

SOIL EROSION
AND SEDIMENTATION CONTROL

CHAPTER 35

TOWN OF GORHAM

ARTICLE 1

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[HISTORY: Adopted by the Town Board of the Town of Gorham as Local Law #2-91; adopted January 1991]

ARTICLE I**GENERAL PROVISIONS****SECTION 35-1 Legislative Authority**

In accordance with Article 9 of the Town Law and the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Gorham has the authority to enact local laws for the purpose of promoting the health, safety or general welfare of the Town of Gorham, including the protection and preservation of the property of its inhabitants. By the same authority the Town Board of the Town of Gorham may include in any such local laws, provision for the appointment of any municipal officers or employees to effectuate and administer such local laws.

SECTION 35-2 Enactment, Title and Repeal of Prior Laws

A. In order that site preparation and construction activities may be in compliance with the provisions of this local law, this local law is hereby adopted and shall be known and may be cited as the Erosion and Sedimentation Control Local Law of the Town of Gorham.

B. Upon the filing of this local law by the Secretary of State, all site preparation and construction activities requiring a permit under this local law shall be in compliance with the provisions set forth herein.

SECTION 35-3 Purpose

It is the purpose of this local law to protect public health, safety and welfare in the Town of Gorham by regulating site preparation and construction activities, including excavation, filling, grading and stripping so as to prevent problems related to erosion, sediment or drainage. In relation to this purpose the local law is intended to:

A. Preserve the quality of the natural environment from such adverse effects of site preparation and construction as: (a) pollution of lakes, ponds and watercourses from silt or other materials; (b) unnecessary destruction of trees and other vegetation; (c) excessive exposure of soil to erosion; (d) unnecessary modification of natural topography or unique geological features; and (e) failure to restore sites to an attractive natural condition.

B. Protect people and properties from such adverse effects of site preparation and construction as: (a) increased runoff, erosion and sediment; (b) increased threat to life and property from flooding or storm waters; (c) increased slope instability and hazards

from landslides and slumping; and (d) modifications of the groundwater regime that adversely affect wells and surface water levels.

C. Protect the Town of Gorham and other governmental bodies from having to undertake, at public expense, programs of repairing roads, flood protection facilities and other public facilities.

D. Ensure that site preparation and construction are consistent with the Master Plan of the Town of Gorham.

SECTION 35-4 Conflict with Existing Regulations

The provisions of this local law shall be held to be the minimum requirements adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

SECTION 35-5 Separability

If any section, subsection, paragraph, sentence, clause, or other part of this local law is for any reason invalid, the validity of the remaining portion of this local law shall not be affected.

SECTION 35-6 Definitions

Agricultural operations: All activities directly related to the growing or raising of crops or livestock for the sale of agricultural produce , including horticultural and fruit operations.

Code Enforcement Officer: The person duly designated by the Town Board of the Town of Gorham as the Code Enforcement Officer of the Town of Gorham.

Drainage: The gravitational movement of water or other liquids by surface runoff or subsurface flow.

Erosion: The wearing away of the land surface by action of wind, water, gravity or other natural forces.

Excavation: Any activity which removes or significantly disturbs rock, gravel, sand, soil or other natural deposits.

Filling: Any activity which deposits natural or artificial material so as to modify the surface or subsurface conditions of land, lakes, ponds or watercourses.

Grading: The alteration of the surface or subsurface conditions of land, lakes, ponds or watercourses by excavation or filling.

Mulching: The application of a layer of plant residue or other material for the purpose of effectively controlling erosion.

Sediment: Solid material, both mineral and organic, that is in suspension, is being transported, has been deposited, or has been removed from its site of origin by erosion.

Site preparation: The activities of stripping, excavation, filling and grading, no matter what the purpose of these activities.

Soil: All unconsolidated mineral or nonliving organic material of whatever origin which overlies bedrock.

Stripping: Any activity which removes or significantly disturbs trees, brush, grass, or any other kind of vegetation.

Topsoil: The natural surface layer of soil, unusually darker than subsurface layers, to a depth of at least six (6) inches within an undisturbed area of soils.

