

Appendix D – Steep Slope Law Examples

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1. Town of Irondequoit, Monroe County, New York
Chapter 235: Zoning (Adopted 1977 with Amendments)

No definition of "steep slope(s)."

Article XI: Environmental Protection Overlay Districts (*Added 1986*)

§ 235-52. EPOD2 - Steep Slopes Protection District.

(Amended 1988, 1995, 1997, and 1998)

A. Purpose. The purpose of the Steep Slope Protection District is to minimize the impacts of development activities on steep slopes in the Town of Irondequoit by regulating activities in these areas and by requiring review and permit approval prior to project commencement. The developmental impacts include soil erosion and sedimentation, destruction of vegetation, increased runoff rates and slope failure. The regulations contained in this district are designed, prevent increased erosion and runoff, maintain established drainage systems, locate development where it is less likely to cause future slope failures and to retain as much as possible the natural character of these areas.

B. Delineation of district boundaries. The boundaries of the Steep Slope Protection District shall be delineated on the Official Town of Irondequoit EPOD Maps and shall include all areas in the Town of Irondequoit with a fifteen-percent slope or greater. The Town Department of Planning and Zoning and Town Engineer may consult other information, including but not limited to soil survey reports prepared by the Soil Conservation Service, topographic maps produced by the United States Geological Survey, field surveys and other appropriate sources in order to more accurately locate and delineate steep slope protection district boundaries within the Town. The following additional areas shall also be considered within the "steep slope" definition:

(1) A transition zone at the top of the slope defined as that area containing soil classes (as defined in the Monroe County Soil Survey) with moderate to severe limitations for development and recreational uses as determined on a site-specific high-intensity soil survey.

(2) Natural protective features (beaches, bluffs and near-shore areas) around Irondequoit Bay, as defined in regulations in Part 505 of the NYCRR implementing the Coastal Erosion Hazard Act.

C. Regulated activities. No person shall conduct any of the following regulated activities within any Steep Slope Protection District in the Town of Irondequoit, unless such person has first applied for and obtained an EPOD development permit pursuant to the requirements of this article:

(1) Clearing of or constructing on any land area within the district, including construction or clearing activities related to providing equipment access on the site, except for those activities exempted from the permit requirements of this article as indicated in § 235-45 of this chapter.

(2) The construction or placement of any sewage disposal system, including individual sewage disposal systems, septic tanks, septic drainage or leach fields.

(3) Filling, cutting or excavating operations.

(4) Discharge of stormwater and/or construction and placement of stormwater runoff systems.

(5) Construction of new buildings or structures or additions and modifications to existing buildings and structures in areas of slopes exceeding 15%.

D. Development standards/permit conditions.

(1) In granting, denying or conditioning any application for an EPOD development permit, the Town Planning Board shall consider the effect that the proposed regulated activity will have on the public health, safety and welfare and the protection or enhancement of the fragile and environmentally sensitive steep slope areas within the Town. No permit to undertake a regulated activity within a Steep Slope Protection District in the Town of Irondequoit shall be issued by the Town Planning Board unless the applicant can adequately demonstrate to the Board that:

(a) The stable angle of repose of the soil classes as found on the site has been used to determine the proper placement of structures and other development-related facilities within the plateau area. Site specific calculations of the stable angle of repose for the site shall be determined by a professional soil scientist or engineer using the soil classes and nomenclature contained in the best management practices of the Irondequoit Bay Coordinating Committee, as defined and illustrated in Table 1, which is attached hereto and incorporated herein by reference, and obtained for the site by borings, as well as high-density soil survey data provided by the developer.

(b) The stability of soil will be maintained or increased to adequately support any construction thereon or to support any landscaping, agricultural or similar activities. This shall be documented

by soil bearing data provided by a qualified testing laboratory or engineer and paid for by the developer.

(c) No proposed activity will cause uncontrolled erosion or slipping of soil or cause sediment to be discharged into Irondequoit Bay, Lake Ontario, the Genesee River and their wetlands or tributaries.

(d) Plant life located on the slopes outside of the minimum area that need be disturbed for carrying on approved activities shall not be destroyed. Plants or other acceptable ground cover shall be reestablished in disturbed areas immediately upon completion of development activity so as to prevent any of the harmful effects set forth above to maintain the natural scenic characteristics of the Irondequoit Bay or other scenic areas.

(e) Access down steep slopes shall be provided with ramp slopes no greater than 16% and side slopes no greater than 30% if not terraced or otherwise structurally stabilized. Disturbed nonroadway areas shall be stabilized with vegetation or other approved physical means. Completed roadways shall be stabilized and adequately drained. Disturbance to slopes of greater than 30% to provide access to subdivision sites shall be limited to 3% of such slope area.

(f) Construction of erosion protection structures, particularly along the water side of eroding bluffs, shall be permitted to provide protection of bluff features according to the following standards:

[1] All erosion protection structures shall be designed and constructed according to generally accepted engineering principles which have demonstrated success or a likelihood of success in controlling long-term erosion. Such engineering principles can be found in publications of the United States Soil Conservation Service. The protective measure must have a reasonable probability of controlling erosion on the immediate site for at least 30 years.

[2] A long-term maintenance program shall be included in any application for construction, modification or restoration of an erosion protection structure. Such programs shall include specifications for normal maintenance of degradable materials and the periodic replacement of removable materials.

[3] All material used in such structures shall be durable and capable of withstanding inundation, wave impacts, weathering and other effects of storm conditions. Individual component materials may have a working life of less than 30 years only when a maintenance program ensures that they will be regularly maintained and replaced as necessary to attain the required 30 years of erosion protection.

[4] The construction, modification or restoration of erosion protection structures shall not be likely to cause any measurable increase in erosion at the development site or other locations and prevent adverse effects to natural protective features, existing erosion protection structures and natural resources such as significant fish and wildlife habitats.

(g) Drainage of stormwater shall not cause erosion or siltation, contribute to slope failures, pollute groundwater or cause damage to or flooding of property. Drainage systems shall be designed and located to ensure slope stability.

(h) Any grading, excavating or other soil disturbance conducted on a steep slope shall not direct surface water runoff over the receding edge during construction.

(i) There is no reasonable alternative for the proposed regulated activity on that portion of the site containing steep slopes.

(j) All applications for EPOD development permit shall be prepared and reviewed using the following guidelines:

[1] All structural foundations shall be placed on virgin, undisturbed soil. (The site plan shall have a note to this effect and depict a section through the proposed structure indicating the areas of slopes greater than 15% and areas of fill.)

[2] The finished grade for all cut or fill slopes shall not exceed 3 to 1, i.e., three horizontal to one vertical. The use of retaining structures may be required to eliminate slopes greater than 3 to 1. All such retaining walls must be approved by the Town Engineer. The site plan shall show proposed contours and indicate all proposed slopes greater than 3 to 1.

[3] Surface runoff or downspout water will not be allowed to discharge on slopes greater than 15%. Said waters shall be discharged from a closed drainage system to the toe of the

slope or into a recharge structure (i.e., dry well) or a dedicated stormwater system. Storm drainage methods shall be shown and noted on the site plan.

[4] All disturbed steep slope areas shall be regraded and stabilized as soon as practical but in less than 30 days.

[5] Disturbance of steep slopes areas shall be the minimum required to allow for the completion of the subject construction. Such areas shall be clearly marked and noted on the site plan.

[6] Temporary erosion control (i.e., straw bales, siltation fences, hydroseeding, mulching, etc.) shall be provided for all disturbed areas, shall be installed before work starts and shall be maintained until restoration is complete. (The site plan shall show the location and method of erosion/siltation control.)

[7] The selection of vegetation shall be appropriate for subject applications and the plant list and ground cover vegetation shall be shown on the site plan.

[8] Steep slope areas which will not support vegetation (i.e., beneath a deck in full shade) shall receive an appropriate soil cover (i.e., stone pavers, etc.). The type and limit of nonvegetative cover shall be shown on the site plan.

[9] Removal of existing mature trees from steep slope areas will only be permitted where absolutely necessary to allow the subject construction. All trees larger than three inches in diameter shall be shown on the site plan. Trees to be removed shall also be indicated on the site plan.

[10] Deck support systems on steep slopes shall be designed by a licensed professional engineer. Details for deck supports on steep slopes shall be shown on the site plan.

[11] All steep slope EPOD permit plans shall bear the original seal and signature of a licensed professional engineer.

(2) The applicant for a permit shall have the burden of demonstrating that the proposed regulated activity will be conducted in accordance with the standards and requirements set forth above.

2. Town of Blooming Grove, Orange County, New York
Chapter 235: Zoning (Adopted 1995)

STEEP SLOPES — Areas with an average slope equal to or greater than 25% with a minimum area of 200 square feet and a minimum width perpendicular to the contour of 10 feet.

