

**LOCAL LAW NO. \_\_ of 2024**  
**Town of Ossining**

A Local Law known and cited as Indian Brook-Croton Gorge Inter-Municipal Watershed  
Protection Overlay District

Be it enacted by the Town Board of the Town of Ossining as follows:

**SECTION 1.** Legislative Intent. Starting in 2005, the Towns of Cortlandt, New Castle, and Ossining, the Villages of Croton-on-Hudson and Ossining, and Westchester County worked together on a watershed plan for the Indian Brook-Croton Gorge Watersheds. After the plan was developed, the five municipalities were awarded a NYSDEC Hudson River Estuary Grant in the amount of \$50,000 to conduct a study and develop a watershed protection overlay district. The Indian Brook-Croton Gorge Watershed Protection Overlay District (WPOD) is meant to protect the quality of the drinking water resources within the boundaries of the Indian Brook-Croton Gorge Watershed along with the surrounding environment. This WPOD is intended to minimize the potential for groundwater and surface water contamination and limit the severity of resource degradation within its boundaries. The Town of Ossining Town Board believes it is in the best interest of the health, safety and welfare of the Town constituents, and the environment, to consider the adoption of this local law.

**SECTION 2.** The Town Board hereby creates a new Chapter 117 of the Town Code entitled “Indian Brook-Croton Gorge Watershed Overlay Protection District” as follows:

**§117-1 Findings and purpose.** The purpose of the Indian Brook-Croton Gorge Inter-Municipal Watershed Protection Overlay District is to protect the health and welfare of residents living within the boundaries of the Indian Brook-Croton Gorge Watershed by minimizing the potential for groundwater and surface water contamination and taking steps to limit the severity of resource degradation. The Indian Brook-Croton Gorge Watershed encompasses portions of five municipalities including the Towns of Cortlandt, New Castle, and Ossining, and the Villages of Croton-on-Hudson and Ossining. Since the actions of upstream municipalities can have as much of an impact on a downstream municipality’s land and water resources as those actions carried out locally, a commitment from all municipalities within a watershed is critical to protecting the health of its resources. The intent of this ordinance is to create a partnership for the comprehensive management of the Indian Brook-Croton Gorge Watershed by creating provisions for:

- A. Protecting and restoring the natural resources, most significantly the Croton River, Indian Brook Reservoir, existing wetlands and groundwater drinking sources; and
- B. Developing and implementing stormwater management practices that will improve water quality; and
- C. Promoting sustainable development through land use and environmental regulations; and
- D. Preserving and protecting fish, wildlife, and significant habitat; and
- E. Educating the public.

## **§117-2 Definitions.**

For purposes of this Chapter 117, the following definitions shall apply:

**Agricultural Animal Waste:** Manure and other animal waste derived from agricultural industries.

**Aquifer:** A consolidated or unconsolidated geologic formation, group of formations or part of a formation capable of yielding a significant or economically useful amount of groundwater to wells, springs or infiltration galleries.

### **Battery Energy Storage System:**

A system consisting of electrochemical storage batteries, battery chargers, controls, power conditioning systems and associated electrical equipment designed to provide electrical power capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone twelve-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 battery energy storage system as follows:

- (1) Tier 1 battery energy storage systems have an aggregate energy capacity less than or equal to 600 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.
- (2) Tier 2 battery energy storage systems have an aggregate energy capacity greater than 600 kWh or are comprised of more than one storage battery technology in a room or enclosed area.

**Chloride Salt:** Any bulk quantities of chloride compounds and other deicing compounds intended for application to roads, including mixes of sand and chloride compounds in any proportion where the chloride compounds constitute over 8% of the mixture. A bulk quantity of chloride compounds means a quantity of 1,000 pounds or more but does not include chloride compounds in a solid form, including granules, which are packaged in waterproof bags or containers which do not exceed 100 pounds each.

**Building Inspector** - The Building Inspector of the Town of Ossining, or their designee.

**Discharge:** The emission of any water, substance or material into a wetland, watercourse, water body or their buffers, whether or not such substance causes pollution.

**Fertilizer:** Any commercially produced mixture generally containing phosphorous, nitrogen and potassium which is applied to the ground to increase nutrients to plants.

