

Chapter 186
FLOOD DAMAGE PREVENTION; EROSION AND
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[HISTORY: Adopted by the Board of Trustees of the Village of Mamaroneck 5-27-1987 as L.L. No. 8-1987, effective 6-1-1987. (This local law also repealed former Ch. 186, Flood Damage Prevention, adopted 12-17-1984 as L.L. No. 35-1984, effective 12-24-1984, as amended.) Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 126.
Coastal management — See Ch. 146.
Environmental quality review — See Ch. 168.

Freshwater wetlands — See Ch. 192.
Zoning — See Ch. 342.
Subdivision Regulations — See Ch. A348.

ARTICLE I
Flood Damage Prevention

§ 186-1. Findings; purpose; objectives.

- A. Findings. The Village of Mamaroneck finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the village and that such damages may include destruction or loss of private and public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this Article is adopted.

- B. Statement of purpose. It is the purpose of this Article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
- (1) Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
 - (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
 - (3) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
 - (4) Control filling, grading, dredging and other development which may increase erosion or flood damages.
 - (5) Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
 - (6) Qualify for and maintain participation in the National Flood Insurance Program.
- C. Objectives. The objectives of this Article are:
- (1) To protect human life and health.
 - (2) To minimize expenditure of public money for costly flood control projects.
 - (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
 - (4) To minimize prolonged business interruptions.
 - (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard.
 - (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
 - (7) To provide that developers are notified that property is in an area of special flood hazard.
 - (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 186-2. Definitions.

- A. Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meanings they have in common usage and to give this Article its most reasonable application.
- B. As used in this Article, the following terms shall have the meanings indicated:

APPEAL — A request for a review of the Building Inspector's interpretation of any provision of this Article or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one-percent-or-greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1 – 99, V, VO, VE or V1 – 30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT — That portion of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUILDING — Any structure built for support, shelter or enclosure for occupancy or storage.

CELLAR — Has the same meaning as the definition of "basement."

COASTAL HIGH-HAZARD AREA — The area subject to high-velocity waters, including but not limited to hurricane wave wash. The area is designated on a FIRM as Zone V1 – 30, VE, VO or V.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

ELEVATED BUILDING — A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers) or sheer walls.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined, but no water surface elevation is provided.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary – Floodway Map and the water surface elevations of the base flood.

FLOODPROOFING — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — Has the same meaning as “regulatory floodway.”

FLOOR — The top surface of an enclosed area in a building, including basement; i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

LOWEST FLOOR — The lowest level, including basement or cellar, of the lowest enclosed area. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement, is not considered a building’s “lowest floor,” provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Article.

MANUFACTURED HOME — A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

MOBILE HOME — Has the same meaning as “manufactured home.”

NATIONAL GEODETIC VERTICAL DATUM (NGVD) — As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of this Article.

ONE-HUNDRED-YEAR FLOOD — Has the same meaning as “base flood.”

PRINCIPALLY ABOVE GROUND — At least fifty-one percent (51%) of the actual cash value, excluding land value, is above ground.

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study.

SAND DUNES — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

START OF CONSTRUCTION — The initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers and building materials. For manufactured homes, the “actual start” means affixing of the manufactured home to its permanent site.

STRUCTURE — A walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE — A grant of relief from the requirements of this Article which permits construction or use in a manner that would otherwise be prohibited by this Article.

§ 186-3. Applicability; basis for establishing areas of special flood hazard; interpretation; conflicts; penalties; disclaimer.

- A. Lands to which this Article applies. This Article shall apply to all areas of special flood hazard within the jurisdiction of the Village of Mamaroneck.
- B. Basis for establishing areas of special flood hazard. The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “Flood Insurance Study, Village of Mamaroneck, New York, Westchester County,” dated October 3, 1983, with Flood Insurance Rate Maps enumerated

on Map Index No. 360916 0001D-0002D, dated April 3, 1984, and Flood Boundary – Floodway Maps enumerated on Map Index No. 360916 0001-0002, dated April 3, 1984. The aforementioned documents and any revisions thereto are hereby adopted and declared to be a part of this Article and are on file at the office of the Village Engineer. **[Amended 5-22-1989 by L.L. No. 9-1989, effective 6-8-1989]**

C. Interpretation; conflict with other laws.

- (1) This Article is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.
- (2) In their interpretation and application, the provisions of this Article shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this Article are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the highest standards, shall govern.

