

TOWN OF TORREY

Local Law Number 4 of 2009

[Amended 2/11/14 by LL 02-14]

REGULATIONS FOR STEEP SLOPES

Be it enacted by the Town of Torrey as follows:

§ 1. Intent and Purpose

- A. The purpose of this article is to regulate construction or other land disturbance on or near any steep slope located in the Town of Torrey.
- B. This article is intended to:
 - 1. Protect the health, safety and welfare of the public by maintaining and protecting the natural terrain, waterways, wetlands and vegetation
 - 2. Maintain the stability of steep slopes by preventing surface erosion, creep and sudden slope failure.
 - 3. Prevent flooding and stormwater runoff
 - 4. Preserve areas of wildlife habitat
 - 5. Promote goals and objectives of the Town of Torrey Comprehensive Plan

§ 2. Definitions

See Appendix A.

§ 3. Regulated Activities

It shall be unlawful to create any disturbance, other than an exempt activity as set forth in this article, on a steep slope or within 50 feet thereof located in the Town of Torrey unless and until a steep slope permit is granted by the Planning Board pursuant to the requirements of this article.

§ 4. Exempt Activities

- A. The following activities do not require a steep slope permit.
 - 1. Farming activities using sound management practices as defined by New York State Agriculture and Markets Sound Agricultural Practices Guidelines
 - 2. Landscaping which does not require disturbance of existing terrain
 - 3. Emergency situations, as determined by the Town of Torrey Zoning Officer, when the disturbance of steep slopes is required to protect persons or property from imminent danger
 - 4. Emergency repair of existing septic and water systems as determined by the Town of Torrey Zoning Officer
 - 5. Logging and woodcutting, where such activity is limited to the selective removal of trees and does not involve clear cutting. Maximum precautions shall be taken to avoid destruction of or injury to understory brush and trees.
- B. The Town of Torrey Zoning Officer will require that any exempt activity is performed in accordance with the legislative intent and purpose stated in §1 of this regulation.

§ 5. Need for Permit

- A. Upon the submission of an application for a building permit or other zoning approval, the Town of Torrey Zoning Officer shall determine if the parcel requires a steep slope review by the Planning Board and shall notify the Planning Board of his determination.

- B. The Planning Board hereby is granted authority to administer and implement this article by granting or denying steep slope permits for all residential, commercial or agricultural construction whether on a single lot or in connection with a subdivision application.

§ 6. Permit Application and Review Process

- A. Determination as to Major or Minor Soil disturbance:
The Town of Torrey Code Enforcement officer shall have sole authority to determine whether a steep slope soil disturbance is major or minor.

- B. Permit Administration
 - 1. Minor soil disturbance
The Code Enforcement Officer is hereby designated to administer and implement this chapter for minor soil disturbances. The Code Enforcement Officer, at his or her discretion, with the advice of the Yates County Soil & Water Authority where needed, may determine that the minor steep slope application should be reviewed by the Planning Board.

 - 2. Major Soil Disturbance
The Planning Board is hereby designated to administer and implement this chapter by granting or denying steep slope permits for all residential, commercial or agricultural construction, whether on a single lot or in connection with a subdivision application.

- C. Applications for a steep slope permit shall be made on forms available from the Town of Torrey Clerk and shall include the following information:
 - 1. An application fee as stated in the Town of Torrey Fees and Fines Schedule. In addition to the application fee, the applicant shall deposit with the Town Clerk an amount determined by the Planning Board to reimburse the Town of Torrey for any fees associated with professional services necessary for the review of the application. Any amount remaining after payment to the Town of Torrey for the services rendered shall be returned to the applicant upon final approval or upon withdrawal if the application is withdrawn.

 - 2. Ten copies of a site plan drawn at a scale of one inch equals not more than 30 feet, provided by applicant, showing the lot or lots containing steep slopes. Each site plan shall include the following:
 - (a) All existing and proposed natural or artificial drainage courses.
 - (b) The proposed location of all structures including, but not limited to, drainage, septic systems, wells, waterlines and driveways.

