

**LOCAL LAW NO. ____, 2008
VILLAGE OF PIERMONT**

A LOCAL LAW AMENDING LOCAL LAW NO. 25 OF 1977 (CHAPTER 210—“ZONING”), LOCAL LAW NO. 3 OF 1984 (§210-77—“DEVELOPMENT PLAN REQUIRED”), AND LOCAL LAW NO. 1 OF 1988 (§210-78—“APPLICATION FOR APPROVAL”) AS AMENDED BY LOCAL LAW NO. 2 OF 1992.

Be it enacted by the Village Board of Trustees of the Village of Piermont that Local Law No. 25 of 1977, currently codified as Chapter 210 of the Code of the Village of Piermont (“Piermont Code”) entitled “Zoning,” Local Law No. 3 of 1984 (currently codified as §210-77 of the Piermont Code entitled “Development plan required”), Local Law No. 1 of 1988 (currently codified as §210-78 of the Piermont Code entitled “Application for approval”) as amended by Local Law No. 2 of 1992, and Local Law No. 14 of 2000 (currently codified as §210-78.1 of the Piermont Code entitled “Environmentally sensitive sites or features”), are hereby amended by **deleting and repealing said §210-78.1 (“Environmentally sensitive sites or features”) in its entirety and adding a new Article XIX to Chapter 210 of the Piermont Code to be entitled “Environmentally Sensitive Sites or Features Law and Regulations” as follows:**

ARTICLE XIX Environmentally Sensitive Sites or Features Law and Regulations

§ 210-109. Title.

This local law shall be known as the “Environmentally Sensitive Sites or Features Law and Regulations”.

§ 210-110. Legislative Intent.

The Village Board of Trustees (hereinafter “Village Board”) recognizes that the entire Village of Piermont (hereinafter sometimes referred to as “Village”) has previously been declared a Critical Environmental Area by enactment of a Local Law codifying said declaration into the Code of the Village of Piermont (hereinafter “Piermont Code”). However, the Village Board finds and determines that there are certain areas within the Village that contain environmentally sensitive sites or features, even more acute in their susceptibility to adverse environmental impacts caused by development, that merit heightened protection from potential adverse environmental impacts precipitated by land use actions.

Protection of steep slopes is a matter of concern to the entire Village of Piermont. Once a steep slope is disturbed, that disturbance is, for all practical purposes, irreversible. The disturbance of steep slopes can aggravate erosion, and sedimentation beyond rates experienced in natural geomorphologic processes. Erosion and sedimentation often include the loss of topsoil, a valuable natural resource. It can

result in the disturbance of habitats, degradation of the quality of surface water and wetlands, alteration of drainage patterns with unpredictable results to the health and safety of Village residents. Steep slopes, including vegetation and rock outcroppings located thereon, are important environmental features that contribute significantly to the visual impression one forms while traveling through the Village. Overdevelopment of, or improperly managed disturbance to, these steep slopes is also detrimental to the visual character of Piermont.

Recognizing the historical development of Piermont, the remaining undeveloped areas exhibit features, such as slopes with gradients of 20% to 70%, which make the construction of buildings, roads, utilities and sanitary systems difficult. Construction on steep slope areas has greater potential to cause adverse impacts and damage to nearby properties than development on flat or gently inclined sites; and development on environmentally sensitive sites or features establishes greater risk for post-development impacts from extreme storm events over the "100 year" planning standard. Regulation can allow the reasonable use of private property by encouraging flexible development design so as to avoid disturbance of steep slopes. Regulation can also permit environmentally sound disturbance of steep slopes conducted in accordance with acceptable engineering practices. These regulations are intended to provide a reasonable balance between the rights of the individual property owners and the public interest in preserving the valuable functions of steep slopes.

These environmentally sensitive sites or features are found by the Village Board to be in need of more restrictive area or bulk zoning regulations so that the impact of land use actions within these environmentally sensitive sites or features will be minimized. Therefore, it is the intent of this Article XIX to heighten the protection of environmentally sensitive sites or features from potential adverse environmental impacts posed by development.

§ 210-111. Statutory Authority and Laws Effected.