Article VA: District Regulations (Added 2005)

§ 235-14.4. Overlay districts.

C. Ridgeline Overlay District.

(1) Intent. The purpose of the Ridgeline Overlay District (RL) is to establish clear guidelines for protection of the Town's hillsides and ridgelines, which are found largely at higher elevations and steeply sloped areas and serve to:

- (a) Retain major natural topographic features, such as drainage swales, steep slopes, watershed areas, view corridors and scenic vistas;
- (b) Preserve and enhance the prominent landmark features, such as natural rock outcroppings, prominent trees and plants, other areas of special natural beauty, and stone walls and structures;
- (c) Preserve and introduce plants so as to protect slopes from soil erosion and minimize the visual effects of grading and construction on hillside areas.

(2) Applicability. For the purpose of protecting ridgelines, the provisions and standards shall be in addition to the use, bulk and site development regulations applicable to any use located in any district to which the Ridgeline Overlay District is applied. The Ridgeline Overlay District is shown on the Town's Zoning Map.

(3) General provisions.

- (a) The provisions of this section shall apply to all applications for land use development, including site plan, subdivision, special use and conditional use permits, zoning variances, building permits for new residential dwellings, dwelling additions exceeding 300 square feet, and accessory structures exceeding 300 square feet, on any parcel of land lying fully or partially within the Ridgeline Overlay District.
- (b) To ensure the placement of structures outside of the exposed ridgeline area on proposed building lots, building sites, including areas of vegetation, shall be clearly designated on the applicable subdivision plat and/or site plan.
- (c) No land shall be developed and no building or structure erected, expanded, or developed unless the Planning Board finds that the development proposed will be consistent with the standards of the Ridgeline Overlay District and grants approval.
- (d) Sites in the RL District, also located within the Scenic Roads, Scenic Viewshed or Scenic Gateways Overlay Districts are subject to the provisions and standards found therein.

3. Town of New Paltz, Ulster County, New York Chapter 140: Zoning (Adopted 1976 with Amendments)

STEEP SLOPE — Any geographical area proposed for disturbance, whether on a single lot or not, having a topographical gradient of 15% or greater (ratio of vertical distance to horizontal distance), with a minimum horizontal dimension of 10 feet, and a minimum area as defined below, and whether man-made or natural, and whether created by a retaining structure or not. Steep slopes are further categorized as:

A. *MODERATELY STEEP SLOPE* -- A slope equal to or greater than 15% but less than 25% and covering a minimum horizontal area of 3/10 acre or 13,068 square feet.

B. *EXTREMELY STEEP SLOPE* -- A slope greater than 25% and covering a minimum horizontal area of 2/10 acre or 8,712 square feet.

Article XV: Steep Slope Protection (Added 2004)

§ 140-132. Purpose.

It is the intent of the Town of New Paltz to preserve steep slopes to the greatest extent practicable and to regulate their use to protect the public interest by minimizing detrimental effects of disturbance and development of these areas. This section is intended to protect the public from the potential negative impacts of the erosion, siltation, pollution of water supplies, slope failure, increase in downstream runoff, alteration of scenic views, and destruction of potentially significant habitat, which may result from disturbance of steep slopes.

§ 140-133. Findings.

A. Steep slopes and adjacent watercourses and wetlands have been and are in jeopardy of being damaged and destroyed by unregulated filling, excavating, building, clearing and grading, and other such acts inconsistent with the natural conditions of steep slopes. Steep slopes in the Town of New Paltz are environmentally sensitive landforms and valuable natural resources, which are of benefit to the entire Town and surrounding region. The environmental sensitivity of steep slopes often results from such features as rock outcrops, shallow soils over bedrock, bedrock fractures, groundwater seeps, watercourses, and other wetlands found on or immediately adjacent to steep slopes.

B. Protection of steep slopes is a matter of concern to the entire Town of New Paltz. The establishment of regulatory and conservational practices in this critical area is needed to protect the public health, safety, and general welfare. Experience has demonstrated that effective protection of steep slopes requires preservation wherever possible. Experience has further demonstrated that where steep slopes have to be disturbed, careful review and regulation, including stringent mitigation measures, are required.

C. The Town of New Paltz's experience with past development has shown that improperly managed disturbances of steep slopes can aggravate erosion and sedimentation beyond rates experienced in the natural geomorphological processes. Erosion and sedimentation often include the loss of topsoil, a valuable natural resource, and can result in the disturbance of habitats, the degradation of the quality of surface water, the silting of wetlands, the alteration of drainage patterns, obstruction of drainage structures, and the intensification of flooding.

D. The Town of New Paltz's experience with past development has shown that inadequately controlled disturbance of certain steep slopes can lead to the failure of slopes and the mass movement of earth, rock slides and landslides, damage to the natural environment, threats to man-made structures and personal safety, and the degradation of aesthetics.

E. Steep slopes, including vegetation on rock cliffs, are important environmental features that contribute to the character of the Town. Overdevelopment or improperly managed disturbances are detrimental to the character of the Town and can result in public and private expenditures for corrective measures.

F. Regulation of development on steep slopes is consistent with the legitimate interest of landowners to make reasonable use of their land. Regulation can prohibit the degradation of steep slopes and allow reasonable use of private property by encouraging flexible design of development so as to avoid disturbance of steep slopes. Regulation can also permit environmentally sound disturbance of steep slopes conducted in accordance with acceptable management and engineering practices to permit reasonable use of private property.

G. Regulation of development on steep slopes will not preclude the Town from continuing to meet its social, economic and other essential responsibilities.

H. These regulations are enacted with the intent of providing reasonable balance between the rights of the individual property owner to the fair use of his property and the rights of present and future generations. Therefore, this chapter recognizes the rights of owners of property exhibiting steep slopes to use their property for reasonable purposes consistent with other regulations and controls, provided that such use, in the judgment of the appropriate agencies or

officials of the Town, does not result in a significant loss or degradation of steep slopes or a loss of visual or open space benefits which steep slopes have been found to provide.

I. It is declared to be the intent of the Town of New Paltz to preserve steep slopes to the greatest extent practicable and to regulate their use within the Town to protect the public interest by ensuring the maximization of benefit found to be provided by the preservation of steep slopes and by ensuring the minimization of detrimental effects for the practice of properly managed disturbance of steep slopes as set forth in this article.

§ 140-134. Definitions.

As used in this chapter, the following terms shall have the meanings indicated: **AGRICULTURE** — All agricultural operations and activities related to the growing or raising of crops, livestock or livestock products, and agricultural products, as such terms are defined in or governed by the Agriculture and Markets Law of the State of New York on lands qualified under Ulster County and NYS law for an agricultural exemption by the Assessor of the Town of New Paltz.

ANGLE OF REPOSE — The maximum angle at which the exposed face of various soil and rock minerals can deviate from the horizontal without incurring the likelihood of slope failure.

APPLICANT — A person requesting a steep slope permit from the Town of New Paltz in accordance with the provisions of this chapter.

APPROVING AUTHORITY — The municipal agency or public official empowered to administer the permit procedures of this chapter.

CLEARING — Any activity which removes or significantly disturbs trees, brush, grass, or any other type of vegetation.

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

DEPOSIT — To fill, place, eject, or dump any material (not including stormwater).

DISTURBANCE — The removal of vegetation, excavation, regrading, filling, removal of soil, rock or retaining structures in areas of steep slope, or any combination thereof, whether by manual labor, machine, or explosive, and shall include the conditions resulting from any excavation or fill. The condition of disturbance will be deemed to continue until the area of disturbance is revegetated and/or permanently stabilized.

DISTURBED AREA — Any steep slope area for which a disturbance is proposed or is ongoing.

DRAINAGE — The gravitational movement of water or other liquids by surface runoff or surface flow.

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

EXCAVATION — Any act by which earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced or spread.

FILL — Any act by which earth, sand, gravel, rock, or any other material is deposited, placed, replaced, dumped, transported, or moved by person or persons to a new location and shall include conditions resulting therefrom.

FOREST LAND — An ecosystem supporting a dense growth of trees covering a large area. The fence rows alone do not constitute a forest system.

GRADING — The alteration of the surface or subsurface conditions of land, lakes, ponds, or watercourses by excavating or filling.

LAND STEWARDSHIP PLAN — A written description of land management and stewardship practices employed on the property, and how such practices are in keeping with the intent of this Local Law as set forth in the "purpose" section herein. Said written description shall include an enumeration of all such land management practices, but does not need to be specific in terms of location, scope or duration of said practices.

MULCHING — The application of a layer of plant residue or other material for the purpose of controlling erosion.

PERSON — Any person, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including public agencies and municipal corporations.

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

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 — One or more lots or parcels of land, where regrading work is performed as a single unified operation.