Watercourse: Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drainage-way, gully, ravine, or wash in which water flows in a definite direction of course, either continuously or intermittently, and which has a definite channel, bed and banks, and any area adjacent thereto subject to inundation by reason of overflow, flood, or storm water.

SECTION 35-7 Site Preparation

No site preparation shall commence until a Soil Erosion and Sedimentation Control Permit has been issued for any activity requiring a permit as listed in Section 35-8.

ARTICLE II – PROCEDURES

Section 35-8 Activities Requiring a Permit

None of the following activities shall be commenced until a permit has been issued under the provisions of this local law.

A. Site preparation in connection with the subdivision of land into two or more parcels or as regulated under the Subdivision Regulations of the Town of Gorham.

B. Site preparation within wetlands regulated by the New York State Department of Environmental Conservation under the Fresh Water Wetlands Act of the State of New York.

C. Site preparation within any Limited Development Overlay district (LDO) as identified in the Official Zoning Map of the Town of Gorham, and as established in the Zoning Laws of the Town of Gorham, where more than 500 square feet of ground surface is to be disturbed for any reason including the construction of any principal or accessory structure or use (including single family residences), roads, or driveways;

D. Site preparation within the one hundred year floodplain and/or floodway or any watercourse as regulated under the Flood Protection Law and Zoning Laws of the Town of Gorham.

E. Site preparation requiring site plan or special use permit approval as regulated in the Zoning Ordinance of the Town of Gorham.

F. Stripping or grading which affects more than 15,000 square feet of ground surface within any parcel or any contiguous area;

G. Excavation or filling which exceeds a total of 200 cubic yards of material within any parcel or contiguous area.

SECTION 35-9 Exempted Activities

The following activities are exempted from permit requirements.

A. Activities not meeting the criteria in Section 35-8 herein;

B. Agricultural operations;

C. Outside of the Limited Development Overlay District and the Floodplain Overlay District, excavations for the basement and footings of single family houses on a single lot and for septic tank systems, wells, and swimming pools attendant to single family homes on a single lot; not excepting, however those excavations that are part of an activity required to obtain permits under Section 35-8 or which exceed the limits for excavation as identified in 35-8 herein;

D. Activities subject to permits under the Zoning Ordinance of the Town of Gorham for Commercial Excavation, if any such activities are regulated therein;

E. Household gardening and activities related to the maintenance of landscape features on existing developed lots, excepting such activities as are required to obtain permits under Section 35-8;

F. Governmental activities to the extent such activities are exempted by law.

SECTION 35-10 Permit application, review, issuance and compliance procedures

A. Before any site preparation requiring a permit under Section 8 of this local law is commenced, there (3) copies of a permit application shall have been filed with the Code Enforcement Officer, and this application shall have been approved and a permit shall have been granted pursuant to the provisions of this local law.

B. The Code Enforcement Officer shall determine if the application is complete as required by Section 35-11, and whether such application will be reviewed and approved by the Code Enforcement Officer or by the Town Planning Board pursuant to Section 35-10, hereof.

C. The Code Enforcement Officer shall have the authority to review and approve, approve with modifications, or disapprove all permits applied for pursuant to this local law except for the applications involving an activity which will otherwise require Town Planning Board review and approval as:

1. Subdivision of land as regulated under the Subdivision Regulations of the Town of Gorham.
2. Site Plan Approval or Special Use Permit Approval as required in the Zoning Ordinance of the Town of Gorham. For applications involving such activities, the Planning Board shall have review and approval authority and shall coordinate this permit approval with the underlying Planning Board review process.

D. The Code Enforcement Officer or Town Planning Board may upon its discretion, refer any permit application hereunder to the Town Engineer and/or other agencies or officials for guidance and recommendations.

E. All permits hereunder shall be granted or denied within sixty (60) days of the filing of the application thereof; unless the applicant and the Town Planning Board mutually consent to a time extension, or when applicable, the Town Planning Board shall follow the general procedures used by the Planning Board under the time frames specified for the review of Subdivision Applications in the Subdivision Regulations of the Town of Gorham or those provided for the review of Site Plans in the Zoning Ordinance of the Town of Gorham.

F. The Town may require as a condition of granting a permit pursuant to this local law the provision of a performance bond or other surety instrument in a form and amount acceptable to the Gorham Town Board.