- (c) The location of the proposed area of disturbance and its relation to adjacent properties, together with buildings, structures, roads and affected trees, if any, within 50 feet of the boundaries of the area of disturbance.
- (d) The location of any affected State and Federal wetlands within 100 feet of the boundaries of the area of disturbance.
- (e) Existing topography of the proposed area of disturbance at a contour interval of not more than two feet. Contours shall be shown for a distance of 50 feet beyond the limits of the proposed area of disturbance or more if determined necessary by the Planning Board.
- (f) Proposed final topography and proposed surface materials or treatment at a maximum contour interval of two feet.
- (g) Erosion Control Plan showing proposed area of disturbance with temporary and permanent erosion control measures. All erosion control practices shall comply with New York State Standards and Specifications for Erosion and Sediment Control.
- (h) Storm water Pollution Prevention Plan including the details of any surface or subsurface drainage system proposed with calculated volume and velocity of runoff for sizing of drainage structures (i.e. culverts and diversions).
- (i) Any special reports deemed necessary by the Planning Board to evaluate the application, including but not limited to geologic or hydrologic studies or capacity evaluation.

(3) An Environmental Assessment Form as required by the New York State Environmental Quality Review Act (6 NYCRR Part 617).

(4) A written narrative explaining the nature of the proposal, including phasing, time frames and any future development proposals for the property and whether alternative locations exist for the proposed activity.

(5) If required by law, New York State Phase II Storm water regulations will be followed.

(6) The Planning Board may waive one or more requirements or design details ordinarily required above if the Board determines that the lack of such information is not necessary for proper consideration of this application.

D. The Planning Board may refer each application for a steep slope permit to the Yates County Soil and Water Conservation District or other NYS certified professional for review. If a referral is made, the Planning Board will request a written report containing the following items:

(1) A recommendation on whether the submission is complete and contains sufficient information for the Planning Board to perform a proper review of the submission.

(2) A recommendation of approval, disapproval or approval with conditions of the application.

- E. During the application review process, the Planning Board shall:
- (1) Determine whether the application is complete within 35 days from the date of submission
 - (2) Determine whether the requirements of this article have been satisfied.
 - (3) Approve, approve with conditions or deny the application, in accordance with this article, within 62 days of the receipt of a complete application as determined by the Planning Board, or if a public hearing is held, within 62 days of the completion of the public hearing.
 - (4) Require posting of a performance bond or other security as a condition of approval, if deemed necessary. The amount of such bond or other security shall be approved by the Town Board.
 - (5) Notify the responsible Highway Superintendent(s) before work commences if a building lot or development project requires material to be removed from or brought to the site to be hauled over town or county roads. In some cases it may be necessary to haul such material during specified times in an effort to minimize damage to the roads and reduce disruption of traffic.
- F. The Planning Board may hold a public hearing on an application for a steep slope permit.
- G. Before granting a steep slope permit, the Planning Board shall find that the following conditions have been met:
- (1) The proposed activity is in accordance with the legislative intent and purpose stated in this article.
 - (2) The proposed activity will preserve and protect existing streams, lakes, floodplains and wetlands as well as promote sound development to protect open space.
 - (3) The proposed activity will not adversely affect existing or proposed drainage structures, wells or sewage treatment systems.
 - (4) The proposed activity will not adversely affect any roads, infrastructure or adjacent properties.
 - (5) The proposed activity has been reviewed by the applicant, contractor and relevant Town and/or County Officials (i.e. Zoning Officer and Highway Supervisor).
- H. After a steep slope permit is approved:
- (1) Unless otherwise indicated, the approved permit shall be valid for a period of one year from the date of issuance. The Planning Board may grant extensions of this period.
 - (2) All permits shall expire on completion of the work specified therein and approved thereby.
 - (3) Security (§ 6(C) (4)) to be refunded shall be disbursed in stages as determined by the Town Board. The security shall be refunded following the completion of certain phased events including but not limited to; installation of stormwater management practices, completion of the project and removal of temporary stormwater controls.
 - (4) Following completion of the work, the applicant shall submit a certification by a NYS certified professional or by the Town of Torrey Zoning Officer, that

the completed work meets the requirements of the permit. The Town of Torrey Zoning Officer shall verify that the work has been completed in accordance with the permit. An as-built survey or plan shall be required to show that the work was completed in accordance with the permit.