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

SITE PREPARATION — The activities of stripping, removal, excavating, filling, and grading, no matter what the purpose of these activities.

SOIL — The natural, unconsolidated, mineral and organic material occurring on the surface of the Earth; it is a medium for the growth of plants.

SOIL CONSERVATION — The protection of soil by careful management in order to prevent physical loss by erosion and to avoid chemical deterioration.

SOIL STABILIZATION — Measures which protect soil from the erosive forces or raindrop impact and flowing water and include, but are not limited to, vegetation establishment, mulching and the early application of gravel base on roads to be paved.

SOIL SURVEY — The systematic examination and mapping of soil in the field.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) — The law pursuant to Article 8 of the New York Environmental Conservation Law providing for environmental quality review of actions which may have a significant effect on the environment.

STEEP SLOPE — Any geographical area proposed for disturbance, whether on a single lot or not, having a topographical gradient of 15% or greater (ratio of vertical distance to horizontal distance), with a minimum horizontal dimension of 10 feet, and a minimum area as defined below, and whether man-made or natural, and whether created by a retaining structure or not. Steep slopes are further categorized as:

A. MODERATELY STEEP SLOPE — A slope equal to or greater than 15% but less than 25% and covering a minimum horizontal area of 3/10 acre or 13,068 square feet.

B. EXTREMELY STEEP SLOPE — A slope greater than 25% and covering a minimum horizontal area of 2/10 acre or 8,712 square feet.

STEEP SLOPE PERMIT — A written form of municipal approval granted by the approving authority and required for the issuance of a work permit and the conduct of any “steep-slope-regulated activity.”

TOPOGRAPHY — The configuration of the land surface, including its relief and the position of its natural and man-made features.

VEGETATED — Covered or provided with vegetation or plant life.

VEGETATION — The process of vegetating, the faculty of growth possessed by plants and seeds.

§ 140-135. Exempt and regulated activities.

A. Exempt activities.

- (1) Agriculture, as defined herein;
- (2) Any customary landscaping, not involving regrading, is allowed without the need for obtaining a permit, provided that any such activities conform to all other applicable laws of the Town of New Paltz;
- (3) Regulated activities on lands which are open to the public for a park, nature preserve or wildlife refuge, for recreation or tourism, whether or not a fee is charged for such use, or lands governed by the terms of a conservation easement on file with the Assessor of the Town of New Paltz and the County Clerk, or lands protected by a conservation easement or owned in fee by a not-for-profit land trust or conservation organization, or nonpublic lands owned and maintained by bone fide religious/apostolic organizations possessing a tax exemption under Section 501(d) of the United States IRS Code, or on lands designated as a national landmark, provided that all such lands are managed by a land stewardship plan on file with the Town of New Paltz Environmental Conservation Commission to meet the spirit and intent of this chapter;
- (4) Emergency actions, and measures necessary to protect human life and preserve property, such as clearing rock slides, creating a fire break to fight fire, or other situations in which there is an imminent threat to public health, safety and welfare.
- (5) Any property that is already subject to one or more established plans of land stewardship, such as a:
 - (a) Federal, state, or local historic landmark designation;
 - (b) Farmland conservation easement pursuant to the New York State Agricultural and Markets Law, Article 25-AAA;
 - (c) New York State DEC-approved forestry plan pursuant to §§ 480 and 480-a of the Real Property Tax Law, or pursuant to a Forest Land Enhancement Program (FLEP);
 - (d) USDA Natural Resource Conservation Services-approved Wildlife Habitat Incentives Program plan (WHIP);
 - (e) USDA Agricultural Management Assistance Conservation Plan (AMA);
 - (f) USDA Conservation Security Plan (CSP);
 - (g) USDA Conservation Reserve Program (CRP);
 - (h) USDA Conservation Reserve Enhancement Program (CREP);
 - (i) USDA Debt for Nature Program;
 - (j) USDA Wetland Reserve Program (WRP);
 - (k) Cooperative Agricultural Environmental Management Plan (AEM) (implemented through Cornell Cooperative Extension, Soil and Water Conservation Service and the USDA Natural Resources Conservation Service).

B. Regulated activities. It shall be unlawful to create any disturbance and/or to remove any more than two trees with a diameter greater than four inches, when measured from 1 ½ feet from ground level, on any steep slope as defined by this section, with the exception of an exempt activity as defined herein, without a specific written permit as required by this section.

§ 140-136. Approval authority.

The approval authority with respect to applications hereunder shall be as follows:

A. The Zoning Board of Appeals shall be the approval authority with respect to any application which requires the issuance of any other permit or approval by it pursuant to the local laws of the Town of New Paltz.

B. The Planning Board shall be the approval authority with respect to any application which requires the issuance of any other permit or approval by it pursuant to the local laws of the Town of New Paltz, including any application which also requires the issuance or approval by the Zoning Board of Appeals.

C. The Town of New Paltz Town Board shall be the approval authority with respect to any application which requires the issuance of any permit or other approval by it pursuant to the laws, rules and regulations of the State of New York and/or the local laws of the Town of New Paltz.

D. The Town of New Paltz Town Engineer or other qualified representative that is duly authorized by the Town Board shall be the approval authority with respect to all other regulated activities.

§ 140-137. Standards for approval.

In denying, granting or granting with modifications any application for a permit, the approval authority shall consider the consistency of the proposed activity with the findings set forth in § 140-133 of this chapter and the following standards:

A. Alterations of trees and forests and topographical alterations on steep slopes shall conform to any applicable regulations of the Town of New Paltz.

B. Activities within wetlands and their adjacent area, and within the regulated areas of protected streams shall be in conformance with the applicable federal and state regulatory requirements.

C. Disturbance of areas with steep slopes should conform with the following provisions:

(1) The planning, design, and development of buildings shall provide the maximum structural safety, slope stability and human enjoyment while adapting the affected site to, and taking advantage of, the best use of the natural terrain.

(2) The terracing of building sites, including the mounding of septic tile fields, shall be kept to an absolute minimum.

(3) The roads and driveways shall follow the natural topography to the greatest extent possible in order to minimize the potential for erosion and shall be consistent with other applicable regulations of the Town of New Paltz and current engineering practices.

(4) Replanting shall consist of indigenous vegetation and shall replicate the original vegetation on the site as much as possible.

(5) The natural elevations and vegetative cover of ridgelines shall be disturbed only if the crest of a ridge and the treeline at the ridge remains unobstructed. This may be accomplished either by 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 roofline is no greater than the elevation of the natural treeline. However, under no circumstances shall more than 100 feet along the ridgeline, to a width of 100 feet generally centered on the ridgeline, be disturbed.

(6) Regrading shall blend in with the natural contours of the land.

(7) Cuts and fills shall be rounded off to eliminate sharp angles at the top, bottom, and sides of regraded slopes.

(8) The angle of cut and fill slopes shall not exceed a slope of one vertical to two horizontal except where retaining walls, structural stabilization, or other methods acceptable to the Town Engineer are used.

(9) Tops and bottoms of cut and fill slopes shall be set back from structures a distance that will ensure the safety of the structure in the event of the collapse of the cut or fills slopes. Generally, such distance shall be considered to be six feet plus 1 ½ the height of the cut or fill. Nevertheless, a structure built on a slope or at the toe of a slope is permitted if it is properly designed to retain the slope and withstand the forces exerted on it by the retained slope.

(10) The disturbance of rock outcrops shall be by means of explosive 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 New Paltz and the State of New York.

- 11) Disturbance of steep slopes shall be undertaken in workable units in which the disturbance can be completed and stabilized in one construction sequence so that areas are not left bare and exposed during winter and spring thaw periods (December 15 through April 15).
- 12) Disturbance of existing vegetative groundcover shall not take place more than 15 days prior to grading and construction.
- 13) Temporary soil stabilization, including, if appropriate, temporary stabilization measures such as netting or mulching to secure soil during the grow-in period, must be applied to an area of disturbance not longer than two days after establishing the final grade, and permanent stabilization must be applied within 15 days of establishing the final grade.
- 14) Soil stabilization must be applied not longer than two days after disturbance, if the final grade is not expected to be established within 60 days.
- 15) Measures for the control of erosion and sedimentation shall be undertaken consistent with the New York State Guidelines for Urban Erosion and Sediment Control, latest edition, or its equivalent (satisfactory to the approval authority).
- 16) All proposed disturbance of steep slopes shall be undertaken with consideration of the soils limitations characteristics contained in the Soils Survey of Ulster County, 1979, as prepared by the Soil Conservation Service, in terms of recognition of limitation of soils on steep slopes for development and application of all mitigating measures as deemed necessary by the approval authority.
- 17) Topsoil shall be stripped from all areas of disturbance and then stockpiled and stabilized in a manner to minimize erosion and sedimentation and replaced elsewhere on the site at the time of final grading. Stockpiling shall not be permitted on slopes greater than 10%.
- 18) No organic material or rock shall be used as fill material that is of a size that will not allow appropriate compaction or cover by topsoil. Fill materials shall be no less granular than the soil upon which it is placed and shall drain readily.
- 19) Compaction of fill materials and fill areas shall be such to ensure support of proposed structures and stabilization for intended uses.