D. Severability. The invalidity of any section or provision of this Article shall not invalidate any other section or provision thereof.

E. Penalties for noncompliance. No structure shall hereafter be constructed, located, extended, converted or altered, and no land shall be excavated or filled, without full compliance with the terms of this Article and any other applicable regulations. Any infraction of the provisions of this Article by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Article or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than two hundred fifty dollars (\$250.) or be imprisoned for not more than fifteen (15) days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Mamaroneck from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Article, for which the developer and/or owner has not applied for and received an approved variance under § 186-6, will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

F. Warning and disclaimer of liability. The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Village of Mamaroneck, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

§ 186-4. Local administrator; development permit.

- A. Designation of the local administrator. The Building Inspector is hereby appointed local administrator to administer and implement this Article by granting or denying development permit applications in accordance with its provisions.
- B. Establishment of development permit. A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 186-3B. Application for a development permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.
- (1) Application stage. The following information is required where applicable:
- (a) The elevation in relation to mean sea level of the proposed lowest floor, including basement or cellar, of all structures.
 - (b) The elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
 - (c) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 186-5A(3)(a).
 - (d) A certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 186-5B(2).
 - (e) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (2) Construction stage. Upon placement of the lowest floor or floodproofing by whatever means or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor, floodproofed elevation or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.
- C. Duties and responsibilities of the local administrator. Duties of the local administrator shall include but not be limited to:
- (1) Permit application review. The local administrator shall:

- (a) Review all development permit applications to determine that the requirements of this Article have been satisfied.
 - (b) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - (c) Review all development permit applications to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For the purposes of this Article, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas. An engineering study may be required of the applicant for this purpose.
 - [1] If there is no adverse effect, then the permit shall be granted consistent with the provisions of this Article.
 - [2] If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit
 - (d) Review all development permits for compliance with the provisions of § 186-5A(5), Encroachments.
- (2) Use of other base flood data. When base flood elevation data has not been provided in accordance with § 186-3B, Basis for establishing the areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, including data developed pursuant to § 186-5A(4)(d) in order to administer § 186-5B, Specific standards.
- (3) Information to be obtained and maintained. The local administrator shall:
- (a) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
 - (b) For all new or substantially improved floodproofed structures:
 - [1] Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - [2] Maintain the floodproofing certifications required in § 186-5A and B.
 - (c) In coastal high-hazard areas, certification shall be obtained from a registered professional engineer or architect that the provisions of § 186-5C(2)(c) are met.
 - (d) Maintain for public inspection all records pertaining to the provisions of this Article, including variances when granted and certificates of compliance.
- (4) Alteration of watercourses. The local administrator shall:
- (a) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director,

Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.

- (b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Interpretation of FIRM boundaries.
 - (a) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.
 - (b) Base flood elevation data established pursuant to § 186-3B and/or § 186-4C(2), when available, shall be used to accurately delineate the areas of special flood hazard.
 - (c) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the areas of special flood hazard when base flood elevations are not available.
- (6) Stop-work orders.
 - (a) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order issued by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 186-3E of this Article.
 - (b) All floodplain development found noncompliant with the provisions of this Article and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order issued by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 186-3E of this Article.
- (7) Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the development permit or the approved variance.
- (8) Certificate of compliance.
 - (a) It shall be unlawful to use or occupy, or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this Article.
 - (b) All other development occurring within the designated flood hazard area will have, upon completion, a certificate of compliance issued by the local administrator.
- (9) All certifications shall be based upon the inspections conducted subject to § 186-4C(7) and/or any certified elevations, hydraulic information, floodproofing,

anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

§ 186-5. Provisions for flood hazard reduction.

