

Chapter 245

STEEP SLOPES, PROTECTION OF

GENERAL REFERENCES

Explosives and blasting — See Ch. 140. **Subdivision regulations** — See Ch. 250.
Environmental quality review — See Ch. 200. **Trees** — See Ch. 260.
Excavations and soil removal — See Ch. 210. **Watercourse protection** — See Ch. 270.
Flood damage prevention — See Ch. 220. **Wetlands and watercourses** — See Ch. 280.
Fees — See Ch. 230.

§ 245-1. Title.

This chapter is entitled "Steep Slopes, Protection of."

§ 245-2. Findings; legislative intent. [Amended 9-9-2015 by L.L. No. 10-2015]

For the purpose of preventing erosion and sedimentation, including loss of topsoil, preventing habitat disturbance, water quality degradation, slope failure and flooding; minimizing stormwater runoff and flooding; providing stable and safe building sites; preventing landslides and soil instability; protecting the quantity and quality of the Town's surface and groundwater resources; protecting important scenic views and vistas; preserving prominent land forms of scenic and ecological value; preserving rock outcrops and trees, areas of vegetation and wildlife habitat; encouraging flexible design and minimizing the area of land disturbance related to site development and, when disturbance is necessary, ensuring environmentally sound disturbance; and ensuring and protecting the Town's character and property values, it is the intent of this chapter to minimize disturbances on steep slopes and very steep slopes and to limit, to the extent possible, disturbance and construction activities on excessively steep slopes. Further, it is the intent of this chapter to limit the development of hilltops and ridgelines wherever possible. It is the intent of this chapter to ensure preservation wherever possible and to carefully review and regulate, through the use of mitigation measures, disturbance of soil and vegetation on steep slopes where they have been disturbed. The proponent of any activity proposed for hilltops, ridgelines, or steep slopes shall demonstrate that the impacts on the functions and essential characteristics of such areas can be effectively minimized.

§ 245-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

APPROVAL AUTHORITY — The municipal or administrative board, public official or public employee empowered to grant or deny permits under this chapter, to require the posting of bonds as necessary and to revoke or suspend a permit where lack of compliance to the permit is established.

CUSTOMARY LANDSCAPING — Land maintenance involving tree trimming and pruning; the removal of dead and diseased vegetation; care of an established lawn or garden; and the planting of decorative trees, shrubs, and plants.

DISTURBANCE — Removal of vegetation, excavation or fill or any combination thereof, including the conditions resulting from any excavation or fill.

EMERGENCY — A condition which in the belief of the approval authority has created an imminent danger to public safety. **[Amended 9-9-2015 by L.L. No. 10-2015]**

EXCAVATION — Any act by which earth, sand, gravel, rock or any other similar natural or man-made material is cut into, dug, quarried, uncovered, removed, displaced or spread. **[Amended 9-9-2015 by L.L. No. 10-2015]**

EXCESSIVELY STEEP SLOPE — See "slope."

FILL — Any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, dumped, transported or moved to a new location.

HILLTOP — A roughly circular area defined by a radius of 75 feet from the highest point of a hill or rise of land.

RIDGELINE — An area 75 feet downslope to either side of the center line of ridge.

ROCK OUTCROP — Portion of bedrock visible above the surface of topsoil, including ledges and cliffs.

SLOPE — Any area, whether or not located on a single lot, having a topographical gradient of 15% (the ratio of vertical distance to horizontal distance) or more and with a minimum contiguous area of 500 square feet, one dimension of which is a minimum of 10 feet. For purposes of this definition, area measurements must be made along a horizontal plane from within the boundaries of a lot. **[Amended 9-9-2015 by L.L. No. 10-2015]**

- A. STEEP SLOPE — Slope with a topographical gradient equal to or greater than 15% but less than 25%.
- B. VERY STEEP SLOPE — Slope with a topographical gradient equal to or greater than 25% but less than 35%.
- C. EXCESSIVELY STEEP SLOPE — Slope with a topographical gradient equal to or greater than 35%.

STEEP SLOPE — See "slope."

VERY STEEP SLOPE — See "slope."

§ 245-4. Permit required for slope disturbance. [Amended 9-9-2015 by L.L. No. 10-2015]

Disturbance with a minimum contiguous area of 500 square feet of any slope without a permit is unlawful.