**Generator of Hazardous Waste:** Any person or site whose act or process produces hazardous waste.

**Groundwater:** Water contained in interconnected pores and fractures in the saturated zone in an aquifer.

**Hazardous Substance:** Any substance, including any petroleum by-product, which may cause harm to humans or the environment when improperly managed. A complete list of all hazardous substances except for petroleum by-products can be found in 6 NYCRR Part 597.2(b) Tables 1 and 2 and amendments thereto

**Hazardous Waste:** See 6 NYCRR Part 371 and amendments thereto for the identification and listing of hazardous wastes.

**Herbicide:** Any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed, including those substances defined as herbicides pursuant to Environmental Conservation Law § 33-0101, and amendments thereto.

**Low Impact Development (LID):** Systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration or use of stormwater in order to protect water quality and associated aquatic habitat.

**Manure:** Animal feces and urine.

**Mining:** Any operation which involves the breaking of the earth's surface for the purpose of extracting and removing raw natural materials (such as topsoil) from the premises for the purpose of sale or off-premises use.

**Municipal Water Supply:** Aquifers and watersheds within the Indian Brook-Croton Gorge Watershed that serve as water sources for municipal water systems.

**Municipal Water System:** A water system which provides piped water to the public for human consumption as defined and regulated by 10 NYCRR Subpart 5-1.

**Natural Recharge:** The replenishment of underground water reserves.

**Non-point Discharge:** Pollution from any source other than from any discernible, confined, and discrete conveyances and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**Overlay Map:** The overlay map showing the boundaries of the Indian Brook-Croton Gorge Watershed Protection Overlay District.

**Pest:** Any insect, rodent, fungus or weed; or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism (except viruses, bacteria or other microorganisms on or in living man or other living animals) which the Commissioner of Environmental Conservation declares to be a pest as provided in Environmental Conservation Law § 33-0101.

**Pesticide:** Any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, including any substances defined as pesticides pursuant to Environmental Conservation Law § 33-0101 et seq. and amendments thereto.

**Petroleum:** Oil or petroleum of any kind and in any form including but not limited to oil, petroleum fuel oil, oil sludge, oil refuse, oil mixed with other waste, crude oil, gasoline, and kerosene, as defined in 6 NYCRR Part 597.1(7) and amendments thereto.

**Point Source Discharge:** Pollutants discharged from a point source as defined in Environmental Conservation Law §17-0105 and amendments thereto.

**Pollutant:** Anything that causes or contributes to pollution. Pollutants may include but are not limited to paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid

and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**Solid Waste:** Includes all manner of useless or unwanted or discharged solid or semisolid nontoxic, domestic, commercial, industrial, institutional, construction and demolition waste materials, except hazardous, toxic, chemical, human or rendering wastes.

**State Pollutant Discharge Elimination System (“SPDES”):** The system established pursuant to Article 17 Title 8 of Environmental Conservation Law for issuance of permits authorizing discharges to the waters of the state of New York.

**Steep Slopes:** Within the Watershed Protection Overlay District a steep slope is defined as any slope greater than 15 percent.

**Stormwater Hotspots:** a land use or activity that generates higher concentrations of hydrocarbons, trace metals, or toxicants than are found in typical stormwater runoff, based on monitoring studies. For purposes of overlay district, the following land uses, and activities are deemed stormwater hotspots:

- Vehicle salvage yards and recycling facilities
- Vehicle fueling stations
- Vehicle service and maintenance facilities
- Vehicle and equipment cleaning facilities
- Fleet storage areas (bus, truck, etc.)
- Industrial sites
- Marinas (service and maintenance)
- Outdoor liquid container storage
- Outdoor loading/unloading facilities
- Public works storage areas
- Facilities that generate or store hazardous materials
- Commercial container nursery
- Other land uses and activities as designated by an appropriate review authority

**Stormwater Pollution Prevention Plan (SWPPP):** A plan for controlling stormwater runoff and pollutants from a site during and after construction activities as regulated in Chapter 168, Stormwater Management and Erosion and Sediment Control.

**Surface Waters of the State of New York:** Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**Wastewater:** Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

**Wastewater Treatment System:** Any treatment plant, sewer, disposal field, lagoon, pumping station, septic system, collection and distribution pipes, on-site disposal systems and seepage units, constructed drainage ditch or surface water intercepting ditch, or other system not specifically mentioned in this definition, installed for the purpose of transport, treatment, neutralization, stabilization, storage, or disposal of wastewater.