A. General standards. In all areas of special flood hazard, the following standards are required:

(1) Anchoring.

- (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(2) Construction materials and methods.

- (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Utilities.

- (a) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (b) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (c) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of floodwaters.
- (d) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision proposals.

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
 - (d) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either fifty (50) lots or five (5) acres.
 - (5) Encroachments. All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the areas of special flood hazard set forth in § 186-4C(1)(c). This may require the submission of additional technical data to assist in the determination.
- B. Specific standards. In all areas of special flood hazard where base flood elevation data has been provided, as set forth in § 186-3B, Basis for establishing the areas of special flood hazard areas, and § 186-4C(2), Use of other base flood data, the following standards are required:
- (1) Residential construction. New construction and substantial improvements of any residential structure shall:
 - (a) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
 - (b) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - [1] A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - [2] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
 - [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
 - (2) Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
 - (a) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow

for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

- [1] A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
- [2] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
- [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(b) If the structure is to be floodproofed:

- [1] A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- [2] A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

(c) The local administrator shall maintain on record a copy of all such certificates noted in this section.

(3) Construction standards for areas of special flood hazard without base flood elevations.

(a) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.

(b) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

- [1] A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
- [2] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.

- [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- C. Coastal high-hazard area. Coastal high-hazard areas (V Zones) are located within the areas of special flood hazard established in § 186-3B. These areas have special flood hazards associated with high-velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:
 - (1) Location of structures. All buildings or structures shall be located landward of the reach of the mean high tide.
 - (2) Construction methods.
 - (a) Elevation. All new construction or substantial improvements shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor, excluding the pilings or columns, is elevated to or above the base flood level so as not to impede the flow of water.
 - (b) Structural support.
 - [1] The pilings or column foundation and structure attached thereto shall be adequately anchored to resist flotation, collapse and lateral movement due to the effects of wind and high-velocity water loads acting simultaneously on all building components. Wind and water loading values shall each have a one-percent chance of being equaled or exceeded in any given year (one-hundred-year mean recurrence interval).
 - [2] A licensed professional engineer shall develop or review the structural design, specifications and plans for the construction, and shall submit to the local administrator a written certification that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of § 186-5C(2)(a) and (b)[1].
 - [3] There shall be no fill material used for structural support of any new building or substantial improvement of any existing structure.
 - (c) Space below the lowest floor; breakaway walls.
 - [1] The space below the lowest floor of all new construction or any existing building that is being altered, repaired or improved after the effective date of this Article shall be either kept free of obstructions or constructed with nonsupporting breakaway walls, open wood latticework or insect screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system.
 - [2] A breakaway wall shall have a design safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls exceeding a design safe loading resistance of twenty (20) pounds per square foot are permitted only if a licensed professional

engineer or architect certifies in writing to the local administrator that the designs proposed meet the following conditions:

- [a] Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 - [b] The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have one-percent chance of being equaled or exceeded in any given year (one-hundred-year mean recurrence interval).
- [3] The enclosed space below the lowest floor shall be used only for parking of vehicles, building access or storage. Use of this space for human habitation is expressly prohibited. The construction of stairs, stairwells and elevator shafts only are subject to the design requirements for breakaway walls in § 186-5C(2)(c)[2].
- (3) Disturbance of sand dunes. There shall be no alteration of sand dunes which would increase potential flood damage. Any disturbance of sand and/or earthen material shall be conducted in strict compliance with state or local coastal erosion hazard area regulations.
- (4) Submission and maintenance of construction records.
- (a) The applicant for a development permit for all new construction or substantial improvements shall submit in writing to the local administrator the following:
 - [1] A statement certifying whether or not the structure contains a basement; and
 - [2] The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor of the structure. The elevation shall be certified by a licensed professional engineer or land surveyor.
 - (b) The local administrator shall maintain a record of all information required under Subsection C(4)(a) of this section.

§ 186-6. Appeals Board; variance procedure.