§ 245-5. Slope clearance form; initial review; approval authority.

A. Slope clearance form. Every application involving land disturbance for any approval issued by the Building Department, Department of Public Works, Antenna Review Board, Town Board, Planning Board, or Zoning Board of Appeals must include a completed slope clearance form. **[Amended 9-9-2015 by L.L. No. 10-2015]**

(1) The form contents request information from the applicant so that, if completed in an accurate and responsive fashion, the Town Engineer can properly determine:

(a) The type of the approval involved in the application; and

(b) The existence of any slope on the parcel that is the subject of the application; and

(c) The nature and extent of the disturbance of any slope.

(2) The Town Engineer may require additional information in order to make any determinations required to fulfill the intent of this chapter.

B. Clearance form review and approval authority.

(1) Upon determination that the clearance form and any supplemental information is adequate, the Town Engineer shall determine that the application is exempt under this chapter; in this case, the Town Engineer will forward a notice to the appropriate Town agency advising it that no further consideration of the application is required under this chapter.

(2) Applications will be reviewed by the Planning Board when the Town Engineer determines that the application involves disturbance to any area of 500 square feet or greater. **[Amended 9-9-2015 by L.L. No. 10-2015¹]**

§ 245-6. Planning Board steep slope permit application. [Amended 9-9-2015 by L.L. No. 10-2015]

If the slope clearance form discloses that the application involves a steep slope permit approval from the Planning Board, the Town Engineer will notify the applicant that a Planning Board steep slope permit application must be filed with the Town Engineer's office.

1. Editor's Note: This local law also repealed former Subsection B(3), regarding review of certain applications, which immediately followed.

- A. Planning Board steep slope permit application contents. A Planning Board steep slope permit application must be made in writing on forms prescribed by the Town Engineer and contain the following information:
- (1) Name and post office address of the owner and applicant;
 - (2) Street address and tax map designation of property covered by the application;
 - (3) Statement of authority from the owner for any agent making application;
 - (4) Statement of proposed work and purpose thereof, and an explanation why the proposed activity cannot be located at another site;
 - (5) Three copies of complete plans drawn to a scale of not less than one inch equals 50 feet, certified by a New-York-State-licensed Engineer, Registered Architect or Land Surveyor. A New-York-State-licensed Landscaped Architect may also prepare plans as allowed by the New York State Education Law;
 - (6) Location of proposed construction or area of disturbance and its relationship to any property line, easement, building, structure, road, wall, fence, sewage disposal system, well, wetland feature or tree exceeding six inches in diameter measured at a height of four feet from the ground;
 - (7) Estimated material quantities of excavation or fill and number/species and size of trees to be removed;
 - (8) Location and size of areas of soils by soil types in the area of proposed disturbance and to a distance of 100 feet surrounding the area of disturbance;
 - (9) Existing and proposed contours (National Geodetic Vertical Datum) at two-foot intervals in the area of proposed disturbance and to a distance of 100 feet beyond;
 - (10) Cross sections of steep slope areas;
 - (11) Retaining walls or like constructions, with details of construction;
 - (12) Erosion and sedimentation control plan, including installation details of proposed control measures, directive construction notations and a schedule for the installation and maintenance of proposed control measures;
 - (13) Other details, including specific reports by qualified professionals on soils, geology and hydrology, and borings or test pits, as may be determined to be necessary by the Town Engineer and/or Planning Board;

- (14) A list of all applicable county, state or federal permits required for such work or improvements;
 - (15) An environmental assessment form;
 - (16) Listing of names and addresses of property owners of record, along with the address and Tax Map identification of properties within 500 feet of the property that is the subject of this application;
 - (17) A narrative of compliance with the review standards established in § 245-7A; and
 - (18) An application fee in the amount set forth in a fee schedule established under Chapter 230.
- B. Content waiver. With the exception of the requirements set forth in § 245-6A(15) and (18), the Town Engineer and/or Planning Board may waive any information requirement contained in § 245-6A with respect to the Planning Board steep slope permit application, so long as a fully informed determination, in writing, consistent with the intent of this chapter, can be made without the information.