§ 140-138. Permit procedures.

A. Application for permit. An application for permit to alter a steep slope shall be filed with the approval authority and shall contain the following information and such other information as required by it, except when waived by it as not pertinent or necessary for the proposed disturbance:

- (1) The name and post office address of the owner and applicant.
- (2) This street address and tax map designation of the property covered by the application.
- (3) A statement of authority from the owner for any agent making application.
- (4) A listing of property owners adjacent to, across streets from, and downgradient within 500 feet of the property as well as any additional property owners deemed appropriate by the approval authority.
- (5) A statement of the proposed work and purpose thereof.
- (6) Copies, in such reasonable number as determined by the approval authority, of plans for the proposed regulated activities drawn to a scale of not less than one inch equals fifty feet (unless otherwise specified by the approval authority). Such plan for alteration of land containing moderately steep slopes shall be prepared by an experienced professional with qualifications satisfactory to the approval authority. Plans for alteration of land containing extremely steep slopes shall be prepared and certified by a qualified professional licensed by the State of New York, such as a professional engineer, a certified professional in erosion and sediment control, or a landscape architect. The plan for the regulated activities must incorporate the following information:
 - (a) The location of the proposed construction or area of disturbance and its relationship to the property lines, easements, buildings, roads, walls, sewage disposal systems, wells, and streams and wetlands within 100 feet of the proposed construction or area of disturbance for adjacent properties at the same elevation and within 500 feet of the properties significantly lower.
 - (b) The estimated material quantities of excavation/fill.
 - (c) The location and size of areas of soils listed by soil types in the area of the proposed disturbance and to a distance of 100 feet beyond same.
 - (d) The existing and proposed contours [National Geodetic Vertical Datum (NGVD)] at two-foot intervals in the area of the proposed disturbance and to the distance of 100 feet beyond same.
 - (e) Cross sections of steep slope areas.
 - (f) Retaining walls or like constructions, with details of construction.
 - (g) The erosion and sedimentation control plan.

(h) Other details, including specific reports by qualified professionals on soils, geology and hydrology, and borings and/or test pits, as may be determined to be necessary by the approval authority.

(i) A list of all applicable County, State, or federal permits which are required for such work or improvements.

(j) An application fee in the amount set forth in a fee schedule established by the Town of New Paltz Town Board.

B. Referral. The approval authority shall refer any application submitted to it pursuant to this chapter to the Environmental Conservation Commission for review and report. The Environmental Conservation Commission shall report back to the approval authority within forty five days of the date of the referral or within such greater period as may be specified by the approval of authority (at the time of the referral). Failure to comply with the specified time period shall be interpreted by the approval authority as indicating no objection to the application.

C. Notice. Upon receipt of a completed application under this chapter, the approval authority shall cause notice of receipt of the same to be mailed by first-class mail to the adjoining property owners, including those across the street adjoining the involved property. Such property owners shall have ten days from said day of notice to submit written comment to the approval authority with regard to said application. The approval authority may waive this notice procedure if it has received responses from all the adjoining property owners prior to action by it. In cases where the approval authority is the Town Engineer or other qualified representative that is duly authorized by the Town Board, he/she shall cause such notice to be posted at one or more locations along the street or streets abutting the property.

D. Public hearing. A public hearing shall be held by the approval authority on the application made hereunder at such times, under such circumstances, and upon such notice as may be required for the granting of the permit or approval required of such approval authority pursuant to the local laws and ordinances of the Town of New Paltz. A public hearing may be held when the approval authority is the Town Engineer or other qualified representative that is duly authorized by the Town Board.

E. Action by the approval authority. In approving any application, the approval authority may impose such conditions or limitations as it determines necessary to insure compliance with the intent, purposes, and standards of this chapter.

(1) On applications for which no public hearing is required, a determination shall be made to approve, approve with modifications or disapprove the application within 60 days of receipt of a completed application therefore.

(2) On applications for which a public hearing is required, a determination shall be made to approve, approve with modifications, or disapprove the issuance of such permit simultaneously with a determination by the approval authority of the other permit or approval for which the application was made.

F. Appeal. Any party aggrieved by a decision of the Town Engineer or other qualified representative that is duly authorized by the Town Board to approve, approve with conditions, or disapprove an application may appeal the decision to the Zoning Board of Appeals.

§ 140-139. Duration of permit.

A. Activities specified by the permit shall be undertaken pursuant to any conditions of the permit and shall be completed according to any schedule set forth in the permit.

B. A permit shall expire on completion of the activities specified and shall be valid for a period of one year from the date of approval or for the period of any other permit issued by the approval authority.

C. A permit may be renewed by the approval authority for a period of up to one year.

D. The approval authority may revoke or suspend a permit if it finds that the applicant has not complied with any of the conditions or limitations set forth in the permit.

§ 140-140. Security.

In granting a permit, the approval authority shall require a security (in an amount and with surety and conditions satisfactory to it), securing to the Town of New Paltz compliance with the conditions and limitations set forth in the permit.

§ 140-141. Inspection and monitoring.

A. The approval authority may inspect activities undertaken pursuant to a permit (or have such activities inspected by its representative) so as to ensure satisfactory completion.

B. The approval authority may require that the applicant submit for approval a detailed monitoring program, including but not necessarily limited to written status reports at specified intervals documenting activities undertaken pursuant to a permit.

C. The approval authority may require that the activities undertaken pursuant to a permit be supervised by an appropriate licensed professional.

§ 140-142. Compliance with State Environmental Quality Review Act.

All actions by the Planning Board under the provisions of this chapter shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

§ 140-143. Fees.

A. The Town Board of the Town of New Paltz shall establish by resolution the fee to be charged, collected and received for the granting of each permit required by this chapter.

B. The fees required pursuant to the provisions of this chapter shall be paid in advance upon submission of an application, and the failure to submit the full payment required shall render the application and complete.

§ 140-144. Penalties for offenses.

A. Every person who shall fail to comply with a violation order issued by the enforcement officer within the time limit stated thereon shall be deemed to have committed an offense against this chapter and also shall be liable for any such violation for the penalty therefore.

B. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 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 \$350 nor more than \$700 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 \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and, for such purposes only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violations shall constitute a separate additional violation.

C. Any person violating this chapter shall be subject to a civil penalty enforceable and collectible by the Town. Such penalty shall be collectible by and in the name of the Town for each week that such violation shall continue.

D. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

E. The enforcement responsibility, procedures and fines shall be coordinated with zoning enforcement and flood damage control law provisions so that any instance where multiple violations occur because of the same set of facts can be effectively and efficiently prosecuted.

§ 140-145. Relief from decisions.

Any person or persons jointly or severally aggrieved by any decision of the Planning Board, and/or the Town Board, and/or the Zoning Board of Appeals, and/or the Town Engineer and/or their duly authorized representative under this article may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be commenced within 30 days after the filing of the decision of the Planning Board, or of the Zoning Board of Appeals, or of the Town Engineer, or of such duly authorized representative, as the case may be, in the office of the Town Clerk in accordance with applicable provisions of New York State Town Law.

4. Town of Gardiner, Ulster County, New York **Chapter 220: Zoning** ** (Adopted 1984 with Amendments)

No definition of "steep slope(s)."

Article V: Supplementary District and Use Regulations

§ 220-13.1. Shawangunk Ridge protection regulations (SP District). ** (Added 2006)

A. Findings.

(1) The Town of Gardiner finds that the unique scenic character and fragile ecology of the Shawangunk ridge, escarpment, and foothills are critical features of the Town whose conservation enriches and benefits residents and visitors.

(2) The ecological resources of this entire area (which includes not only the SP District but also land located in the same ecosystem in adjoining towns) are of national and international significance, considered by the State of New York and major conservation organizations as one of the most important sites for biodiversity conservation in the Northeastern United States. Because this area includes a set of closely related ecosystems, whatever occurs on one portion of it can have a significant effect on other resources. This area includes visually prominent and geologically significant cliffs and talus slopes and five globally rare plant communities, including the world's best example of the dwarf pine ridge community. The significance of this area has been documented in numerous programs and studies, including the Town's 2004 Comprehensive Plan and the "Green Assets" program, described in the Town of Gardiner Comprehensive Plan, in which Gardiner is a participating town with the Shawangunk Ridge Biodiversity Partnership.