Article XIX shall apply to all land use applications for which land disturbance is proposed, including, but not necessarily limited to, applications seeking approval of a subdivision, site development plan or special permit use (the foregoing hereinafter sometimes referred to as "land use actions"), except for "minor construction" in accordance with §210-77(D) of this Chapter; and shall supplement and/or augment, and may be more restrictive and proscriptive, but it is not the intent of the Village Board to vitiate the application of §210-7.6, §210-13, §210-19, §210-25, §210-31, §210-37, §210-37.6, §210-43, §210-49, §210-55, §210-61, §210-67 and §210-67.7 of the Piermont Code, as said Sections may be amended from time to time (hereinafter referred to in the aggregate as "General Bulk Regulations"). If any of the provisions of this Section are in conflict with the General Bulk Regulations, then the provisions of this Section shall govern and control. The General Municipal Law of the State of New York, the Municipal Home Rule Law of the State of New York and the Village Law of the State of New York are cited as authority for this Section.

§ 210-112. Definitions.

As used in this Environmentally Sensitive Sites or Features Law and Regulations, the following terms shall have the meanings indicated, which below Definitions shall supplement and augment those Definitions set forth in §210-2 of this Chapter:

CONSERVATION AREA — An area of land where construction, building activities, excavation, depositing of fill or soil disturbance of any kind, and/or the installation, placement, location or erection of structures, buildings or other improvements, shall not be permitted or allowed to occur in or located on, about or within; and which area shall be preserved and maintained forever undisturbed and in its natural state, within which area perennial or annual vegetation (including, but not limited to, trees and/or ground cover) shall not be cut, removed, altered, destroyed or cleared by excavation, cutting, digging, removal, alteration, destruction or similar activities or disturbance, except that very limited weeding, gardening and selective pruning of vegetation, or the selective pruning of diseased trees, invasive species or noxious plants (such as poison ivy or poison oak), or the cutting down or removal of dead trees, may be permitted and allowed subject to the prior approval of the Village Engineer and Village Building Inspector. The establishment of a conservation area shall be documented by the execution of a covenant and conservation easement, in substance and form satisfactory to the Village Attorney and the Village Engineer, which legal instrument shall run with the land and be recorded in the Rockland County Clerk's Office at the cost and expense of, and executed by, the owner of the real property containing the conservation area.

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.

DISTURBANCE — Construction, building, erection or installation of any structure, building or improvement on land; removal of trees (as defined in Chapter 185, Article II, of this Code); modification or alteration of land topography by cutting, clearing, grubbing, excavating, grading, moving, filling, or stripping of topsoil; and/or demolition.

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.

FLOODWAY — See definition of "Floodway" set forth in Chapter 112 ("Flood Damage Prevention") of the Code of the Village of Piermont.

GRADE — The contour or surface elevation of the ground.

GRADE, ORIGINAL — The natural contour or surface elevation of the ground before any disturbance.

GRADE, FINISHED — The contour or surface elevation of the ground at the completion of a project after any disturbance.

IMPERVIOUS SURFACES — Manufactured or man-made impermeable matter, substances or materials that are water-resistant, including, but not limited to: buildings; structures; concrete, asphalt, macadam, paver-stone, brick or stone block driveways, walkways, sidewalks, parking pads or platforms, and patios; in ground or above ground pools; tennis courts; and storage shed foundations. Gravel shall not be considered an impervious surface.

NATURAL STATE — Land which retains natural vegetation and topography containing no structures, buildings, impervious surfaces, retaining walls or other improvements or permanent or transient activity.

NET LOT AREA - The total square footage for each slope category (as defined in this Article XIX) of the original grade land area (the gross lot area) multiplied by the applicable percentage reduction for that steep slope category (see §210-116[D][i] of this Article XIX), which resulting multiplication products (in square feet) for all steep slope categories are added together, which total square footage sum is then subtracted from the original grade land area (the gross lot area), and which resulting difference shall be referred to as the “net lot area” and shall be the basis for establishing compliance with the required minimum lot area and in calculating the floor area ratio.

RIDGE LINE — A swath or breadth of land, with the associated vegetation, which connects the highest elevation of land along a ridge, hill crest, hilltop or series of hill crests, hilltops or prominent knolls.

SLOPE GRADIENT – The ratio of the vertical rise of the original grade divided by the horizontal run of the original grade. For example, a slope consisting of a one foot vertical rise over a two foot horizontal run has a 50% slope gradient; a slope consisting of a one foot vertical rise over a three foot horizontal run has a 33% slope gradient.