§ 245-7. Planning Board review standards. [Amended 9-9-2015 by L.L. No. 10-2015²]

- A. Review standards. In evaluating the permit application, the Planning Board, with assistance from the Town Engineer, shall ensure that:
- (1) The planning, design and development of buildings minimize flooding and provide appropriate structural safety, slope stability, and human enjoyment while adapting the affected site to, and taking advantage of, the best use of the natural terrain and aesthetic character;
 - (2) Roads and driveways follow the natural topography to the greatest extent possible in order to minimize the potential for erosion, and are consistent with other applicable regulations of the Town of Greenburgh and current engineering practices;
 - (3) Habitat is quantified and protected, no endangered species of flora or fauna are adversely impacted and any replanting shall be maintained by the applicant for two years and consist of indigenous vegetation that at a minimum replicates the original vegetation on the site, in kind;
 - (4) The natural elevations and vegetative cover of ridgelines may be disturbed only if the crest of a ridge and the tree line at the ridge remain uninterrupted. This may be accomplished either by

2. **Editor's Note: This local law also superseded former §§ 245-7, Appeal from Town Engineer permit determination, and 245-8, Review of slope disturbances for sites containing very steep and excessively steep slopes, and renumbered former §§ 245-9 through 245-14 as §§ 245-8 through 245-13, respectively.**

positioning buildings and areas of disturbance below a ridgeline or by positioning buildings and areas of disturbance at a ridgeline so that the elevation of the roof line of the building is no greater than the elevation of the natural tree line, so long as no more than 100 feet along the ridgeline, to a width of 100 feet generally centered on the ridgeline, is disturbed;

- (5) Any regrading blends in with the natural contours and undulations of the land;
- (6) Cuts and fills are rounded off to eliminate sharp angles at the top, bottom, and sides of regraded slopes;
- (7) The angle of cut and fill slopes does not exceed a slope of one vertical to two horizontal except where retaining walls, structural stabilization, or other methods acceptable to the Town Engineer and/or Planning Board are used;
- (8) Tops and bottoms of cut and fill slopes are set back from structures an adequate distance to ensure the safety of the structures in the event of the collapse of the cut or fill slopes. Generally, such distance is six feet plus 1/2 the height of the cut or fill;
- (9) Disturbance of rock outcrops is by means of explosives only if labor and machines are not effective and only if rock blasting is conducted in accordance with all applicable regulations of the Town of Greenburgh and the State of New York.³ The rock shall be effectively stabilized;
- (10) Disturbance of slopes is undertaken in workable units so that the disturbance can be completed and stabilized in one construction season and so that areas are not left bare and exposed during the period from December 15 through April 15;
- (11) Disturbance of existing vegetative ground cover does not take place more than 15 days prior to grading and construction;
- (12) Temporary soil stabilization, including, if appropriate, temporary stabilization measures such as netting or mulching to secure soil during the grow-in period, is applied to an area of disturbance within two days of establishing the final grade, and permanent stabilization is applied within 15 days of establishing the final grade;
- (13) Soil stabilization is applied within two days of disturbance if the final grade is not expected to be established within 60 days;
- (14) Measures for the control of erosion and sedimentation are undertaken consistent with the Westchester County Soil and Water Conservation District's "Best Management Practices Manual for

3. Editor's Note: See Ch. 140, Explosives and Blasting.

Erosion and Sediment Control," and New York State Department of Environmental Conservation "Guidelines for Urban Erosion and Sediment Control," as amended, or its equivalent satisfactory to the Planning Board;