G. Any permit granted pursuant to this local law shall be valid for a period of one year.

H. Major modifications of the terms of approved permits shall follow the same application, review and approval procedures as those set forth in this section for the original permit.

I. It shall be the responsibility of the Code Enforcement Officer to inspect sites as frequently as necessary to assure compliance with the terms of approved permits and the provisions of this local law and to submit written notification of any violations of these terms or provisions to the Town Board.

J. If at any time during the effective period of a permit or upon its expiration the terms of the permit are violated, the Town may revoke the permit and may require that the performance guarantee be forfeited to the Town. If the applicant shall be unable to complete the project or any phase thereof within the specified time, he shall, as soon

as possible prior to the specified date of completion, present in writing a request for an extension of time, setting forth therein the reasons for the request, which extension may be granted in the discretion of the Code Enforcement Officer.

SECTION 35-11 Permit Application Material

A. The property owner or his agent may initiate a request for permit by filing with the Town Planning and Zoning Office three (3) copies of an application. The application shall consist of, at a minimum, the application form available from the Town, the checklist completed by the applicant and appropriate maps, plans and/or sketches depicting the proposed site and showing the nature and scope of the proposed activities.

B. The map, plan, or sketch submitted as part of an application for a permit pursuant to this local law shall indicate the following:

1. Boundaries of the subject parcel and other parcels adjacent to the site which may be materially affected by the action.
2. Existing features including structures, roads, water courses, utility lines, etc. on the subject parcel and on adjacent parcels where appropriate.
3. Existing vegetative cover including wooded areas, grass, brush, or other on the subject parcel and on adjacent properties where appropriate.
4. Limits or extent of excavation, filling, and/or grading proposed to be undertaken.
5. The disposition of soil and top soil, whether on site or off site, and the locations of any stockpiles to be placed on site.
6. Temporary and permanent drainage, erosion and sedimentation control facilities including ponds, sediment basins, swales, energy dissipation devices, silt fences and/or straw bale locations.
7. The location of proposed roads, driveways, sidewalks, structures, utilities and other improvements
8. Final contours of the site in intervals adequate to depict slopes and drainage details on the site.
9. A time schedule indicating:
 - a. When major phases of the proposed project are to be initiated and completed;
 - b. When major site preparation activities are to be initiated and completed.
 - c. When the installation of temporary and permanent vegetation and drainage, erosion and sediment control facilities is to be completed; and
 - d. The anticipated duration (in days) of exposure of all major areas of site preparation before the installation of erosion and sediment control measures.

C. Projects or applications for a permit pursuant to this local law involving less than 400 cubic yards of cut or fill or less than 30,000 square feet of surface area disturbed by cut or fill shall require a sketch plan to an approximate scale. Projects or

applications for a permit pursuant to this local law involving more than 400 cubic yards of cut or fill or more than 30,000 square feet of surface area disturbed by either cut or fill will require a plan prepared by an Engineer, Architect, or Landscape Architect licensed to practice said profession by the State of New York.

D. A separate estimate shall be prepared and submitted detailing the costs of providing temporary and permanent vegetation and drainage, erosion and sedimentation control facilities.

SECTION 35-12 Standards

In granting a permit under this local law the standards and considerations taken into account shall include the following:

A. Excavation, filling, grading, and stripping shall be permitted to be undertaken only in such locations and in such a manner so as to minimize the potential of erosion and sediment, and so as to minimize any threat to the health, safety and welfare of neighboring property owners and the general public;

B. Site preparation and construction shall be fitted to the vegetation, topography and other natural features of the site and shall preserve as many of these features as feasible;

C. The control of erosion and sediment shall be a continuous process undertaken as necessary prior to, during, and after site preparation and construction;

D. The smallest practical area of land shall be exposed by site preparation at any given time;

E. The exposure of areas by site preparation shall be kept to the shortest practical period of time prior to the construction of structures or improvements or the restoration of the exposed areas to an attractive natural condition;

F. Mulching or temporary vegetation suitable to the site shall be used where necessary to protect areas exposed by site preparation, and permanent vegetation which is well adapted to the site shall be installed as soon as practical;