(3) As documented in the Town's 1992 Comprehensive (Master) Plan and the 2004 Comprehensive (Master) Plan update, which both contain provisions for the protection of the Shawangunk Ridge and its immediate surroundings, conservation of the visual resources and sensitive ecosystems in this area of the Town has repeatedly emerged as an important priority in the public planning process. While not all of this area is within the Town of Gardiner, any development within the Town at the higher elevations or on the steeper slopes of the Ridge can significantly affect the ecological integrity of this entire area. At higher elevations and on steeper slopes, the visual and ecological impacts tend to be more significant.

(4) The Town therefore finds that protection of the scenic character and ecological integrity of the Shawangunk Ridge area are important to maintaining rural character, a sense of place, and scenic landscapes, all of which contribute to the Town's quality of life and its attractiveness for tourism and for residential and commercial development.

(5) The Town further finds that limited development of the area covered by this district may be appropriate, as long as such development is carefully planned and designed to maintain, conserve, and enhance the scenic and ecological features of the area and the views into the landscape from publicly accessible locations. Protection of this area from inappropriate development is necessary to protect visual quality and environmentally fragile areas.

(6) In order to achieve the Town's goal of protecting the visual and environmental quality of this sensitive area, the Town finds that planning and zoning should direct development to areas of lower elevation by strictly regulating development at higher elevations and providing incentives for development to occur in the least sensitive locations. The Town finds that a "tiered" approach, in which land use is regulated less stringently at lower elevations and more stringently at higher elevations, is an appropriate tool to accomplish this goal, particularly with respect to protection of the steepest slopes and the large blocks of unfragmented forest.

B. Purpose. The purpose of the Shawangunk Ridge Protection District (hereafter the "SP District") is to protect the resource values of the Shawangunk Ridge area as described in the Comprehensive Plan and to establish clear guidelines for its future protection and sensitive development.

C. Location and boundaries. The Shawangunk Ridge Protection District is delineated on the Town of Gardiner Zoning Map and is divided into three subdistricts shown thereon as SP-1, SP-2, and SP-3. The purpose of this division into three subdistricts is to have a graduated system of regulation that is least restrictive at the bottom of the slope (SP-1), more restrictive on the middle portion of the slope (SP-2), and most restrictive at the higher elevations (SP-3). The subdistricts are shown on the map attached hereto as Exhibit A and entitled the "Town of Gardiner Shawangunk Ridge Protection (SP) Subdistrict Lines." The location of the boundary lines between the subdistricts has been determined based on a combination of elevation, slope factors, and the pattern of existing development.

D. Use regulations.

- (1) The uses permitted shall be as shown on the Use Table attached at the end of this section 220-13.1. The Use Table in this section supersedes the Use Index in Attachments A and B of this chapter, except with respect to accessory uses in the SP-1 Subdistrict. Additions to existing dwellings in the SP-2 and SP-3 Subdistricts which do not exceed a cumulative total of 750 square feet shall not require a special permit.
- (2) Any use not shown on the Use Table referred to in Subsection D(1) above shall be prohibited.
- (3) The following are specifically prohibited within the SP District:
 - (a) Privately owned central sewage systems or sewage disposal facilities as defined in this chapter.
 - (b) Privately owned central water systems.
 - (c) Commercial excavation.
- (4) Special permits within the SP District shall be issued by the Planning Board, except that special permits for home occupations and multifamily dwellings shall be issued by the Town Board.
- (5) In making its determination on a special permit application, the Planning Board shall require the preparation of a conservation analysis pursuant to § 220-12A and shall make conservation findings as provided in § 220-12A(8). The Board shall consider all resource protection criteria and standards listed in Subsection F below and shall ensure maximum feasible protection of the SP District's unique resources, in particular the cliffs and talus slopes and the five globally rare plant communities identified in the Comprehensive Plan.
- (6) The Planning Board shall attach conditions to its special permit approval it deems necessary to achieve the resource protection objectives of the SP District. Such conditions may include the following:
 - (a) Limiting building to a specified "building envelope" area.
 - (b) Requiring a conservation easement as described in § 220-12.1 on land outside a building envelope, only within the SP-3 Subdistrict.
 - (c) Requiring landscaping to buffer and screen proposed structures.
 - (d) Reducing the height, footprint, or floor area of a proposed structure.
 - (e) Modifying the architecture, building materials, or other design features of a structure so that it will blend into the landscape.
 - (f) Limiting alteration of landforms through grading, cutting, or filling.
 - (g) Changing the location and siting of structures, including the alignment of roads and driveways and the placement of any other improvements on the property.
 - (h) Restricting clearing of trees and reduction of tree cover.
- (7) In the event that, even with the imposition of conditions, the resource protection objectives of this section cannot be satisfied, the Planning Board shall deny an application for a special permit.
- (8) In order to enable the Planning Board to fulfill its obligations under Subsection D(5) and (6) above, an applicant shall be required to submit site plans, architectural elevations and models, ecological data, viewshed analyses, or any other materials that are deemed necessary by the Planning Board to make an informed decision.

E. Dimensional regulations. The dimensional regulations for uses in the SP District shall be as follows:

- (1) In the SP-1 Subdistrict, dimensional regulations shall be as shown on the Bulk Table on Attachment F. Editor's Note: The Table of Bulk Requirements is included at the end of this chapter.
- (2) In the SP-2 and SP-3 Subdistricts, dimensional regulations shall be as shown on the Bulk Table on Attachment F, except as modified below in Subsections E(3) and (4).
- (3) Within the SP-2 Subdistrict, the following modified dimensional standards shall apply:
 - (a) The minimum lot area shall be 10 acres except in open space developments.
 - (b) The maximum building height shall be 25 feet.
 - (c) The maximum total floor area of all structures shall not exceed 6,000 square feet, unless the Planning Board finds that a structure of greater size will not compromise the purposes of this § 220-13.1 or the conservation findings, and that special design features or other mitigating circumstances justify allowing an increased floor area. Such circumstances may include the grant of a conservation easement on land of conservation value substantially in excess of the minimum lot area requirement.
 - (d) No lot shall have more than 5% impervious surface coverage except in open space subdivisions.
 - (e) Subsection E(3)(c) and (d) above shall not apply to existing dwellings but shall apply to additions to such dwellings in excess of 750 square feet of floor area.
- (4) Within the SP-3 Subdistrict, the following modified dimensional standards shall apply:

- (a) The minimum lot area shall be 20 acres except in open space developments.
 - (b) The maximum building height shall be 25 feet.
 - (c) The maximum total floor area of all structures shall not exceed 4,000 square feet, unless the Planning Board finds that a structure of greater size will not compromise the purposes of this § 220-13.1 or the conservation findings, and that special design features or other mitigating circumstances justify allowing an increased floor area. Such circumstances may include the grant of a conservation easement on land of conservation value substantially in excess of the minimum lot area requirement.
 - (d) No lot shall have more than 3% impervious surface coverage except in open space subdivisions.
 - (e) Subsections E(4)(c) and (d) above shall not apply to existing dwellings, but shall apply to additions to such dwellings in excess of 750 square feet of floor area.
- (5) For new subdivisions of land, the Planning Board may require an open space development based upon its conservation findings, as provided in Subsection F(1)(d) and (e) below. In such open space developments:
- (a) The requirements for lot area, setbacks, lot width, impervious surface coverage, and street frontage listed above and on Attachment F Editor's Note: The Table of Bulk Requirements is included at the end of this chapter. may be varied as provided in § 220-12.
 - (b) No units in an open space development may be built in the SP-3 Subdistrict, unless the entire parcel proposed for development is located within the SP-3 Subdistrict, as provided in § 220-13.1F(10).
 - (c) As provided in § 220-12F(1), the maximum impervious surface in an open space development in the SP District shall be 6%.
- (6) The minimum lot area for any preexisting lot which lies in more than one subdistrict and is not created as part of an open space development shall be the same as the minimum lot area for the SP-2 Subdistrict. In new subdivisions that are not open space developments, lots lying entirely in one subdistrict shall comply with the lot area requirements for that subdistrict. Lots that cross subdistrict boundaries shall comply with the lot area requirements for the subdistrict in which more than 50% of the land is located.

F. Special resource protection design requirements for the SP District.

(1) Purpose and applicability.