**Waterbodies.** Any natural or artificial pond, lake, reservoir or other area which ordinarily or intermittently contains water and which has a discernible shoreline, but not including a watercourse as defined in this chapter or a man-made swimming pool not associated with a wetland or watercourse.

**Watercourse.** A running stream of water; a natural stream fed from permanent or natural sources, including rivers, creeks, springs, runs and rivulets; a stream, usually flowing in a particular direction, though it need not flow continuously (it may sometimes be dry). It usually discharges itself into some other stream or body of water. It must be something more than mere surface drainage over the entire face of the tract of land, occasioned by unusual freshets or other extraordinary.

**Watershed:** The land area which contributes water including surface runoff and groundwater flow to a specific stream or surface water body.

**Watershed Protection Overlay District:** Indian Brook-Croton Gorge Inter-Municipal Watershed Protection Overlay District. The Watershed for specific municipal water supplies, as designated on the official Watershed Protection Overlay District Map and described in §117-4 of this chapter.

**Water Supply:** The groundwater resources of the watershed, or the groundwater resources used for a particular well or community water system in the watershed.

**Well:** Any present or future artificial excavation used as a source of public or private water supply which derives water from the interstices of the rocks or soils which it penetrates, including bored wells, drilled wells, driven wells, infiltration galleries, and trenches with perforated piping, but excluding ditches or tunnels, used to convey groundwater to the surface.

**Wellhead Buffer:** An area surrounding a municipal water system well, designated as critical for protecting the well created by a two-hundred-foot radius around each protected well.

**Wetland Buffer Areas:** An area surrounding a wetland, watercourse or water body.

### **§117-3 Applicability.**

- A. The provisions of this section shall be applicable to all new land use, construction, or subdivision. Existing land use, construction, improvements and subdivisions completed prior to the effective date of adoption of this chapter are not subject to the requirements herein.
- B. These prohibitions, restrictions, and principles shall be applied within the Watershed Protection Overlay District through the existing Town of Ossining Building and Zoning Code requirements in the Watershed Protection Overlay District by its officers and boards. Additionally, all development in the Watershed Protection Overlay District shall be in accordance with New York State Department of Environmental Conservation regulations related to stormwater management.
- C. Site plan review by the Planning Board is required for all construction, and new activities or property uses in the Watershed Protection Overlay District, except one- and two-family residences, and shall take into consideration the requirements and principles outlined in this chapter.
- D. Within the Watershed Protection Overlay District, all new subdivisions shall be designed as a conservation/cluster subdivision pursuant to §200-31, Cluster Development, of the Town Code with a minimum of 30% of the parcel permanently preserved in its natural state.

### **§117-4 Boundaries.**

- A. The boundaries of the Watershed Protection Overlay District are established on a map entitled “Indian Brook–Croton Gorge Inter-Municipal Watershed Protection Overlay District, Westchester County, NY 2023” (watershed map), which is adopted simultaneously herein. The particular municipal water supplies protected under this chapter include:
  - (1) **Indian Brook Reservoir/Indian Brook Basin** - serves as a drinking water source for portions of the Town and Village of Ossining, and portions of the Town of New Castle
  - (2) **Croton Gorge Basin and Croton River Aquifer** - a water source for the Village of Croton-on-Hudson water system and a water source for individual wells within portions of the Town of Cortlandt and the Town of New Castle.
- B. Should any uncertainty arise as to the boundaries shown on the Watershed Map, the following shall apply:

- (1) Where area boundaries are indicated as approximately following a street, railroad, or highway line or centerlines thereof, a street, railroad, or highway line or centerlines thereof shall be construed as said boundaries.
- (2) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a survey plat prepared by a registered land surveyor may be submitted to the municipality as evidence that one or more properties along these boundaries do not lie within the protected area.
- (3) Where the boundaries lie at a scaled distance of more than 25 feet from any parallel lot line, the boundaries shall be determined by use of the scale appearing on the Watershed Map.
- (4) Where the boundaries lie at a scaled distance of less than 25 feet from any parallel lot line, the boundaries shall be construed to be the lot line.
- (5) When a large parcel is bisected by the boundary, the applicant may submit a detailed topographical map of the property as documentation of those portions of the property that are within as well as outside the boundary.
- (6) Where other uncertainty exists, the authorized Approval Agency shall interpret the Watershed Map as to the location of such boundaries. The municipality may, at the applicant's expense, consult with agencies or others in determining a project's location within a protected area and the applicability of these standards.