- (15) All proposed disturbance of slopes is undertaken with consideration of the soils limitations characteristics contained in the Identification Legend, Westchester County Soils Survey, 1989, as prepared by the Westchester County Soil and Water Conservation District, in terms of recognition of limitation of soils on slopes for development and application of all mitigating measures, and as deemed necessary by the Town Engineer and/or Planning Board;
- (16) Topsoil is removed from all areas of disturbance, stockpiled and stabilized in a manner to minimize erosion and sedimentation, and replaced elsewhere on the site at the time of final grading;
- (17) Topsoil stockpiling is not permitted on areas of greater than 10% gradient;
- (18) Fill material is no less granular than the soil upon which it is placed, and no organic material or rock with a size that will not allow appropriate compaction or cover by topsoil can be used as fill material;
- (19) Compaction of fill materials in fill areas is such to ensure support of proposed structures and stabilization for intended uses;
- (20) Structures are designed to fit into the hillside rather than altering the hillside to fit the structure, employing methods such as reduced footprint design, step-down structures, stilt houses, and minimization of grading outside the building footprint;
- (21) Development is sited on that portion of the site least likely to impact the natural landforms, geological features, and vegetation;
- (22) The applicant has provided landscaping plans for after-development;
- (23) The development conforms with the requirements set forth in § 285-39E;
- (24) The construction equipment has adequate access as not to disturb anything outside the approved construction envelope; and
- (25) At the discretion of the Town Engineer and/or Planning Board, a construction safety plan may be required and shall be reviewed and approved by the Traffic Safety Officer of the Town of Greenburgh.

B. Procedure.

- (1) Referral from Town Engineer. Upon the Town Engineer's determination that the Planning Board is the approval authority for an application, and that the applicant has completed a Planning Board steep slope permit application, the application will be forwarded to the Planning Board for its consideration consistent with this chapter.
- (2) Record. The Planning Board record must consist of a slope clearance form and the Planning Board steep slope permit application requirements, as set forth in § 245-6A.
- (3) Notice. The Planning Board shall not review any permit application unless the applicant has established by affidavit that notification to property owners within 500 feet of the property that is the subject of the application, by U.S. Postal Service regular mail, has been complied with. The notices, at a minimum, shall contain the following:
 - (a) Name and post office address of the owner and applicant and the street address and tax map designation of property covered by the applicant;
 - (b) The applicant has applied for site plan, subdivision, steep slope, or other application approval, as the case may be;
 - (c) The approval involves slope disturbance;
 - (d) The nature of the proposed work and purpose thereof;
 - (e) The application is available for inspection at the Department of Community Development and Conservation;
 - (f) The fact that a hearing will be held on the application, the date, the time and place of the hearing, and that individuals will be given opportunity to be heard; and
 - (g) The Department of Community Development and Conservation will accept and consider any written comment to the extent it addresses any matter relating to this chapter received prior to the close of the public hearing comment period.
- (4) Notice of the time, date, and place of the public hearing, and the information set forth in § 245-7B(3), shall be published in the official newspaper of the Town no less than 12 days prior to the date of the hearing. The applicant shall also give at least 12 days' notice by U.S. Postal Service regular mail to each of the owners of property within a five-hundred-foot radius from the boundary of the property. True copies of the affidavit demonstrating that the applicant has mailed or caused to be mailed the notice contained in § 245-7B(3) shall be delivered to the Secretary of the Planning Board by the applicant at least six days prior to the public hearing date.

- (5) Public hearing. The Planning Board shall conduct a hearing. The hearing under this chapter may be conducted concurrently with other hearings for the application. The Planning Board shall not be required to hold a public hearing for an amended steep slope application, provided that the extent and magnitude of the steep slope disturbance originally permitted has not increased.
- (6) Burden of proof. The applicant has the burden of proof and has the burden of demonstrating that the proposed activity will be in accord with the findings and legislative intent of this chapter.
- (7) Determination. In evaluating the Planning Board steep slope application, the Planning Board must employ the standards set forth in § 245-7A. In approving any application, the Planning Board may impose such conditions or limitations as it determines necessary to ensure compliance with the intent, purpose and standards of this chapter. In approving any application, the Planning Board must find that the proposed activity:
 - (a) Is in accordance with the legislative findings of this chapter;
 - (b) Is consistent with the provisions of § 285-39E;
 - (c) Will not result in creep, sudden slope failure, rock failure or additional erosion;
 - (d) Has no reasonably feasible on-site alternative, after consideration of reduction in buildable area, change in use, revision of road or lot layout, revision in the location of buildings, structures, driveways, other site construction or land-altering activities, or related site planning considerations that could otherwise reasonably accomplish the applicant's objectives.
 - (e) Will preserve and protect existing wetlands, watercourses, and adjacent areas, as defined in Chapter 280;
 - (f) Will not adversely affect existing or proposed wells or sewage disposal systems;
 - (g) Is the best alternative, after consideration of an area not presently owned by the applicant, that could reasonably be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity, if it is otherwise a practicable alternative;
 - (h) Will not adversely affect any endangered species of flora or fauna; and
 - (i) Is compatible with the public health and welfare.
- (8) Denial of permit. The Planning Board must deny a permit if:

- (a) The applicant has not demonstrated that all reasonable alternatives have been explored; and:
 - [1] Reasonable alternatives exist that could avoid or reduce potential losses or impacts to the slope area; or
 - [2] Any unavoidable losses or impacts to slope areas have not been minimized to the maximum extent practicable.
 - (b) The proposed activity is likely to threaten public health, safety or welfare, cause fraud or nuisances, impair public rights to the enjoyment and use of public lands and waters, threaten a special concern or a rare or endangered plant or animal species, violate pollution control standards, or violate any other Town, state, or federal regulations or laws.
- (9) Permit conditions. Any permit issued pursuant to this chapter may be issued with conditions. Such conditions, as the Planning Board deems necessary to comply with the provisions of this chapter, may be attached to the permit.
- (a) Every permit must be in writing and contain the following conditions:
 - [1] Work conducted under a permit must be open to inspection at any time, including weekends and holidays, by the Town Engineer, or any designated representative;
 - [2] The permit will expire on a specified date and, unless otherwise indicated, the permit will be valid for a length not to exceed two years or for the same term as any associated building permits, whichever term is longer. For additional provisions relating to the term of a permit, see § 245-7B(9)(c).
 - [3] The permit holder must notify the Town Engineer, in writing, of the date on which the regulated activity is to begin, at least five days in advance of such date.
 - [4] The applicant must maintain a copy of the written permit with conditions and the approved plans on site while the regulated activities authorized by the permit are being undertaken.
 - [5] The applicant must stake and appropriately mark the boundaries of the regulated activity and slope area so as to be clearly visible to those at the project site.
 - [6] Mitigation measures must be enumerated as conditions of the written permit.
 - [7] An appropriate bond or letter of credit shall be required in accordance with Subsection B(10) (below).

- (b) The Planning Board shall set forth, in writing, all conditions attached to any permit and maintain this record along with all other documents relating to the permit application. These conditions may include, but are not limited to:
- [1] Limitations on lot size for any activity;
 - [2] Limitations on the total portion of any site that may be cleared, regraded, filled, drained, excavated or otherwise modified;
 - [3] Modification of waste disposal and water supply facilities;
 - [4] Imposition of operation controls, sureties, and deed restrictions concerning future use and subdivision of lands such as preservation of undeveloped areas in open space use, and limitation of vegetation removal;
 - [5] Dedication of easements and development restriction areas to protect slope areas;
 - [6] Erosion control measures;
 - [7] Setbacks for structures, fill, excavation, deposit of spoil, and other activities from the slope or slopes;
 - [8] Modifications in project design to ensure continued ground and surface water supply to the slope area; and
 - [9] Replanting of slope area vegetation.
- (c) Extensions of up to two years of an original or subsequent permit may be granted upon written request to the Planning Board by the permit holder or authorized representative at least 30 days prior to the expiration date of the permit. The Planning Board need not hold a hearing if the scope of work, magnitude of site disturbance, extent of mitigation or original intent of the permit is not altered or extended in any significant way.
- (10) Letters of credit. The Town Engineer may require that, prior to commencement of work under any permit issued pursuant to this chapter, the applicant post a bond or provide a letter of credit in an amount and with surety and conditions sufficient to secure compliance with the conditions and limitations set forth in the permit. The particular amount and the conditions of the bond or letter of credit must be consistent with the purposes of this chapter. The bond or letter of credit must remain in effect until the Town Engineer or a designated agent certifies that the work has been completed in compliance with the terms of the permit and that it is structurally sound and the bond and/or letter of credit is released by the Town Engineer or a substitute bond is provided. In the event of a breach of any condition of any such bond or letter of credit, the

Town Engineer may institute an action in the courts and prosecute the same to judgment and execution. The Town Engineer must set forth in writing the findings and reasons for imposing a bond or letter of credit and maintain this record along with all other documents relating to the permit application.