A. Appeals Board.

- (1) The Planning Board, as established by the Village of Mamaroneck, shall hear and decide appeals and requests for variances from the requirements of this Article.
- (2) The Planning Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this Article.

- (3) Those aggrieved by the decision of the Planning Board may appeal such decision to the Supreme Court of the State of New York pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such application, the Planning Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Article and:
 - (a) The danger that materials may be swept onto other lands to the injury of others.
 - (b) The danger to life and property due to flooding or erosion damage.
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (d) The importance of the services provided by the proposed facility to the community.
 - (e) The necessity to the facility of a waterfront location, where applicable.
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (g) The compatibility of the proposed use with existing and anticipated development.
 - (h) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (j) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
 - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (l) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities, such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of § 186-6A(4) and the purposes of this Article, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.
- (6) The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

B. Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to

and surrounded by lots with existing structures constructed below the base flood level, provided that the items in Subsection A(4) above have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
 - (a) The criteria of Subsection B(1), (4), (5) and (6) of this section are met.
 - (b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense or create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

ARTICLE II

Erosion and Sediment Control

§ 186-7. Statutory authority; findings; purpose.

- A. This Article is adopted pursuant to the authority of the Village of Mamaroneck to promote the public health, safety and general welfare of its citizenry under New York State Municipal Home Rule Law, § 10, and New York Environmental Conservation Law, Article 36, and other applicable provisions of state and federal law.
- B. Findings. The Village of Mamaroneck 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.
 - (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.
- C. Statement of purpose. It is the purpose of this Article 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 of Mamaroneck.

§ 186-8. Definitions.

- A. Unless specifically defined below, words and phrases used in this Article shall be interpreted to have the meanings they have in common English usage, to give effect to the purpose set forth in § 186-7 and to provide reasonable application of this Article.
- B. As used in this Article, the following terms shall have the meanings indicated:

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

AGENT — The Building Inspector, who is designated to administer this Article.

APPEAL — A request for a review of the agent's interpretation of any provision of this Article or a request for a variance.

BEST MANAGEMENT PRACTICES — Procedures and measures pertaining to construction activities, which are intended to minimize water pollution, retain valuable topsoil, and prevent erosion and sedimentation, and include, but are not limited to, those practices contained in the Westchester County Best Management Practices Manual series.

BEST MANAGEMENT PRACTICES MANUAL (BMP) — The series of manuals, prepared, published and occasionally amended by Westchester County, consisting of

various volumes on best management practices for certain described activities, and, specifically, the volume for Construction Related Activities.

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

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

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

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

DEVELOPMENT PERMIT — Any permits, grants or licenses issued by the municipality, including but not limited to building, grading, clearing, demolition, wetlands and excavation permits, and subdivision and site plan approvals.

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

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

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

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

NATURAL DRAINAGE — Channels formed in the existing surface topography of the earth 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 site development permit is issued.

PERMITTING AUTHORITY — The village official or agency to whom a site development application is submitted for approval.

PERSON — Any individual, firm or corporation, public or private, the State of New York and its agencies or political subdivisions and the United States of America, its agencies and instrumentalities, and any agent, servant, officer or employee of any of the foregoing.

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

SITE — A lot or parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

SITE DEVELOPMENT — Altering terrain and/or vegetation and constructing improvements.

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

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

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 land preparation, such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings, such as garages.

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 (2) or more habitable building sites or parcels on any site along an existing or proposed street, highway, easement or right-of-way, or other means or proposed means of access, road or street, for sale, lease or rent, regardless of whether the sites are to be sold or offered for sale or leased for any period of time, are described by metes and bounds, or by reference to a map or survey of the property or by any other method of description. "Subdivision" also has any meaning it presently has under the laws of the Village of Mamaroneck.

TEMPORARY STREAM CROSSING — A temporary structural span installed across a flowing watercourse for use by construction traffic. Structures may include bridges, round pipes or pipe arches.