G. Where slopes are to be re-vegetated in areas exposed by site preparation, the slopes shall not be of such steepness that vegetation cannot be readily established or that problems of erosion or sediment may result;

H. Site preparation and construction shall not adversely affect the free flow of water by encroaching on, blocking or restricting watercourses except as permitted by approved detention systems;

I. All fill material shall be of a composition suitable for ultimate use of the fill, free of rubbish and carefully restricted in its content of brush, stumps, tree debris, rocks, frozen material, and soft or easily compressible material;

J. Fill material shall be compacted sufficiently to prevent problems of erosion, and where the material is to support structures, it shall be compacted to a minimum of 90 percent of standard proctor with proper moisture control.;

K. Topsoil which is excavated from a site shall be stockpiled and used for the restoration of the site, and such stockpiles shall be seeded or otherwise treated to minimize the effects of erosion, if the pile is to remain for a period of more than 90 days;

L. Prior to, during, and after site preparation and construction, an integrated drainage system shall be provided which at all times minimizes erosion, sediment, hazards of slope instability, and adverse effects on neighboring property owners;

M. The natural drainage system shall generally be preserved in preference to modifications of this system, excepting where such modifications are necessary to reduce levels of erosion and sediment and adverse effects on neighboring property owners;

N. All drainage systems shall be designed to adequately handle anticipated flows both within the site and from the entire upstream drainage basin;

O. Sufficient grades and drainage facilities shall be provided to prevent the ponding of water, unless such ponding is proposed within site plans, in which event there shall be sufficient water flow to maintain proposed water levels and to avoid stagnation;

P. There shall be provided such measures as benches, berms, terraces, diversions, and sediment, debris and retention basins, where necessary, to minimize erosion and sediment;

Q. Drainage systems, planting and other erosion or sediment control devices shall be maintained as necessary to provide adequate protection against erosion and sediment and to insure long term performance;

R. Surface drainage features will be preferred over subterranean systems utilizing catch basins and piping systems. Such surface drainage features shall utilize erosion preventing surface material according to generally accepted engineering practices.

SECTION 35-15 Amendments.

The Town Board may from time to time on its own motion, on petition, or on recommendation of the Town Planning Board, and in accordance with the laws of the State of New York, amend, supplement, or repeal the regulations or provisions of this local law.

SECTION 35-16 Fees

The Town Board may, from time to time and by resolution, establish appropriate fees for the review and processing of the permits under this local law. Said fees may include recovery of Town expenses for engineering review of any erosion control plan. The fee schedule adopted shall be available from the Clerk of the town of Gorham.

SECTION 35-17 Violations and Enforcement

A. If there is any damage due to a violation of this local law or if any soil, liquid or other material is caused to be deposited upon or to roll, flow or wash upon any public property, private property, or right-of-way in violation of this local law, the person, firm, partnership, corporation, or other party responsible shall be notified and shall cause the same to be removed from such property or way within thirty-six (36) hours of notice. In the event of an immediate danger to the public health or safety, notice shall be given by the most expeditious means and the violation shall be remedied immediately. In the event it is not so remedied, the Town shall cause such remedy as necessary and the cost incurred by the Town shall be paid to the Town by the party who failed to so remedy and shall be a debt owed to the Town, above and beyond any approved performance guarantee.

B. Any person, firm, partnership, corporation, or other party who violates any provision of this local law shall be guilty of a violation and subject to a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) for the first offense. Any subsequent violation of the provisions of this local law shall be a violation and upon conviction, such person shall be subject to a fine of not less than two hundred and fifty dollars (\$250) or imprisonment not exceeding six (6) months, or both such fine and imprisonment. The imposition of any such penalty for the violation of this local law shall not excuse such violation nor permit the continuance thereof. The application of the above penalty or penalties for a violation of the provisions of this local law shall not be held to prevent the removal of conditions prohibited by this local law by such legal means as may be proper.

C. The continuation of an offense against the provisions of this local law shall constitute, for each week the offense is continued, a separate and distinct offense hereunder.

D. The Code Enforcement Officer, as designated by the Town Board of the Town of Gorham shall have the authority to issue appearance tickets when the provision of this code are violated.