- (11) Suspension or revocation of permit or slope disturbance authorization. The Planning Board may suspend or revoke a permit and direct the Town Engineer to issue a stop-work order, or the Town Engineer may issue a temporary stop-work order, subject to review by the Planning Board, if it finds that the applicant or permittee has not complied with any or all of the terms of such permit, has exceeded the authority granted in the permit, has failed to undertake the project in the manner set forth in the approved application or has provided information, in whole or in part, which subsequently proves to be false, deceptive, incomplete or inaccurate. The Planning Board shall set forth in writing its findings and reasons for revoking or suspending a permit pursuant to this section and maintain these records in a file available for public inspection.

§ 245-8. Variances.

- A. Any person, upon a showing of extraordinary hardship caused by the provisions of this chapter, may apply to the Zoning Board of Appeals for a variance from this chapter. Such request may be granted only if the applicant establishes that:
- (1) Denial of such variance would result in an extraordinary hardship, as distinguished from an inconvenience, if the provisions of this chapter are literally enforced.
 - (2) An applicant will be deemed to have established the existence of extraordinary hardship only if it is demonstrated, based on specific facts:
 - (a) That the subject property does not have any beneficial use if used for its present use or developed as authorized by the provisions of this chapter, and that this inability to have a beneficial use results from unique circumstances peculiar to the subject property which:
 - [1] Do not apply to or affect other property in the immediate vicinity;
 - [2] Relate to or arise out of the characteristics of the subject property and/or the personal situation of the applicant; and **[Amended 9-9-2015 by L.L. No. 10-2015]**
 - [3] Are not the result of any action or inaction by the applicant or the owner or predecessors in title, including any

transfer of contiguous lands which were previously in common ownership; or

- (b) There is a compelling public need for development of the parcel in question based upon one of the following:

[1] The proposed development will serve an essential health or safety need of the municipality such that the public benefits from the proposed use override the importance of the protection of the slope area as established in this chapter; that the proposed use is required to serve existing needs of the residents; and, that no feasible alternatives exist outside the slope area to meet such established public need; or

[2] The proposed development constitutes an adaptive reuse of an historic resource and said reuse is necessary to ensure the integrity and continued protection of the designated historic resource.

- (c) Additional findings required. An application for a hardship variance to permit development on or near a slope area may be approved only if the Zoning Board of Appeals specifically finds that:

[1] The proposed development will not be materially detrimental or injurious to other properties or improvements in the area in which the subject property is located, increase the danger of fire or flood, endanger public safety or result in substantial impairment of a slope area;

[2] The waiver will not be inconsistent with the purposes, objectives or the general spirit and intent of this chapter; and

[3] The variance is the minimum relief necessary to relieve the extraordinary hardship established by the applicant.

- B. A variance granted under the provisions of this section does not constitute an approval of the entire development proposal nor does it constitute a variance of any other requirements contained within any other applicable local, county or state laws or ordinances or regulations.

§ 245-9. Existing or prior development or improvements.

The provisions of this chapter do not apply to any development, alteration, or improvement of property for which final approval has been obtained and has not expired, and the approved work is not completed prior to the effective date of this chapter. As used in this section, the term "final approval" means:

- A. In the case of the subdivision of land, preliminary or final approval of a subdivision plat as the term is defined in New York Town Law § 276.
- B. In the case of site plan approval not involving the subdivision of land, adoption by the Planning Board, or Town Board, as the case may be, of a resolution granting approval.
- C. In the case of such permits, the actual commencement, alteration or improvement of property.

§ 245-10. Exemptions.

The following activities are exempt from application of this chapter:

- A. Customary landscaping.
- B. Emergencies.
- C. Minimal disturbance: any action disturbing less than 500 square feet in area. **[Amended 9-9-2015 by L.L. No. 10-2015]**

§ 245-11. False or misleading statements. [Amended 9-9-2015 by L.L. No. 10-2015]

If an applicant, its agent, representative, or anyone acting on behalf of the applicant makes any false or misleading statement or presents any false or misleading information in connection with an approval sought under this chapter, the approval granted under this chapter will be null and void. Any activity conducted with an invalidated approval will be subject to the penalties contained in § 245-12.