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

WATERCOURSE — Any body of water, including but not limited to lakes, ponds, rivers, streams, intermittent streams and bodies of water which are classified by the New York State Department of Environmental Conservation under Part 6 of the New York Code of Rules and Regulations, and/or delineated on the Hydrologic Features Map of the Westchester County Environmental Planning Atlas, and/or delineated on the USGS 7.5-Minutes Quadrangle Sheet(s) for the Village of Mamaroneck.

§ 186-9. General principles.

The objective of this Article is to control soil erosion and sedimentation caused by development activities in the Village of Mamaroneck. Measures taken to control erosion and sedimentation shall be adequate to ensure that sediment is not transported from the site by a storm event of ten-year frequency or less. The following principles shall apply to all development activities within the Village of Mamaroneck and to the preparation of the submissions required under § 186-10 of this Article:

- A. Selection of control measures. The selection of erosion and sedimentation control measures shall be based on assessment of the probable frequency of climatic and other events likely to contribute to erosion, and on an evaluation of the risks, costs and benefits involved.
- B. Protection of adjacent properties.
 - (1) Properties adjacent to the site of a land disturbance shall be protected from sediment deposition. This may be accomplished by preserving a well-vegetated buffer strip around the lower perimeter of the land disturbance, by installing perimeter controls such as sediment barriers, filters, dikes or sediment basins, or by a combination of such measures.
 - (2) Vegetated buffer strips may be used alone only where runoff in sheet flow is expected. Buffer strips should be at least twenty (20) feet in width. If, at any time, it is found that a vegetated buffer strip alone is ineffective in preventing sediment movement onto adjacent property, additional perimeter controls must be provided.
- C. Cut and fill slopes.
 - (1) Development shall reflect the topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
 - (2) In the design of cut and fill slopes, consideration must be given to the length and steepness of the slope, the soil type, upslope drainage area, groundwater conditions, and other applicable factors. Slopes which are found to be eroding excessively within one (1) year of construction must be provided with additional stabilizing measures until the problem is corrected.
- D. Vegetation.
 - (1) Natural vegetation shall be retained and protected wherever possible. A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized. Permanent vegetation and related structures shall be installed as soon as

practical or within the time specified in the permit. Permanent vegetation shall not be considered established until a ground cover is achieved which, in the opinion of the Planning Board, or its designated agent is mature enough to control soil erosion satisfactorily and to survive severe weather conditions.

- (2) The smallest practical area of land shall be exposed for the shortest practical time during development.
- E. Stabilization of denuded areas and soil stockpiles.
- (1) Permanent or temporary soil stabilization must be applied to denuded areas within fifteen (15) days after final grade is reached on any portion of the site. Soil stabilization must also be applied within fifteen (15) days to denuded areas which may not be at final grade but will remain dormant (undisturbed) for longer than sixty (60) days.
 - (2) Soil stabilization refers to measures which protect soil from the erosive forces of raindrop impact and flowing water. Applicable practices include vegetative establishment, mulching, and the early application of gravel base on areas to be paved.
- F. 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.
- G. Timing and stabilization of sediment trapping measures. Sediment basins and traps, perimeter dikes, sediment barriers and other measures intended to trap sediment on site must be constructed as a first step in grading and must be made functional before upslope land disturbance takes place. Earthen structures such as dams, dikes and diversions must be seeded and mulched within fifteen (15) days of installation.
- H. Stabilization of waterways and outlets. All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a ten-year frequency storm without erosion. Stabilization adequate to prevent erosion must also be provided at the outlets of all pipes and paved channels.
- I. Storm sewer inlet protection. All storm sewer inlets, which are made operable during construction, shall be protected so that sediment-laden water will not enter the conveyance system without first being filtered or otherwise treated to remove sediment.
- J. Working in or crossing watercourses.
- (1) Construction vehicles should be kept out of watercourses to the greatest extent possible. Where 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.
 - (2) Where a live (wet) watercourse must be crossed by construction vehicles regularly during construction, a temporary stream crossing must be provided.
- K. Stormwater management criteria for controlling off-site erosion.