- (a) All development requiring a special permit within the SP District that requires review by the Planning Board, Town Board, or Zoning Board of Appeals shall comply with the standards in this Subsection F. The intent of the design requirements is to ensure that development within the SP District creates no more than a minimal impact on the scenic and ecological resources of the district and the surrounding area, makes open space planning a central focus of any future development, and provides siting principles to help landowners and the Planning Board plan projects that fit into the scenic and rural countryside in the Shawangunk Ridge area.
- (b) The Planning Board shall insert conditions on any approval, or deny approval, as necessary to satisfy the requirements of this Subsection F or any other part of this § 220-13.1. Such conditions shall include the requirement that permitted construction occur at the lowest feasible elevation on the property.
- (c) As part of any application for a subdivision, special permit, or site plan approval in the SP District, the applicant shall prepare a conservation analysis as described in § 220-12A, except in the case of a minor subdivision located entirely within the SP-1 Subdistrict. The scope of such a conservation analysis shall be tailored to the size, scale and impact of the proposed development. For applications involving only individual single-family dwellings on lots which existed on January 1, 2005, and for minor subdivisions and uses other than single-family dwellings, the conservation analysis requirement shall apply only to the portion of the property where construction or land disturbance is proposed. For lots created after January 1, 2005, the conservation analysis shall be prepared as part of the subdivision application process by which the lot is created. At the time of application for a special permit for a specific lot, the Planning Board shall rely on the prior conservation analysis but may request that the conservation analysis be updated or further detailed if necessary for the Board to make an informed decision.
- (d) Before making any decision on an application for a special permit or site plan approval, or for a subdivision sketch plan, the Planning Board shall make conservation findings as provided in § 220-12A(8) based upon this conservation analysis.

(e) In the case of applications for conventional subdivisions, unless the Planning Board determines that the conventional subdivision would have less impact on the fragile visual and ecological resources of the district than an open space development, it shall deny tentative approval for the sketch plan of the conventional subdivision application and require the applicant to submit an open space development sketch plan consistent with its conservation findings, as provided in § 220-12.

(f) In the event that an applicant files an application for an open space development, and the Planning Board determines that a conventional subdivision would have less impact on the fragile visual and ecological resources of the district, the Planning Board may deny tentative approval of the sketch plan for the open space development and require the applicant to submit a conventional subdivision sketch plan application.

(g) In determining the maximum number of dwelling units for an open space development under § 220-12B, the Planning Board may require an applicant for a subdivision in the SP District to prepare a yield plan, as provided in § 220-12B(2), where the Planning Board determines in its sole discretion that because of steep slopes and difficult access conditions, a yield plan may result in a significantly lower total unit count than would be permitted by using the density formula method. In such a case, the permitted maximum unit count shall be the lower number resulting from use of the two methods. Such a plan shall not be required to be submitted if the applicant proposes no more than 75% of the maximum allowable number of units using the density formula method.

(h) The provisions of this section shall not apply to farm operations which are located within agricultural districts established pursuant to New York State Agriculture and Markets Law.

(2) Guidance and consulting assistance.

(a) For guidance in applying the standards in this § 220-13.1, the Planning Board may refer to recommendations contained in the publications of the "Green Assets" program, referenced in the Comprehensive Plan, in which Gardiner is a participating Town, and "Gateway to the Shawangunks: Maintaining a Scenic Road Corridor" (1997), published by Mohonk Preserve, Inc. and Friends of the Shawangunks, as well as other design guidance documents which the Planning Board determines to be relevant to protecting the resources of the SP District.

(b) The Planning Board shall retain the services of qualified experts, including but not limited to landscape architects, ecologists, DEC-certified professional foresters, arborists, hydrologists, engineers, architects to the extent necessary to adequately review a conservation analysis and proposed open space development plan, and may charge the applicant for the reasonable costs of review by such experts. The level of required professional qualification of the experts shall be determined by the Planning Board and shall be commensurate with the scale and impact of the proposed development and the characteristics of the site. The Planning Board shall also refer all applications to the Town of Gardiner Environmental Conservation Commission (ECC) for comment, which must be received at or prior to the public hearing.

(3) Building envelopes. To ensure that the placement of structures and other improvements complies with the standards in this Subsection F and minimizes visibility and impacts on the ecological resources of the escarpment and ridge, the Planning Board shall limit permitted development to specified building envelopes showing acceptable building sites and areas of permitted clearing of vegetation and grading of land. Constructed improvements and cleared vegetation shall not differ more than 20 feet in any direction from site locations within building envelopes shown on approved subdivision and/or site plans. Such building envelopes shall:

(a) Be clearly designated on the approved subdivision plat and/or site plan.

(b) Be the minimum size necessary to accommodate the approved development and protect the remainder of a site from significant alterations.

(c) Comply with all provisions of this § 220-13.1, including the conservation findings.

(4) Regulation of land disturbance. The natural contours of the land and existing vegetation shall be maintained as much as possible. Any alterations to the natural landscape shall not adversely affect natural drainage or cause erosion or sedimentation. The following regulations apply to all development and other land-disturbing activities. For purposes of determining the location of steep slope areas, only slopes containing at least 3,000 square feet of contiguous steep slope area at least 10 feet in width shall be considered.

(a) Limitation of area disturbed. All land-disturbing activities, including but not limited to clearing, grading, excavation, building construction, construction of driveways and roads, cutting,

and filling, shall be limited to the minimum land area necessary to accommodate the proposed use or activity, and shall in no case be greater than 15,000 square feet plus land necessary for driveway access, unless a larger area is required by the County Health Department to accommodate a septic system, in which case that larger area shall be permitted to be disturbed.

(b) Disturbance of very steep slopes (greater than 20%).

[1] General prohibition on land disturbance. Land disturbing activities, including but not limited to clearing, excavation, grading, construction, reconstruction, and investigative land-disturbing activities such as test wells, are prohibited on slope areas greater than 20% except as allowed under Subsection F(4)(a)[2] below.

[2] Permitted uses and activities. The following are permitted on very steep slope areas, subject to applicable development standards:

[a] Passive recreation uses, including trails not exceeding 10 feet in width.

[b] Open space, forestry, and other conservation uses.

[c] Land surveying or study.

[d] Local distribution utilities, roads and driveways, provided that they comply with the standards set forth in Subsections F (4) (c) [3] and (g) below.

[3] Any such development and uses on very steep slope areas shall minimize disturbance to soil geology, hydrology, and environmental features.

(c) Disturbance of moderately steep slopes (between 12% and 20%).

[1] Permitted uses and activities. All uses and activities allowed in the zoning subdistrict shall be allowed on moderately steep slopes, subject to applicable review procedures and standards.

[2] Grading standards. The applicant shall preserve natural landforms and minimize grading and other land disturbance.

[3] Limits on changing natural grade. The original, natural grade of a lot shall not be raised or lowered more than four feet at any point for the construction of any structure or improvements, except that:

[a] The original grade of a lot may be raised or lowered a maximum of eight feet if retaining walls are used to reduce the steepness of man-made slopes, provided that the retaining walls comply with the requirements of this Subsection F(4).

[b] These standards limiting change of natural grade shall not apply to grading required to construct or excavate a foundation or basement.

[c] The Planning Board may approve modifications to these standards if it finds that such modifications would result in less total site disturbance and visual impact than would compliance with the maximum limits on changing natural grade stated in this subsection.

(d) Revegetation required. Any slope exposed or created in new development on very steep or moderately steep slope areas shall be revegetated or landscaped with noninvasive species as soon as possible after land disturbance occurs, and such landscaping shall be properly maintained to prevent erosion.

(e) Excavation and clear-cutting.

[1] To the maximum extent feasible, excavation for footings and foundations shall be limited to minimize site disturbance and ensure compatibility with sloped terrain.

[2] Unless performed pursuant to an approved site plan, special permit, subdivision, or building permit, or as a normal and customary activity in conjunction with an approved timber harvesting plan, excavation of any area and clear-cutting any area exceeding 2,000 square feet shall require a special permit from the Planning Board. If such excavation or clear-cutting occurs without a special permit, the Planning Board may refuse to issue an approval upon a subsequent application for a special permit, site plan, or subdivision for a period of two years. This subsection shall not apply to excavation done as part of the routine maintenance of existing roads, driveways, utilities, septic systems, or drainage ditches.

(f) Retaining walls and terraces. Use of retaining walls and terraces is encouraged to reduce the steepness of man-made slopes and to provide planting pockets conducive to vegetation, in accordance with the following standards:

[1] Retaining walls shall not exceed eight feet in height from the finished grade, except for:

[a] A structure's foundation or basement wall (i.e., a retaining wall may be part of a permitted dwelling unit).

[b] As necessary to construct a driveway from the street to a garage or parking area.

[c] As otherwise expressly allowed by this section.

[2] Retaining walls shall be faced with stone or earth-colored materials similar to the surrounding natural landscape.

[3] Terracing shall be limited to two tiers, except that the Planning Board may approve more than two tiers when a greater number of tiers will result in less land disturbance and less steep man-made slopes.

[4] The width of the terrace between any two vertical retaining walls shall be at least five horizontal feet.

[5] Terraces created between retaining walls shall be permanently landscaped or revegetated with noninvasive species.