- (5) Any proposed revision to work covered by a steep slope permit shall be reviewed. Where the Town of Torrey Zoning Officer determines that a substantial revision is required, a new application must be submitted to the Planning Board.

§ 7. Penalties for Offenses; Corrective Action

- A. Violations of any section of this law shall constitute a violation and upon conviction be punishable by a fine per offense or by a sentence of imprisonment not exceeding 15 days, or by both such fine and imprisonment. Fines will be levied in accordance with the Town of Torrey Fees and Fines Schedule. Each day of noncompliance shall be considered a separate offense. The imposition of any such penalty for violation of this law shall not excuse such violation nor permit the continuance thereof. Nothing herein contained shall prevent the Town of Torrey from taking such other lawful action as necessary to prevent or remedy an infraction.
- B. If there is any damage due to a violation of this local law or if any soil, liquid or other material is caused to be deposited upon or to roll, flow or wash upon any public property, private property, right-of-way or waterway in violation of this local law, the person, firm, partnership, corporation, or other party responsible shall be notified and shall cause the same to be removed from such property or way within thirty-six (36) hours of notice. The project will be shut down until the situation is corrected. In the event of an immediate danger to the public health or safety, notice shall be given by the most expeditious means and the violation shall be remedied immediately. In the event it is not so remedied, the Town of Torrey shall cause such remedy as necessary and the cost incurred by the Town shall be paid to the Town by the party who failed to so remedy and shall be a debt owed to the Town, above and beyond any approved performance guarantee.
- C. The Town of Torrey Zoning Officer shall have the authority to issue appearance tickets when any provision of this law is violated.

§ 8. Effect on existing operations or construction

Projects subject to any land use approval or permit issued by the Town of Torrey or one of its administrative boards, officers or employees prior to the effective date of this law shall be subject to the provisions contained therein and to the provisions of this law. Where such provisions are inconsistent or conflicting, the more restrictive provisions shall apply. Existing projects/construction operations within a steep slope area may be reviewed by the Town of Torrey Zoning Officer for compliance.

§ 9. Effective Date

This local law becomes effective immediately.

Appendix A - Definitions

“Unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this law its most effective application. Words used in the singular shall include the plural and the plural the singular; words used in the present tense shall include the future tense. The word “shall” connotes mandatory and not discretionary; the word “may” is permissive.

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

CLEAR CUTTING — Substantial removal of trees and undergrowth that affects the stability of the slope

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.

DEVELOPMENT – To make a site or area available for use by physical alteration. Development includes but is not limited to providing access to a site, clearing of vegetation, grading, earth moving, providing utilities and other services such as parking facilities, storm water management and erosion control systems, and sewage disposal systems, altering landforms, or construction of a structure on the land.

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.

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

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

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.

FLOODPLAIN – For a given flood event, that area of land temporarily covered by water which adjoins a watercourse.

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

MAJOR SOIL DISTURBANCE- Soil disturbance more than 300 sq. feet on a steep slope

MINOR SOIL DISTURBANCE- Soil disturbance less than 300 square feet on a steep slope and any soil disturbance within fifty (50) feet of a steep slope

NYS CERTIFIED PROFESSIONAL – professional engineer, CPESC-certified professional in erosion and sediment control or landscape architect.

PERSON — Any individual, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including, but not limited to, public agencies and municipal corporations.

NYS

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.

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

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 SLOPES – Ground areas with a slope of 15% or greater (1.8 inches vertical rise to 1 foot horizontal run).

STEEP SLOPE PERMIT — A written form of municipal approval granted by the Torrey Planning Board 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.

VEGETATION — All plant life including but not limited to trees and shrubs.