- (1) Provision shall be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development. Drainageways shall be designed so that the final gradients and the resultant velocities of discharges will not create additional erosion.
- (2) Stormwater management design will follow the procedures and methodology set forth in the Westchester County Best Management Practices Manual for Stormwater Runoff unless a comprehensive storm water management plan and model has been adopted by the municipalities which compose the watershed in which the development is located.

L. Underground utility construction.

- (1) The construction of underground utility lines involving installation, maintenance or repair which disturbs more than ten thousand (10,000) square feet shall be subject to the following criteria:
 - (a) No more than five hundred (500) feet of trench are to be opened at one (1) time.
 - (b) Where consistent with safety and space considerations, excavated material is to be placed on the uphill side of trenches.
 - (c) Trench dewatering devices shall discharge in a manner which will not adversely affect flowing streams, drainage systems or off-site property.
- (2) Individual service connections, telephone and electric lines and underground public utility lines under existing hard-surfaced roads, streets or sidewalks, provided that such land-disturbing activity is confined to the area which is hard-surfaced, are exempt from the above requirements.

M. Construction access routes. Wherever construction vehicle access routes intersect paved public roads, provisions must be made to minimize the transport of sediment (mud) by runoff or vehicle tracking onto the paved surface. 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.

N. Disposition of temporary measures. All temporary erosion and sediment control measures shall be disposed of within thirty (30) days after final site stabilization is achieved or after the temporary measures are no longer needed, unless otherwise authorized by the Planning Board. Trapped sediment and other disturbed soil areas resulting from the disposition of temporary measures shall be permanently stabilized to prevent further erosion and sedimentation.

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

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

- Q. Review by the Westchester County Soil and Water Conservation 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 developments submitted to the Village of Mamaroneck.

§ 186-10. Site development permit.

A. Permit required.

- (1) Except as otherwise provided in this Article, no person shall commence or perform any land-disturbing activity, including but not limited to grading, stripping, excavating or filling, without first obtaining a site development permit from the permitting authority, upon approval by the Village Engineer in consultation with the Westchester County Soil and Water Conservation District, all other necessary local, state, and federal permits, and thereafter comply with the requirements of this Article.
- (2) An application for a site development permit shall be made to the permitting authority in the same manner as prescribed for a building permit.

B. Exceptions. A permit shall not be required for any of the following activities:

- (1) Normal lawn and landscaping maintenance.
- (2) Existing nursery and agricultural operations conducted as either a permitted main or accessory use.
- (3) Grading of land in a uniform manner, provided that the elevation of land is not altered by more than three (3) 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.

C. Application for permit. Application for a site development permit shall be made by the owner of the property, or his authorized agent, to the permitting authority on a form furnished for that purpose. Each application shall bear the name(s) and address(es) 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 to be determined by the permitting authority, based on the estimated cost of the project. Each application shall include a certification that any land clearing, construction, or development involving the movement of earth shall be in accordance with the plans approved upon issuance of the permit.

D. Submissions.

(1) Each application for a site development permit shall be accompanied by the following information:

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

(b) A development plan of the site showing:

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

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

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

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

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

[1] All erosion and sediment control measures necessary to meet the objectives of this Article throughout all phases of construction and permanently, after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate erosion and sediment control plans also may be required.

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

[3] Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.

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

(d) The proposed phasing of development of the site, including stripping and clearing, rough grading and construction, and final grading and landscaping. Phasing shall identify the expected date on which clearing will begin, the

estimated duration of exposure of cleared areas, and the sequence of clearing, installation of temporary sediment control measures, installation of storm drainage, paving of streets and parking areas, and establishment of permanent vegetative cover.