SLOPE CATEGORIES — Categories of slope for this Article XIX are as described in the following table below:

Category	Slope gradient
1 - “one”	0% to 19.99%
2 - “two”	20% to 24.99%
3 - “three”	25% to 29.99%
4 - “four”	30% to 34.99%
5 - “five”	35% to 39.99%
6 - “six”	40% or steeper

WATERCOURSES, INTERMITTENT or PERENNIAL – See map and legend, incorporated herein by reference, made a part hereof and entitled “Watercourse Map Appendix.”

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§ 210-113. Environmentally sensitive sites or features.

The following are determined to be environmentally sensitive sites or features when present on, or within the stated distances of, a particular location at, or in excess of, the threshold criteria set forth below:

(A) Water resources, including perennial or intermittent watercourses, ponds, lakes, reservoirs, or retention basins.

(B) Wetlands, defined as any area which meets one or more of the following criteria:

(i) Lands and waters of the state that meet the definition provided in Subdivision 24.0170.1 of the New York State Freshwater Wetlands Act (Article 24 of the New York State Environmental Conservation Law—“ECL”) but without regard to the minimum size standards set forth in the ECL.

(ii) Lands and waters of the state that meet the definition of “wetlands” provided in a report dated January 10, 1989, and entitled “Federal Agency Committee for Wetland Delineation, 1989, Federal Manual for Identifying and Delineating Jurisdictional Wetlands, U.S. Corps of Engineers, U.S. Environmental Protection, U.S. Fish and Wild Life Service and U.S.D.A. Soil Conservation Service, Washington, D.C., Cooperative Technical Publication.”

(iii) Lands and waters of the state that meet the definition of “wetlands” provided in the Tidal Wetlands Act, New York Environmental Conservation Law Article 25, and the implementing regulations: 6 NYCCR 661.

(C) Areas of Shallow Flooding, Areas of Special Flood Hazard, Coastal High-Hazard Areas and Regulatory Floodways, including floodways within a slope category 1, category 2, category 3, category 4, category 5 or category 6 (hereinafter together referred to as “floodways”), as defined and determined by the Local Administrator under Piermont Code Chapter 112 (“Flood Damage Prevention”).

- (D) Land areas deemed slope category 2, category 3, category 4, category 5 or category 6, as defined in this Article XIX.
- (E) Rock outcroppings, or parts of rock formations that appear above the surface of the surrounding original grade.
- (F) The Clausland Mountain ridge line.

§ 210-114. Threshold criteria measurements.

The following thresholds shall determine that a site or feature, parcel, tract or lot, or portion of parcel, tract or lot, is or contains an environmentally sensitive sites or features:

(A) Any site, property, location, feature, parcel, tract or lot, or portion of parcel, tract or lot, which is traversed by, on the bank of or within 10 feet of any river, creek, stream, brook or other flowing watercourse.

(B) An area of 1,000 square feet, or a combination or aggregation of areas each at least 100 square feet and totaling 1,000 square feet, of pond, lake, standing water, marsh, bog, swamp or wetland, as such terms are defined pursuant to the 1989 Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

(C) An area or a combination or aggregation of areas amounting to ten percent (10%) of the site, property, location, feature, parcel, tract or lot, or portion of parcel, tract or lot, which slopes in any direction or combination of directions by twenty percent (20%) or more, as measured in accordance with the following methodology:

(i) Vertical measurement. Vertical measurement shall be determined by utilizing two-foot contours, as documented and verified by an on-site survey performed and prepared by a New York State licensed Land Surveyor. The survey shall depict the existing and current conditions and status of the subject real property; except that a survey may be older if there have been no changes to the real property or to the lot boundaries, and if there have been no covenants or easements recorded, since the date of such older survey.

(ii) Horizontal measurement. Horizontal measurement shall be determined by the use of an appropriate scale, which, unless directed otherwise by the approving Village land use board or Village Engineer, shall be one inch for 20 feet.

(iii) Application of vertical and horizontal measurements. The vertical and horizontal measurements are utilized to determine the slope by dividing the vertical rise, on the basis of two-foot contours, by the horizontal distance between two adjacent two-foot contours. All surveys, calculations and documents shall be performed and submitted by the applicant, and shall bear the seal and original signature of a professional engineer or land surveyor licensed to practice in the State of New York. Measurement of slope shall be initiated at the lowest point in the property extending up to the highest point.

