanent erosion and sediment control measures including soil stabilization techniques and stormwater drainage and storage systems including ponds, recharge and sediment basins (identified as to the type of facility, the materials from which it is constructed, its dimensions, and its capacity in gallons).
 - f) The anticipated pattern of surface drainage during periods of peak runoff, upon completion of site preparation and construction activities, identified as to rate and direction of flow at all major points within the drainage system.
 - g) The location of all roads driveways, sidewalks, structures, utilities and other improvements; and
 - h) The final contours of the site at intervals of no greater than two (2) feet.
- 4) A schedule of the sequence of installation of planned soil erosion and sediment and runoff control measures as related to the progress of the project including anticipated starting and completion dates.

Section 9: Performance Standards for Approval of Erosion, Sedimentation and Stormwater Runoff Control Plans

- a) The site erosion and sedimentation control measures shall be appropriate for existing topography, vegetation and other salient natural features of the site. The plan shall indicate that the development will preserve natural features, minimize grading and cut and fill operations, ensure conformity with natural topography, and retain natural vegetation and trees to the maximum extent practicable in order to create the least erosion potential and handle adequately the volume and rate or velocity of surface water runoff.
- b) Site grading, excavation and filling shall minimize destruction of natural vegetation, the potential for erosion, sedimentation and stormwater runoff and the threat to the health, safety and welfare of neighboring property owners and the general public. During grading operations, appropriate measures for dust control shall be undertaken.
- c) Erosion, sedimentation and stormwater runoff shall be controlled prior to, during, and after site preparation and construction.

- d) Areas exposed by site preparation shall be protected during site construction with temporary vegetation and/or mulching.
- e) Natural drainage patterns shall be protected and incorporated into site design. Where natural drainage patterns are demonstrated to be adversely affecting a beach or wetland, drainage patterns may be altered in a manner which reduces the threat to such beach or wetland and does not create other flooding or erosion problems.
- f) Site preparation, including stripping of vegetative cover and grading, shall be undertaken so that no individual building site is tripped of its vegetation cover more than thirty (30) days prior to commencement of construction. Soils exposed or disturbed by site preparation shall remain so for the shortest practicable period of time during site clearing, construction and restoration.
- g) Disturbed soils shall be stabilized and revegetated or seeded as soon as practicable. During the interim, erosion protection measures such as temporary vegetation, retention ponds, recharge basins, berming, silt traps and mulching shall be used to ensure that sedimentation is minimized and mitigated.
- h) In no case shall stormwater be diverted to another property either during site preparation or after development.
- i) During the construction period, disposal of stormwater runoff generated by development activity shall be handled on-site. Baling, mulching, debris basins, silt traps, uses of fibrous cover materials or similar measures shall be used to contain soil erosion on the site.
- j) All projects, regardless of the area of groundwater removal and/or grading, shall retain a natural vegetative buffer zone along waterbodies, including wetlands and marshes, which will confine visible siltation to the twenty-five (25%) percent of the buffer zone nearest to any land-disturbed activity. If necessary, other forms of erosion control measures will also be included.
- k) Natural land features such as shallow depressions shall be used, wherever possible, to collect stormwater on-site for recharge. Under no circumstances, however, shall such a feature be used if subsurface conditions cause a stagnant pool to develop.
- l) Site designs shall reduce impermeable paving.
- m) Stormwater runoff shall not be directly discharged to surface waters, marshes and wetlands. Stormwater pollutants shall not be discharged directly into a wetland, but shall be attenuated by using holding ponds, sedimentation basins, perimeter berming, vegetated buffer areas and other measures that reduce flow velocity and increase storage time. Water discharged from these systems shall be of acceptable quality before discharge into

wetlands and surface waters. Pollutants shall not be discharged into wetlands. In addition, any filtering devices constructed as part of the drainage system must be adequately maintained in order to function properly.

- n) All wetland vegetation shall be maintained. Dredging and site construction should not disturb wetlands either by direct removal or vegetation or substrate, or by the alteration of adjacent slopes that would undermine the stability of the substrate. Grading equipment shall not be allowed to enter into or cross any watercourse or wetland.
- o) Subsurface sediments shall be maintained to provide structural support for the soils of the wetlands.
- p) The elevation of a wetland shall not be altered.
- q) No wetland buffer zone vegetation shall be disturbed by grading, erosion, sedimentation, or direct removal of vegetation.
- r) Fill shall not encroach on natural watercourses, constructed channels, wetlands, or floodway areas. All fill shall be compacted at a final angle of repose which provides stability for the material, minimizes erosion and prevents settlement.
- s) Trails and walking paths along waterbodies shall be sited and constructed so they are not a source of sediment.
- t) The amount and velocity of runoff from a site after development shall approximate its predevelopment characteristics. However, if the site is adjacent to coastal waters, storm water shall be contained on-site, to the maximum extent practicable, to prevent direct discharge of runoff to coastal waters.
- u) Natural flood plains and major drainage swales shall not be altered or disturbed in a manner which decreases their ability to accommodate and channel stormwater runoff and flood waters. If no practicable alternative to the location of development, roadway, driveways, and similar surfaces within these areas exists, such facilities shall be sited and constructed to minimize and mitigate the amount and velocity of stormwater entering the channel, floodplain or swale.
- v) No land having a slope equal to or greater than twenty-five (25%) percent shall be developed or disturbed except for conservation measures or measures intended to remove debris which inhibits the functioning of the swale. Natural vegetation and topography shall be retained to stabilize soils and reduce the volume of stormwater overflow.
- w) On lands having slopes of less than twenty-five (25%) percent, but composed of highly erodible soils, development proposals shall include consideration of the load-bearing capacity of the soils. Unless it can be demonstrated that the soils can be stabilized with

a minimum of on-site disturbance and no adverse impacts to the stability of neighboring properties, the development proposal shall not be approved as submitted.

- x) All permanent (final) vegetation and mechanical erosion control measures called for in approved plans shall be installed within the time limits specified by the Planning Board.

Section 10: Variances

A variance may be granted by the Zoning Board of Appeals of the Town of Stony Point upon receipt of an application from a property owner which demonstrates unnecessary hardship from the imposition of such regulations.

Section 11: Inspection, Restoration, Certificate of Occupancy and Fines

a) Inspection

Inspection for soil erosion, sedimentation, and runoff control plan compliance shall be conducted by the Building Inspector to determine that the work has been completed in accordance with such plan. The plan may be modified by mutual agreement if, after installation, the Planning Board deems that the installed measures are not adequate to meet the performance standards.

b) Restoration

Any clearing, excavation or development of land in violation of this local law shall be corrected forthwith after written notice by the Building Inspector. In the event that corrective action is not taken as directed within a reasonable time, the Town may, at its own expense, take corrective action to restore the property or initiate legal action to prevent unlawful or unauthorized activity. The cost of restoration shall become a lien upon the property upon which such unlawful activity occurred.

c) Certificate of Occupancy

No certificate of occupancy shall be issued by the Building Inspector until all work required to be completed pursuant to the plan has been satisfactorily done.

d) Fines

Any person undertaking clearing, excavation or development of land in violation of this local law, upon conviction, shall be guilty of a misdemeanor, punishable by a fine of not less than two hundred and fifty (\$250) and not more than five hundred (\$500) dollars. Such person shall be deemed guilty of a separate offense for each day during which a violation of this local law is committed or continues.

Section 12: Severability

Each separate provision of this local law is deemed independent of all other provisions herein so that if any provision(s) of this local law be declared invalid, all other provisions thereof shall remain valid and enforceable.

Section 13: Effective Date

This local law shall take effect on the date on which it is filed with the Secretary of State.