- (2) These submissions shall be prepared in accordance with the standards and requirements contained in the Westchester County Best Management Practices Manuals prepared by the County of Westchester, which standards and requirements are hereby incorporated into this Article by reference.
 - (3) The permitting authority may waive specific requirements for the content of submissions upon finding that the information submitted is sufficient to show that the work will comply with the objectives and principles of this Article.
- E. Bonds. The applicant may be required to file with the Village of Mamaroneck 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 permitting authority to cover all costs of improvements, landscaping, maintenance of improvements and landscaping for such period as specified by the Village of Mamaroneck, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.
- F. Review and approval. Each application for a site development permit shall be reviewed and acted upon according to the following procedures:
- (1) The permitting authority will review each application for a site development permit to determine its conformance with the provisions of this Article. The permitting authority will also refer any application to the Westchester County Soil and Water Conservation District and/or any other local government or public agency within whose jurisdiction the site is located, for review and comment. Within thirty (30) days after receiving an application, the permitting authority shall, in writing:
 - (a) Approve the permit application if it is found to be in conformance with the provisions of this Article and issue the permit;
 - (b) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this Article, and issue the permit subject to these conditions; or
 - (c) Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.
 - (2) No site development permit shall be issued for an intended development site unless:
 - (a) The development has been approved by the Village of Mamaroneck, where applicable;
 - (b) Such permit is accompanied by or combined with a valid building permit issued by the Village of Mamaroneck; or
 - (c) The proposed earthmoving is coordinated with any overall development program previously approved by the Village of Mamaroneck for the area in which the site is situated.

(3) Failure of the permitting authority to act on original or revised applications within thirty (30) days of receipt shall authorize the applicant to proceed in accordance with the plans as filed, unless such time is extended by agreement between the applicant and the permitting authority. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the permitting authority.

G. Appeals. The applicant or any person or agency which received notice of the filing of the application may appeal the decision of the permitting authority to the Planning Board. Upon receipt of an appeal, the Planning Board shall schedule and hold a public hearing, after giving fifteen (15) days' notice thereof. The Planning Board shall render a decision within thirty (30) days after the hearing. 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, or the use of any retention facilities; possible saturation of fill and unsupported cuts by water, both natural and domestic; runoff surface waters that produce erosion and silting of drainageways; nature and type of soil or rock which, when disturbed by the proposed development activities, may create earth movement and produce slopes that cannot be landscaped; and excessive and unnecessary scarring of the natural landscape through grading or removal of vegetation.

H. Retention of plans. Plans, specifications and reports for all site developments shall be retained in original form or on microfilm by the permitting authority.

§ 186-11. Operation standards.

A. Applicability. All grading, stripping, excavating and filling which is subject to the permit requirements of this Article, and any grading, stripping, excavating and filling which is exempted from the permit requirements by Section 186-10B shall be subject to the applicable standards and requirements set forth in this section.

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

- (1) The issuance of a permit under this Article.
- (2) Compliance with the provisions of that permit or with conditions attached to it.
- (3) Failure of municipal officials to observe or recognize hazardous or unsightly conditions.
- (4) Failure of municipal officials to recommend denial of, or to deny a permit.
- (5) Exemptions from the permit requirements of this Article.

C. Manual adopted by reference. The standards and specifications contained in the Westchester County Best Management Practices Manuals are hereby incorporated into this section and made a part hereof by reference for the purpose of delineating procedures and methods of operation under site development and erosion and sedimentation control plans

approved under § 186-10. In the event of conflict between provisions of said manual and of this Article, this Article shall govern.

D. Inspection.

- (1) The permitting authority, or designated agent, shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the site development or erosion and sediment control plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the permitting authority shall be maintained at the site during progress of the work. In order to obtain inspections, the permittee shall notify the permitting authority, or designated agent, at least two (2) working days before the completion of stripping and clearing, rough grading, final grading and final landscaping. 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 (5) working days after notice is received by the municipality from the permittee, the permittee may continue work at his own risk, without presuming acceptance by the municipality. Notification of the results of the inspection shall be given in writing at the site.
- (2) The permittee, or his agent, shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plan(s). The purpose of such inspections will be to determine the condition and need for replacement or repair of in-place control measures, the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the permitting authority at the time interval specified in the approved permit.