[6] The Planning Board shall determine the final configuration of retaining walls and terraces based upon the conservation findings and visual assessment.

(g) Roads, driveways, and utilities.

[1] All roads and driveways shall follow natural contour lines to the maximum extent feasible.

[2] Roads shall not be constructed on slopes greater than 30% under any circumstances.

[3] Roads shall not be constructed on very steep slopes between 20% and 30%, unless no other alternative exists to access a legal lot of record approved prior to the effective date of this section.

[4] Driveways and utilities shall generally not be constructed or installed on very steep slopes greater than 20%. However, a short run of no more than 250 feet or 10% of the driveway and/or utility's entire length, whichever is less, shall be allowed on very steep slopes between 20% and 30%, based on geotechnical and visual impact studies and findings that:

[a] Such driveway or utility will not have significant adverse visual, environmental or safety impacts; and

[b] No alternative location for driveway or utility access is feasible.

[5] Cuts shall be no higher than eight feet, with a final slope on each cut no greater than 20%.

[6] Driveway grades shall not exceed 12%, as shown by profiles submitted with an application.

[7] In order to minimize land disturbance, driveways shall be no longer than necessary to provide access to a buildable homesite on a lot. Driveways shall not exceed 1,200 linear feet in length, unless the Planning Board finds that a longer driveway is necessary to make access feasible. Driveways exceeding 1,200 feet in length, which are not otherwise subject to a special permit requirement, shall require a special permit from the Planning Board. Any home accessed by a driveway exceeding 1,200 feet shall incorporate a fire suppression system that complies with the recommendations of the Chiefs of the Gardiner and Shawangunk Valley Fire Departments. No driveway shall exceed a total of 2,500 feet in length. Driveways shall also comply with applicable requirements of § 184-33 of the Town Code.

(5) Protection of water resources.

(a) There shall be no structures located within 100 feet of a watercourse, wetland or spring unless specifically authorized by the Planning Board, consistent with the conservation findings.

(b) There shall be no net increase in runoff, and pollution load shall not exceed the pre-development load of nutrients or sediment.

(c) Runoff from impervious surfaces shall be routed to detention ponds, cisterns, or infiltration structures. Any such ponds or structures shall be constructed in a manner that minimizes impacts on landscape character and ecological function.

- (d) Landowners shall bear full responsibility for the installation, construction, and maintenance of all erosion control measures required as a condition of approval.
 - (e) All development shall be done with appropriate soil erosion and stormwater and sediment control measures, prepared in accordance with the requirements of the New York State Department of Environmental Conservation for a Phase II Stormwater Pollution Prevention Plan, as well as the erosion control standards described in other manuals specified by the Town's engineer, including but not limited to the New York State Department of Environmental Conservation's "Reducing the Impacts of Stormwater Runoff from New Development." Soil erosion and stormwater and sediment control measures and facilities shall be properly maintained, and the landowner shall permit periodic inspection by the Town at reasonable intervals and after major storm events to ensure such maintenance.
- (6) Visual protection and landscaping.
- (a) No principal or accessory structure in the SP-2 and SP-3 Subdistricts shall exceed a building height of 25 feet.
 - (b) All structures shall be sited to avoid, to the greatest extent practical, occupying or obstructing public views of land that is located within the SP District. Public views shall be determined by conducting a viewshed analysis as required by SEQR using the SEQR Visual Environmental Assessment Form Addendum (V-EAF) contained in 6 NYCRR 617.20, Appendix B. Visibility shall be measured using a condition of no leaves on trees. Viewshed analyses shall be required only to the extent necessary to ensure compliance with this subsection.
 - (c) Existing vegetation shall be preserved to the maximum extent practical and shall be used as much as possible to buffer and screen new buildings.
 - (d) Noninvasive native vegetation shall be maintained or planted to screen structures and other improvements from public roads, parks, or other public places.
 - (e) Vegetation shall also be used as a backdrop to reduce the prominence of the structure.
 - (f) Views from a structure shall be opened up only by selective cutting of small trees and pruning lower branches of large trees, rather than by clearing large areas or removing mature trees.
 - (g) Clearing of vegetation shall be minimized at the edge of road shoulders, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Curves in the driveway shall be used to increase the screening of buildings. This shall not apply to roadside clearing to maintain views of the valley from existing Town, county, or state roads.
 - (h) Structures and other development, including drainage structures, shall blend in with natural surroundings through use of materials such as stone or natural wood siding and shall avoid the use of reflective materials and bright colors that contrast dramatically with the colors of the land and vegetation around them.
 - (i) Structures shall be constructed and maintained so that predominant exterior wall colors (including the colors of basement walls on the downhill side of the structure) and roof surfacing materials repeat the colors found most commonly in the land and vegetation around such structures.
- (7) Avoidance of forest fragmentation and protection of habitats.
- (a) Development of land, alteration of the landscape, and forestry activities shall be conducted in a manner that minimizes the fragmentation of contiguous forest habitats and other ecologically significant areas.
 - (b) For major subdivisions, determination of the location of such habitats or areas shall be made in consultation with a qualified ecologist, biologist, and/or forester, following any applicable guidelines or standards established by the State of New York, as identified by the Planning Board or its consultants.
 - (c) For major subdivisions in the SP-2 or SP-3 Subdistrict, the Planning Board shall refer the proposed plan to the New York Natural Heritage Program for its review and recommendations. The Planning Board may also refer the proposed plans to any other agencies or officials of the Town, county, state, or federal government as the Board may deem appropriate. If there is no response from any agency to which a referral is made within the time frame required for a decision, the Planning Board may proceed with its decision in the absence of a response.
- (8) Forest management. Timber harvests and clear-cutting in excess of 2,000 square feet of land per year are allowed only by special permit from the Planning Board, provided that:

(a) Such activities minimize clear-cutting and comply with the most recent versions of Timber Harvesting Guidelines for New York and Best Management Practices, as promulgated by the New York State Department of Environmental Conservation (DEC) and available from the Town's Building Department.

(b) Such cutting is part of a forest management or wildlife habitat improvement plan prepared by a DEC-certified forester and approved by the DEC or other professional or organization deemed acceptable by the Planning Board; and/or

(c) Such cutting is necessary to prevent an imminent threat to life, public safety or property; and/or

(d) Such cutting is necessary to ameliorate damage arising from severe natural occurrences, such as ice and wind damage.

(9) Lighting.

(a) Exterior lighting shall be controlled in both height and intensity so that the light level at any lot line shall not exceed 0.2 footcandle, measured at ground level.

(b) Floodlights shall not be used to light any portion of a principal or accessory structure facade, and all outdoor light sources mounted on poles or buildings or trees to illuminate driveways, sidewalks, walkways, parking lots, or other outdoor areas shall use fully shielded light fixtures pointed downward.

(c) For purposes of this section, a "fully shielded light fixture" is one in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted. All such fixtures shall be installed or shielded so that no part of the light bulb or light source is visible beyond the property boundaries.

(10) Location of residential units outside of SP-3. No residential units may be built in the SP-3 Subdistrict, unless the entire parcel proposed for development is located within the SP-3 Subdistrict. For purposes of this Subsection F(10), the word "parcel" shall mean all contiguous land owned or controlled by the same person or entity, or by related persons or entities, regardless of tax parcel or existing lot or parcel boundaries.

(11) Water and sewer facilities.

(a) Sewage disposal facilities are permitted by special permit only within the SP-1 Subdistrict.

(b) Central sewage systems, water supply facilities, and central water systems are permitted only by special permit within the SP-1 and SP-2 Subdistricts.

(c) All such facilities shall comply with applicable requirements of state and county regulatory authorities and with the standards in this § 220-13.1. They shall be designed, sited, and constructed in a manner which does not produce odors and which minimizes land disturbance and excavation in environmentally sensitive areas.

(d) To the extent feasible, priority shall be given to the use of systems which recharge groundwater using subsurface discharge, and/or which contribute positively to the SP District's ecological and landscape character, such as the use of constructed wetlands. Facilities which are necessary and do not enhance landscape character shall be screened to the maximum extent practical.

(e) All water and sewer facilities described above shall be owned and operated by municipal water or sewer districts and shall not be owned or operated by transportation corporations.

G. Conservation easement.

(1) Except as provided in Subsection G(2) and (3) below, a conservation easement, as described in § 220-12.1C, shall be required by the Planning Board in connection with any approval in the SP-2 or SP-3 Subdistrict in order to ensure compliance with the requirements of this § 220-13.1, including the protection and buffering of views and significant habitats.

(2) This requirement of a conservation easement may be satisfied in an open space subdivision with the conservation easement required by § 220-12.1C. For minor subdivisions or special permits, a recorded declaration of covenants and restrictions enforceable by the Town may be substituted for a conservation easement if the Planning Board determines that a conservation easement is unnecessary.