**§117-5 Effect of district.** Within the Watershed Protection Overlay District, all underlying land use district rules remain in effect, except as they are specifically modified by this chapter. In addition to the land use regulations this also controls all other existing regulations in the Code. In case of a conflict between this chapter and the underlying use regulations, the more restrictive shall control. Nothing in this chapter shall be construed to allow uses that are not permitted by the underlying land use district.

**§117-6 Prohibited uses and practices.** The following uses shall be prohibited in the Watershed Protection Overlay District:

- A. Disposal of hazardous material or solid waste.
- B. Treatment of hazardous material, except remediation programs authorized by a government agency for treating hazardous material that existed on the site prior to the adoption of this land use law.
- C. The creation or manufacturing of any hazardous materials.
- D. Dry cleaning, dyeing, printing, photo processing, and any other business that stores, uses, or disposes of hazardous material, unless all facilities and equipment are designed and operated to prevent the release or discharge of hazardous material.
- E. Disposal of septage or septic sludge
- F. Automobile service and gas filling stations
- G. New underground storage of petroleum

- H. Petroleum product pipelines
- I. Vehicle Storage Yards/Truck terminals
- J. The bulk storage of deicing salt, except in municipally-approved impervious structures
- K. Installation of dams, water diversions, and stream channelization except undertaken directly in relationship to drinking water resources.
- L. Landfill of domestic, industrial, construction and demolition, or hazardous materials.
- M. Junkyards
- N. Land spreading of sludge or ash, including domestic wastewater or waste industrial process material, except for ash from individual residential heating equipment.
- O. New dry wells directly connected to any floor drain, garage drain, wash basin or sink.
- P. New fuel storage facilities in any amount greater than 660 gallons.
- Q. Commercial trash containers and dumpsters which are not under a roof or which are located so that leachate from the receptacle could escape unfiltered and untreated.
- R. Any mining activities including consolidated and solution mining activities, unless permitted by the New York State Department of Environmental Conservation
- S. Point source discharges, other than discharges authorized by permits issued by the New York State Department of Environmental Conservation.

**§117-7 Performance criteria.**

- A. All land development activities (as defined by §168-2) that involve soil disturbances greater than 5,000 square feet shall comply with §168-8(B), of the Stormwater Management and Erosion and Sediment Control chapter of the Town Code.
- B. Any new construction activity which creates impervious surfaces in excess of 1,000 square feet shall be treated for water quality and quantity controls as outlined §168-8(B)(3) of the Stormwater Management and Erosion and Sediment Control chapter of the Town Code.
- C. Low Impact Development (LID) Practices - shall be provided to the extent feasible for all new or redevelopment within the Watershed Protection Overlay District including the use of bioretention facilities, rain gardens, vegetated rooftops, rainwater harvesting, and permeable pavements.
- D. Grading and removal of vegetation is minimized for all construction.
- E. Septic systems must be pumped at least once during every 3 year period.
- F. The storage and stockpiling of manure and other animal waste for use in agricultural operations, agricultural use of fertilizers and land application of manure, and pesticide (including herbicide) storage and use shall comply, to the maximum extent possible, with the practices detailed in the most current versions of "Controlling Agricultural Nonpoint Source Water Pollution in New York State - A Guide to the Selection of Best Management Practices to Protect Water Quality," published by the Bureau of Technical Services and Research, Division of Water, or "Agricultural Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State.