(iv) The site development plan, plot plan, subdivision plat or survey shall be marked with a breakout, i.e., a pictorial, graphic or symbolic representation with a legend, of the surface areas of the site (for which application for approval of a land use action has been made) that fall into each category of steep slope designation (moderately steep slope, very steep slope or extremely steep slope).

(v) Areas of a site (for which application for approval of a land use action has been made) that are categorized as category 2, category 3, category 4, category 5 or category 6, that individually constitute a contiguous surface of 100 square feet or less are not to be included as steep slopes in the determination of reduction in the lot area calculation (as described in §210-116[e] below). Other restrictions to land disturbance or development remain in effect for all areas designated in the moderately steep slope, very steep slope, or extremely steep slope categories.

(D) An area of 500 square feet, or a combination or aggregation of areas each at least 50 square feet, of exposed rock.

(E) Any combination of the above features, no one of which meets the thresholds stated, but which in combination meet the intent of this Section as determined by the approving body after consultation with the Building Inspector, Village Engineer and/or the Local Administrator under Piermont Code Chapter 112 (“Flood Damage Prevention”).

§ 210-115. Requirement of Public Hearing.

Notwithstanding other provisions of the Piermont Code to the contrary, and in addition to specific regulations pertaining to the approval of land use actions on, involving, or which may affect, an environmentally sensitive site or feature, no such approval shall be given except following a Public Hearing held on at least ten days advance notice published in the Village's Official Newspaper and mailed to all property owners abutting, or within 200 feet of, the site for which application for approval of a land use action has been made; however, any unintentional errors, mistakes, omissions or oversights in providing such notice, so long as these notice requirements are substantially complied with, shall not void, nullify or invalidate any decision rendered by the approving body. No such Public Hearing shall be required for one-family detached dwellings in accordance with §210-77(D) of this Chapter ("minor construction regulations"). The phrase "land use action" is defined herein to include, but is not necessarily limited to, applications for: (i) Site development plan, subdivision, special permit, bulk/area variances or use variances, and (ii) any land clearing, grading, filling, excavation, use of motorized equipment to cut trees or to clear land, or other operations resulting in land disturbance (as defined in Piermont Code §168-4). The land use action applicant shall be solely responsible for and obligated to reimburse the Village of Piermont for any and all professional consultants' fees and charges incurred by the Village as may be necessary to guide, inform and/or report to the Village Building Inspector and/or land use Boards having approval jurisdiction, including the fees and charges of the Village Engineer and Local Administrator (Piermont Code Chapter 112—"Flood Damage Prevention").

§ 210-116. Regulations for avoidance of adverse environmental impacts.

Avoidance of adverse environmental impacts shall include:

(A) **Wetlands** — In the case of any wetlands, the wetlands area and a buffer area of 50 feet outside of and surrounding the perimeter of all such wetlands shall be preserved in a natural, undeveloped and undisturbed state, which wetlands area and surrounding buffer areas shall be established as conservation areas.

(B) **Watercourses** — In the case of watercourses, the pre-existing channel shall be retained and a buffer area of at least 25 feet outside of and surrounding the perimeter of all such watercourses shall be preserved in a natural, undeveloped and undisturbed state; except for stabilization, repairs or restoration to pre-existing bulkheads, seawalls, etc., the need for which stabilization, repairs or restoration shall be determined and reviewed by, and subject to the approval of, the Piermont Planning Board or the Village Board of Trustees (as applicable), U.S. Army Corp, NYS Department of Environmental Conservation (NYS DEC) and/or other agencies

exercising jurisdiction; and which pre-existing channel and surrounding buffer area shall be established as conservation areas. Piping shall be avoided except for crossings of roads and driveways.

(C) **Floodways** — In the case of floodways, the preexisting watercourse channel, floodways topography and site configuration shall be retained; and the construction of improvements to buildings and structures subject to potential damage from flooding conditions shall be avoided.

(D) **Steep slope areas** — In the case of category 2, category 3, category 4, category 5 and category 6 slope categories, the following regulations shall apply:

(i) **Land area reduction applicable to steep slope areas** — The gross lot area of the site (for which application for approval of a land use action has been made) shall be reduced to the net lot area by subtracting a certain percentage from the gross lot area for purposes of calculating the net lot area and floor area ratio, as follows:

Slope category:	Gross lot area reduction for net lot area and floor area ratio calculation:
1	0% (none)
2	15%
3	25%
4	40%
5	60%
6	95%

The total square footage for each slope category of the original grade land area (the gross lot area) shall be multiplied by the applicable percentage reduction for that steep slope category (see the above table), and the resulting multiplication products (in square feet) for all steep slope categories shall be added together, which total square footage sum shall be subtracted from the original grade land area (the gross lot area), which resulting difference shall be referred to as the “net lot area” and shall be the basis for establishing compliance with the required minimum lot area and in calculating the floor area ratio.