(3) A conservation easement shall not be required in connection with a special permit for a single-family dwelling in the SP-2 Subdistrict.

H. Conflicts with other provisions. In case of any conflict between the requirements of this § 220-13.1 and any other provisions of the Town of Gardiner Zoning Law, Subdivision Law, or other local law, ordinance, or regulation, the requirements of this section shall control. The provisions of Article X, Nonconformities, shall be fully applicable in the SP District.

5. Township of Chestnuthill, Monroe County, Pennsylvania
Chapter 119: Zoning (Adopted 2000/Amended 2003)

No definition of “steep slope(s).”

Article III: Establishment and Regulation of Districts

§ 119-31. Steep slopes.

A. Regrading. Non-man-made slopes of over 15% shall not be regraded after the adoption of this chapter in such a manner that circumvents the requirements of this chapter. This section shall not regulate slopes that were clearly man-made prior to the adoption of this chapter.

B. Slopes over 25%. Any area with a slope over 25% shall not be counted towards the minimum lot area of a lot, for the purposes of determining compliance with any minimum lot area or any tract area requirements of this chapter.

C. Single-family dwellings and steep slopes.

(1) Any lot proposed to be used for a single-family detached dwelling shall include a proposed building area with a minimum of 5,000 square feet. Such building area shall not include land within the minimum principal building setbacks. Such building area shall contain the proposed location of the dwelling and any primary and alternate on-lot septic system locations.

(a) If such building area for each lot includes an average slope of greater than 15% and less than 25%, then the minimum lot area shall be two acres, unless a larger lot area is required by another section of this chapter.

(b) If such building area for each lot includes an average slope of 25% or greater, then the minimum lot area shall be five acres. This five acre minimum lot area may be calculated without deleting slopes over 25%.

(c) Through designations on the Township-approved site plan, an applicant may limit the area upon which new principal buildings are permitted. In such case, an applicant may provide that no new principal building shall be located on slopes of over 15% or slopes of 25% or greater, and thereby avoid the regulations of this section.

(2) Access. Each lot shall be accessible from an existing or proposed street by means of a driveway or private accessway with a maximum grade of 15%.

D. Steep slopes and other uses. A lot shall only be used for buildings for principal uses other than single-family detached dwellings if the proposed building area includes an average slope of less than 15%.

(1) For such uses, the building area shall include locations of all proposed buildings and parking areas and outdoor storage areas and an area 20 feet around buildings, parking and storage areas. Such building area shall also contain the proposed locations of any primary and alternate on-lot septic systems.

(2) Access. Each dwelling and each parking area shall have vehicle access from an existing or proposed street by means of a driveway or private accessway with a maximum grade of 10%.

E. Site plan and tree protection. If an applicant proposes to alter or build upon slopes of 15% or greater, then a site plan shall be submitted to the Zoning Officer. A separate site plan is not required if the same information was included in an approved subdivision or land development plan.

(1) Site plan. The site plan shall show:

(a) The proposed lot lines;

(b) The existing and proposed contours; and

(c) Existing and proposed building locations, and the outer perimeter of the proposed building area as described above.

(2) Mature trees. Where building or alteration is proposed on slopes of over 15%, the applicant shall prove to the satisfaction of the Zoning Officer that the removal of healthy trees with a trunk width of over six inches (measured at a height 3.5 feet above the ground level) and other attractive natural vegetation will be minimized. The Zoning Officer may ask for reviews by the Township Engineer or Planning Commission. The site plan shall show wooded areas to be removed or preserved, and methods to be used to make sure trees are protected by temporary fences or other measures during the construction process.

6. City of Scranton, Lackawanna County, Pennsylvania

Chapter 445: Zoning (Adopted as City Ordinance in 1993/Formerly Chapter 36 of the 1979 Code)

SLOPE — The vertical change of an area of land divided by the horizontal change, measured in percent.

Article V: Environmental Protection

§ 445-40. Steep slopes.

A. Site plan. If an area of a lot including slopes of 25% or greater is proposed for construction of buildings, streets or driveways or nonagricultural grading, then the applicant shall submit a steep slope site plan to the Zoning Officer. These submittal requirements may be met by including the required information on subdivision and land development plans.

B. Submission requirements. A steep slope site plan shall meet the following requirements:

(1) Show detailed slope contours for all areas that potentially may be disturbed and/or constructed upon.

(2) Identify all areas of greater than 25% slope.

(3) Be to scale (such as one inch equals 50 feet).

(4) Show substantial areas of trees and dense vegetation proposed to be removed or preserved prior to or during the development of the use.

(5) Be stamped by a professional surveyor, professional engineer, engineer-in-training, registered landscape architect or registered architect.

(6) Show proposed locations of principal buildings, streets, driveways, on-lot septic fields and other areas of soil disturbance. (If the exact location of these features is not definitely determined at the time of plan submittal, then the plan shall designate the outer limits of areas where such features may potentially be located. If different locations outside of the approved location would be proposed after approval of the site plan, then the applicant shall prove to the Zoning Officer that the revised location would still meet the requirements of this section.)

(7) State the maximum slope of proposed driveways and streets.

(8) Show an area of 20 feet around the proposed principal building locations.

C. Greater than 25% in R-1. If, within the R-1 District, a proposed principal building location and any areas within 20 feet of such location on the lot include more than 1,500 square feet with slopes greater than 25%, then the following regulations shall apply, unless more restrictive regulations are stated elsewhere in this chapter:

(1) Minimum lot area: 30,000 square feet per dwelling unit or per principal nonresidential use.

(2) Maximum impervious coverage: 15% on the lot.

D. Streets, driveways and septic systems. See applicable street and driveway slope standards in the City Subdivision and Land Development Ordinance. See also DEP regulations on slopes of on-lot septic systems.

E. Erosion. See § 445-47.

F. Grading. No grading shall occur in such a way that would circumvent the requirements of this chapter, such as prior to submittal for a zoning or building permit or subdivision or land development approval. The steep slope requirements shall apply based on the slope of land at the time of the adoption of this chapter.

G. Man-made slopes. This section shall not apply to man-made slopes that naturally were not 15% or greater slopes.

7. Township of Falls, Bucks County, Pennsylvania
Chapter 191: Subdivision and Land Management (*Adopted 1975/Amended 2001*)

STEEP SLOPE — A land grade equal to or in excess of 15%.

Article V: Design Standards

§ 191-52.1. Natural resource protection requirements.

(3) Steep slopes.

(a) Areas where the natural grade of land is equal to or exceeds 15%.

(b) Resource protection ratio for steep slopes:

[1] Fifteen-to-twenty-five-percent slope: 70% shall remain as resource-protected land. No more than 30% of the total of all such areas shall be developed and/or regraded or stripped of vegetation.

[2] Twenty-five percent or more slope: 85% shall remain as resource-protected land. No more than 15% of the total of all such areas shall be developed and/or regraded or stripped of vegetation.

(c) Exemptions for steep slopes.

[1] Areas of steep slope that are less than 3,000 square feet shall be exempted from these standards.

[2] Within the MPM Zoning District only, the lot or portion of a lot to be developed or used for marine port and terminal facilities, as permitted by § 209-30 of the Township Zoning Ordinance, may be exempted from the resource protection ratio for steep slopes in Subsection B(3)(b) above only if all the following conditions are met:

[a] The area to be exempt from the steep slope resource protection restrictions shall be limited to the area to be developed and occupied by the marine port and terminal facility and shall not extend to any other area of the lot or to other lots within the MPM District. 88

[b] The area to be exempt from the steep slope resource restrictions shall in addition be limited to a strip of land no greater than 100 feet in width along the Delaware River, which shall be measured perpendicular from the water's edge of the Delaware River and extending inland.

[c] The development of marine port and terminal facilities shall be subject to all requirements of the Pennsylvania Department of Environmental Protection, the United States Army Corps of Engineers and any other federal, state or county agencies with jurisdiction. The exemption from Township regulations of steep slopes shall in no way exempt the applicant from compliance with other agency requirements or other Township regulations.

8. Township of Bristol, Bucks County, Pennsylvania
Chapter 205: Zoning (Adopted 2002)

STEEP SLOPES — Areas where the average slope exceeds 8% which, because of this slope, are subject to high rates of stormwater runoff and, therefore, erosion and flooding.

Article XXII: General Performance Standards

§ 205-108. Environmental performance standards.

C. Steep slopes. In areas of steep slopes, the following standards shall apply:

(1) Fifteen percent to 25%: No more than 30% of such areas shall be altered, regarded, cleared or built upon.

(2) Twenty-five percent or steeper: No more than 15% of such areas shall be altered, regraded, cleared or built upon.

(3) Areas of steep slope that are less than 3,000 square feet shall be exempt from these standards.