E. Special precautions.

- (1) If at any stage of the grading of any development site the permitting authority, or designated agent, determines by inspection that the nature of the site is such that further work authorized by an existing permit is likely to imperil any property, public way, watercourse or drainage structure, the permitting authority may require, as a condition of allowing the work to be done, that such reasonable special precautions be taken as are considered advisable to avoid the likelihood of such peril. Special precautions may include, but shall not be limited to, a 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 registered soils engineer and/or engineering geologist which may be made requirements for further work.
- (2) Where it appears that storm damage may result from incomplete grading on any development site, work may be stopped and the permittee required to install temporary structures or take such other measures as may be necessary to protect adjoining property or the public safety. On large developments or where unusual site conditions prevail, the permitting authority may specify the time of start of grading and time of completion or may require that the operations be conducted in specific

stages to ensure completion of protective measures or devices prior to the advent of seasonal rains.

- F. Amendment of plans. Major amendments of the site development or erosion and sediment control plans shall be submitted to the permitting authority 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 permitting authority by written authorization to the permittee.
- G. Expiration of permit. Every site development permit shall expire and become null and void if the work authorized by such permit has not begun within one hundred eighty (180) days, or is not completed by a date which shall be specified in the permit, except that the permitting authority 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.

§ 186-12. Exceptions; stop-work orders; revocation of permit; penalties.

- A. Exceptions. The Planning Board may, in accordance with the following procedures, authorize exceptions to any of the requirements and regulations set forth in this Article.
 - (1) Application for any exception shall be made by a verified petition of the applicant for a site development permit, stating fully the grounds of the petition and the facts relied upon by the applicant. Such petition shall be filed with the site development permit application. In order for the petition to be granted, it shall be necessary that the Planning Board find all of the following facts with respect to the land referred to in the petition:
 - (a) That the land is of such shape or size or is affected by such physical conditions or is subject to such title limitations of record that it is impossible or impractical for the applicant to comply with all of the requirements of this Article.
 - (b) That the exception is necessary to prevent unreasonable and unnecessary hardship.
 - (c) That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.
 - (2) Each application for an exception shall be referred to the permitting authority for review. The permitting authority shall transmit its recommendations to the Planning Board, which shall review such recommendations prior to granting or denying the exception.
 - (3) The Planning Board shall hold a public hearing on each application for exception within thirty (30) days after receiving the application, in the manner provided with respect to appeals. After public hearing, the Planning Board may approve the site development permit application with the exceptions and conditions it deems necessary, or it may disapprove such site development permit application and exception application, or it may take such other action as appropriate.

- B. Stop-work order; revocation of permit. In the event any person holding a site development permit pursuant to this Article violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare or safety of persons residing or working in the neighborhood or the development site or so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the permitting authority may suspend or revoke the site development permit.
- (1) Suspension of a permit shall be by a written stop-work order issued by the permitting authority 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 of Mamaroneck, or any agency thereof, and shall remain in effect until the next regularly scheduled meeting of the Planning Board at which the conditions of Subsection B(2) below can be met.
 - (2) No site development permit shall be permanently suspended or revoked until a hearing is held by the Planning Board. Written notice of such hearing shall be served on the permittee, either personally or by registered mail, and shall state the grounds for the complaint or reasons for suspension or revocation, in clear and concise language and the time and place of the hearing to be held. Such notice shall be served on the permittee at least five (5) days prior to the date set for the hearing. At such hearing, the permittee shall be given an opportunity to be heard and may call witnesses and present evidence on his behalf. At the conclusion of the hearing, the Planning Board shall determine whether the permit shall be suspended or revoked.
- C. Violations and penalties. No person shall construct, enlarge, alter, repair or maintain any grading, excavation or fill, or cause the same to be done, contrary to or in violation of any terms of this Article. Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this Article 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 one thousand dollars (\$1,000.) for each offense. In addition to any other penalty authorized by this section, any person, partnership or corporation convicted of violating any of the provisions of this Article 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.
- D. Separability. The provisions and sections of this Article shall be deemed to be separable, and the invalidity of any portion of this Article shall not affect the validity of the remainder.