(i-1) **Exemption for existing buildings or structures** — The

net lot area reduction calculation shall apply to additions or extensions to existing buildings or structures only if the change to the existing building or structure disturbs land within category 3 or steeper slope category areas; land disturbance of areas that are category 1 or category 2 shall not be subject to the net lot area reduction calculation.

(ii) Total permissible permanent disturbance of steep slope areas by structures, buildings and other impervious surface areas — Permanent disturbance of steep slope areas by buildings, structures and other impervious surfaces shall be limited and restricted by application of a certain percentage to the square footage of the land area comprising a steep slope category, which percentage proportion shall signify the total permissible square footage allowed for permanent disturbance of steep slope areas by structures, buildings and other impervious surface areas within that category of steep slope, as follows:

Slope category:	Total permissible permanent disruption:
1	100%
2	100%
3	60%
4	30%
5	15%
6	5%

(iii) Maximum permissible temporary disturbance of steep slopes — Temporary disturbance of steep slope areas during construction, building or land disturbance activities shall be limited and restricted by application of a certain percentage to the square footage of the land area comprising a steep slope category, which percentage proportion

shall signify the total permissible square footage allowed for said temporary disturbance within that category of steep slope, which percentage allowance is permissible above (on top of) the permanent disturbance criteria above as follows:

Slope Category	Total permissible temporary Disruption
1	100%
2	60%
3	40%
4	25%
5	15%
6	5%

All such areas temporarily disturbed during construction, building or land disturbance activities shall be fully restored by the developer, property owner or applicant to the same state and condition (or substantially the same as determined by the Piermont Planning Board) that existed in such disturbed areas immediately prior to said disturbance.

(iv) **Additional considerations** — In the case of category 2, category 3, category 4, category 5 and/or category 6 slope categories, in determining whether an application for a land use action that contains a site, property, location, feature, parcel, tract or lot, or portion of parcel, tract or lot with a steep slope area should be approved, the approving body shall also consider the following factors:

(iv-1) The degree to which the proposed development would prevent or minimize erosion and otherwise protect the stability of steep slope areas, both during and after construction, which shall be encouraged.

(iv-2) The degree to which the proposed development of a steep slope area would create an unnatural shape, which shall be discouraged.

(iv-3) The degree to which the proposed development of a steep slope area would enhance the attractiveness of the slope by

terracing, landscaping, retaining walls or otherwise, which shall be encouraged.

(iv-4) The degree to which the proposed development would obstruct views of a steep slope area and surrounding areas, which shall be discouraged.

(E) **Rock outcroppings** — In the case of rock outcroppings, or parts of rock formations that appear above the surface of the surrounding original grade, the preexisting rock outcropping shall be preserved in a natural, undeveloped and undisturbed state.

(F) **Clausland Mountain ridge line** — In the case of the Clausland Mountain ridge line, buildings and structures, and all portions thereof, shall be located below the ridge line so as to preserve a natural topographic and vegetative profile; existing and introduced native vegetation shall be used to blend the buildings and structures with the surrounding landscape; buildings and structures shall not be silhouetted against the skyline or horizon; hillside cuts for roads or other site development areas of high visibility shall be stabilized and vegetated with native species to avoid highly contrasting unnatural landforms; and a visual impact analysis modeled after the Visual EAF (Environmental Assessment Form) Addendum — “Appendix B” to the NYS DEC’s State Environmental Quality Review Act Regulations official booklet (6 NYCRR §617.20) — to the extent and degree determined by the Piermont Planning Board, shall be prepared by the applicant and submitted to the Planning Board for its review and approval.

§ 210-117. This local law shall take effect immediately; except this local law shall not apply to land use applications which, at the time of the adoption of this local law: (i) have been issued a Building Permit which has not expired, (ii) have received approval from all required land use boards and which approvals have not expired, lapsed, or become null and void, or (iii) are pending and have undergone at least five formal review meetings by the Village Board, Planning Board and/or Zoning Board of Appeals of the Village of Piermont.