§ 245-12. Penalties for offenses. [Amended 9-9-2015 by L.L. No. 10-2015]

- A. Administrative sanctions.
 - (1) Damages. Any person who undertakes any steep slope activity without a permit issued hereunder, or who violates, disobeys, or disregards any provision of this chapter or any rule or regulation adopted by the Town Board pursuant to this chapter, shall be required to suspend all activity by a written stop-work order issued by the Town Engineer, Commissioner of Department of Community Development and Conservation, or other Town representative, and shall be liable to the Town of Greenburgh for civil damages caused by such violation for every such violation. Each consecutive day of the violation will be considered a separate offense. Such civil damages may be recovered in an action brought by the Town of Greenburgh at the request and in the name of the Planning Board in any court of competent jurisdiction.
 - (2) Restitution. The Town of Greenburgh shall have the authority, following a hearing before the Planning Board and on notice to

the violator (Notice of Violation), to direct the violator to restore the affected slope to its condition prior to violation, insofar as that is possible, within a reasonable time and under the supervision of the Planning Board or its designate. Further, the Planning Board shall be able to require an adequate bond in a form and amount approved by the Planning Board to ensure the restoration of the affected slope. Any such order of the Planning Board shall be enforceable in an action brought in any court of competent jurisdiction. Any order issued by the Planning Board pursuant to this subsection shall be reviewable in a proceeding pursuant to Article 78 of the State Civil Practice Law and Rules. The Planning Board may attach any order issued pursuant to this subsection to the land records of the Town of Greenburgh for the property on which the violation occurred. This order shall remain attached to the land records for the duration of the violation; the Planning Board shall, upon satisfactory removal of the violation, remove the order from the land records.

- (3) Stop-work order; revocation of permit. In the event any person holding a slope permit pursuant to this chapter violates the terms of the permit, fails to comply with any of the conditions or limitations set forth on the permit, exceeds the scope of the activity as set forth in the application, or operates so as to be materially detrimental to the public welfare or injurious to slopes, the Planning Board may suspend or revoke the slope permit, as follows:
 - (a) Suspension of a permit shall be by a written stop-work order issued by the Town Engineer, Commissioner of Department of Community Development and Conservation or any other official of the Town, through the Town Attorney, 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 violation, and shall state the conditions under which work may be resumed. A stop-work order shall have the effect of suspending all authorizations and permits granted by the Town or any agency thereof. The stop-work order shall remain in effect until the Planning Board is satisfied that the permittee has complied with all terms of the subject permit.
 - (b) No site development permit shall be permanently suspended or revoked until a public hearing is held by the Planning Board.
 - [1] Written notice of such hearing shall be served on the permittee, either personally or by registered mail, and shall state:
 - [a] Grounds for complaint or reasons for suspension or revocation, in clear and concise language.
 - [b] The time and place of the hearing to be held.

- [2] Such notice shall be served on the permittee at least one week prior to the date set for the public hearing unless the stop-work order is issued for a violation occurring less than one week before the next regularly scheduled public meeting of the Planning Board. At such hearing, the permittee shall be given an opportunity to be heard and may call witnesses and present evidence. At the conclusion of the hearing, the Planning Board shall determine whether the permit shall be reinstated, suspended or revoked. The term "person," as used herein, shall mean a natural person or a corporate person.
- (4) Any offender also may be ordered by the Planning Board to restore the affected slope to its condition prior to the offense, insofar as possible. The approval authority shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Town of Greenburgh.
- B. Criminal sanctions. Any person convicted of having violated or disobeyed any provision of this chapter, any order of the Planning Board or any condition duly imposed by the Planning Board in a permit granted pursuant to this chapter, shall, for the first offense, be punishable by a fine of not less than \$1,000. For each subsequent offense, such person shall be punishable by a fine of not less than \$2,000 nor more than \$15,000 and/or a term of imprisonment of not more than 15 days. Each consecutive day of the violation may be considered a separate offense. The Town Attorney's office shall prosecute any person alleged to have violated provisions of this chapter and shall seek equitable relief to restrain any violation or threatened violation of its provisions.

§ 245-13. Fees. [Amended 9-9-2015 by L.L. No. 10-2015]

All slope clearance form and permit application, review or monitoring fees and escrow deposits will be in an amount set forth in the fee schedule established by resolution of the Town Board and in accordance with Chapter 230 of the Town Code.