- G. Fertilizers, pesticides, and herbicides shall not be applied in a manner or at a rate which contributes to or causes a contravention of the water quality standards set forth in 6 NYCRR 700 to 705.
- H. Pesticide storage and use (including herbicides) are subject to the approval of, and shall comply with the regulations of, the New York State Department of Environmental Conservation and as regulated elsewhere in the Town Code.
- I. Disposal of pesticides, including herbicides, is prohibited unless authorized by a permit issued by the New York State Department of Environmental Conservation and as regulated elsewhere in the Town Code.
- J. Disposal of water used for pesticide makeup water or for washing of pesticide equipment is prohibited unless authorized by a permit issued by the New York State Department of Environmental Conservation.
- K. Use of streams as sources of water for the washing of equipment used in conjunction with pesticide or herbicide application is prohibited.
- L. Lawn chemicals (pesticides and herbicides), not related to municipal activities or municipally required pesticide or herbicide applications, shall not be applied within 25 linear feet of any watercourse, or within a wellhead buffer area.
- M. Storage of chloride salts and coal, not related to municipal activities, shall be in structures designed to minimize contact with precipitation and constructed on low-permeability pads designed to control seepage and run-off.
- N. Chloride salt application. Deicing chloride salt use is restricted to the minimum amount needed for public safety as determined by the Town Highway Superintendent.
- O. Any petroleum storage tank(s) installed or replaced after the effective date of this chapter must be aboveground or fully visible for inspection within the basement or other interior space, and secondary containment is required for all new tanks.

**§117-8 General Provisions for Wetlands, Watercourses, Water Bodies, Wetland Buffers Areas and Steep Slopes.** These regulations apply to all wetlands, watercourses, water bodies and buffer areas as defined in Chapter 105, Freshwater Wetlands, Watercourses and Water Body Protection, and located within the Watershed Protection Overlay District (regardless of size).

- A. Development of wetlands, watercourses, water bodies and buffer areas are to be avoided except where no reasonable alternative exists or where the applicant would otherwise suffer undue hardship if a permit is not issued.
- B. All applications for permits to disturb wetlands, watercourses, water bodies and buffer areas shall follow the requirements of Chapter 105, Freshwater Wetlands, Watercourses and Water Body Protection, unless a more stringent or restrictive requirement is listed in this section.
- C. As a condition of the granting of any wetland permit, the approving authority shall require that the applicant submit a mitigation plan per the requirements listed in Chapter 105, Freshwater Wetlands, Watercourses and Water Body Protection.

D. The applicant shall be required to create replacement wetlands or restore, recreate or enhance existing wetlands or wetland buffer areas equal to twice the area of wetland or wetland buffer directly impacted.

E. No disturbance within 150 feet of any wetlands, watercourses, or waterbodies shall be permitted. Buffers shall be regulated as follows:

(1) Buffers

(a) Buffers along wetlands and waterbodies as defined in Chapter 105, Freshwater Wetlands, Watercourses and Water Body Protection, must extend a minimum of 150 feet horizontally away from and paralleling the delineated wetland boundary.

(b) Buffers along watercourses as defined in Chapter 105, Freshwater Wetlands, Watercourses and Water Body Protection) must extend a minimum of 150 feet horizontally away from and paralleling the highwater mark or level of bankfull discharge.

(c) Buffers along steep slopes adjacent to a wetlands, water courses, and waterbodies shall extend 150 feet horizontally plus 2 feet per 1% of slope.

(2) Buffer vegetation

(a) Planting within buffers shall be based on a site specific planting plan designed to maximize the buffer's capacity to intercept stormwater runoff, stabilize banks, improve water quality, and provide habitat. Planting shall incorporate:

[1] a diverse mix of perennial native species

[2] trees and shrubs with dense ground cover to protect soil

[3] salt tolerant plants in areas where road salt is used

[4] for steep slopes: native perennial grasses; trees and woody shrubs along the water's edge

[5] for bank erosion control: plants with fibrous root systems; deep-rooted woody species

(3) Allowable buffer uses

(a) unpaved foot paths, recreational access, revegetation planting and mitigation planting per the requirements listed above, manual removal of invasive species, removal of trees that pose a safety hazard.

(4) Prohibited buffer uses

(a) new impervious surfaces, construction of roads, structures or pipelines

(b) removal of vegetation or trees (except for safety purposes)

(c) excavation and grading

(d) additional lawn

(e) constructed stormwater measures are to be used outside the buffer to direct stormwater sheet flow to the buffer

- (f) mining
- (g) septic tank drain fields
- (h) agriculture and livestock
- (i) de-icing application of road salt
- (j) waste disposal or dumping of trash, yard waste and debris
- (k) application of pesticides, herbicides and fertilizers
- (l) dams, water diversions, stream channelization
- (m) All other activities not specifically listed above are subject to Federal, State and local permit procedures

F. Special provisions.

These special provisions apply to new development in previously developed areas where there is no available area for required buffer:

- (1) The protected buffer shall be as wide as the site allows, subject to the above-listed conditions where possible, and maintaining as much vegetated cover as possible within 150 feet of wetlands, waterbodies or watercourse, especially in areas where bank erosion is evident.
- (2) Alternative or additional conservation practices (including low impact development (LID)) to reduce runoff load into a wetland or watercourse shall be applied.

**§117-9 Wellhead Buffers and Stormwater Hotspots.** Within the Watershed Protection Overlay District, no disturbance within 200 feet of any wellhead or stormwater hotspot shall be permitted. Wellhead buffer areas and stormwater hotspots shall be protected as follows:

- A. Construction activities within 200 feet of a wellhead is prohibited except those used for municipal water system purposes such as pumping, treatment, and control facilities and equipment. Wellhead buffer areas shall not be used for any purpose other than municipal water supply, except when a permit has been issued by the Town Board for nonintrusive recreation uses such as picnicking, nature study, fishing, or hiking. The wellhead buffer shall be posted prohibiting trespass for any purpose except as permitted in this subsection.
- B. Buffers adjacent to stormwater hotspots (as defined in §117-B. Definitions above) shall extend 200 feet horizontally away from hotspot source.

**§117-10 Waiver.** 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 waiver from this chapter. Such waiver may be granted only if the applicant establishes that:

- A. Denial of such a waiver would result in extraordinary hardship, as distinguished from an inconvenience, if the provisions of this chapter are enforced. An applicant shall be deemed to have established the existence of extraordinary hardship only if the applicant demonstrates, based on specific facts, that the subject property has minimal beneficial use

if used for its present use or developed according to 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 rather than the personal situation of the applicant; and
  - (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. Additional findings required: An application for a hardship waiver shall be approved only if the Zoning Board 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, result in substantial impairment of the resources of the Indian Brook Croton Gorge Watershed;
  - (2) The waiver will not be inconsistent with the purposes, objectives, or the general spirit and intent of this chapter; and
  - (3) The waiver is the minimum relief necessary to relieve the extraordinary hardship established by the applicant
- C. A waiver granted under the provisions of this chapter by the Zoning Board of Appeals shall not constitute an approval of the entire development proposal, nor shall it constitute a waiver of any other requirements contained within any other applicable local, county, or state laws or ordinances or regulations.

#### **§117-11 Enforcement.**

- A. Notice of violation. When the Building Inspector determines that a land development activity is not being carried out in accordance with the requirements of this chapter, they may issue a written notice of violation to the landowner. The notice of violation shall contain:
- (1) The name and address of the landowner, developer or applicant;
  - (2) The address, when available, or a description of the building, structure or land upon which the violation is occurring;
  - (3) A statement specifying the nature of the violation;
  - (4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action;
  - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

- (6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.
- B. Stop-work orders. The Building Inspector may issue a stop-work order for violations of this law. Persons receiving a stop-work order shall be required to halt all land development activities and other construction activities on the site, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Building Inspector confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter.
- C. Injunction. Any land development activity that is commenced or is conducted contrary to this chapter may be restrained by injunction or otherwise abated in a manner provided by this chapter.
- D. Penalties for offenses. Any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not less than \$500 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$1,000 nor more than \$1,500 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$1,500 nor more than \$2,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- E. Restoration of lands and mitigation of damage. In addition to any penalty provided herein or by law, any person in violation of this chapter may be required to restore land to its undisturbed condition and/or mitigate on-site and off-site damage from stormwater runoff, sediment or pollutants resulting from the violator's activities. In the event that restoration is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- F. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, the Building Inspector may prevent the occupancy of said building or land.

**SECTION 3. Validity.** The invalidity of any provision of this Local Law shall not affect the validity of any other portion of this Local Law that can be given effect without such invalid provision.

**SECTION 4. Effective Date.** This Local Law shall take effect immediately upon filing in the office of the Secretary of State.

BY ORDER OF THE TOWN BOARD OF  
THE TOWN OF OSSINING

DRAFT