

TIMBER HARVESTING

Chapter 187

Town

of

PAWLING

**GENERAL
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Chapter 187
TIMBER HARVESTING

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[HISTORY: Adopted by the Town Board of the Town of Pawling 3-9-1993 as L.L. No. 2-1993. Amendments noted where applicable.]

GENERAL REFERENCES

Farming — See Ch. 101.

Soil erosion, sediment control and steep slopes protection — See Ch. 171.

Zoning — See Ch. 215.

Subdivision of land — See Ch. A230.

§ 187-1. Findings.

The Town of Pawling makes the following findings:

- A. Pawling is located in the Harlem Valley Region. A large portion of the town is hilly or mountainous. Steep slopes, including forests and other vegetation, rock cliffs and rock outcroppings, are an important environmental feature that contributes to the character of the town. Pawling's steep slopes and associated high ridges are in forest cover that forms extensive connecting woodland, a recognized regionally rare feature. Intrusion of clearing and disturbance into these forest ecosystems results in edge environments and forest fragmentation. This can result in a loss of biodiversity and the regional extinctions of interior forest species.
- B. The town recognizes that the timber resource in the town is a renewable resource of significant value and may be harvested. The town also recognizes that if timber harvesting practices are poorly carried out, they can result in significant environmental and aesthetic damage to the land and to adjacent lands and waters. Thus, this law is intended to regulate those harvesting activities, such as stream crossings and the location of landings, haul roads and skid trails, that most readily affect the environment, particularly with regard to controlling soil erosion and sediment-laden runoff and to encourage the use of professional forest management expertise in the preparation and evaluation of timber harvests.

- C. There is a direct relationship between the planting of trees, shrubs and associated vegetation in sufficient number in populated areas and the health, safety and welfare of communities and as related to the natural, scenic and aesthetic values of trees and the physical and visual qualities of the environment which municipalities are authorized to protect. Trees and such vegetation abate noise, provide welcome shade to people, preserve the balance of oxygen in the air by removing carbon dioxide and fostering air quality and add color and verdure to human construction. They also stabilize the soil and control water pollution by preventing soil erosion and flooding, yield advantageous microclimatic effects and provide a natural habitat for wildlife. The destructive and indiscriminate removal of trees and related vegetation causes increased municipal costs for proper drainage control, impairs the benefits of occupancy of existing residential properties and impairs the stability and value of both improved and unimproved real property in the area of destruction and adversely affects the health, safety and general welfare of the inhabitants of the town.

§ 187-2. Title and purpose.

- A. This chapter is hereby adopted and shall be known and may be cited as the "Timber Harvesting Law of the Town of Pawling."
- B. It is the purpose of this chapter to protect the public health, safety and welfare of the residents of the Town of Pawling by regulating tree clearing and timber harvesting, so as to prevent problems related to erosion, sedimentation and/or drainage. In relation to this purpose, this chapter is intended to:
- (1) Preserve the quality of the natural environment from the adverse effects of timber harvesting, such as:
 - (a) Pollution of lakes, ponds and watercourses from silt or other materials.
 - (b) Unnecessary destruction of trees and other vegetation.
 - (c) Excessive exposure of soil to erosion.
 - (d) Unnecessary modification of natural topography or unique geological features.
 - (e) Failure to restore sites to an attractive natural condition.
 - (2) Protect people and properties from the adverse effects that can be associated with improper timber harvesting, such as:
 - (a) Increased runoff, erosion and sediment.
 - (b) Increased threat to life and property from flooding or storm waters.
 - (c) Increased slope instability and hazards from landslides and slumping.
 - (d) Modifications of the groundwater regime that adversely affect wells and surface-water levels.
 - (3) Protect the town and other governmental bodies from having to undertake, at public expense, programs of repairing roads and other public facilities, of providing flood protection facilities and of compensating private property owners for the destruction of properties arising from the adverse effects of improper timber harvesting.

- (4) Ensure that timber harvesting practices are consistent with the Comprehensive Plan of the Town of Pawling.

§ 187-3. Statutory authority.

In accordance with the provisions of Article 9 of the Town Law of the State of New York, the Municipal Home Rule Law and Section 96-b of the General Municipal Law, the Town Board of the Town of Pawling has the authority to enact local laws for the purpose of promoting the health, safety and general welfare of the Town of Pawling, including the protection and preservation of the property of its inhabitants, and to provide for the protection and conservation of trees and related vegetation.

§ 187-4. Definitions and word usage.

- A. Customary meaning. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular. The word "shall" is intended to be mandatory. An infinite number of variables exist in the field of timber harvesting due to differences in soil, terrain, weather, type of timber and ownership objectives. Therefore, the use of such terms as "where possible," "should," "avoided," etc., are realistic understandings of field conditions.
- B. Defined phrases. As used in this chapter, the following terms shall have the meanings indicated:

ACCESS ROAD — A roadway normally designed and intended for use by motor vehicles which provides access to or into forest land.

APPLICANT — Any individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof, who has a request for a permit to conduct a regulated activity before the Code Enforcement Officer or who has an application pending pursuant to § 187-7 of this chapter before the Planning Board.

BEST AVAILABLE FOREST MANAGEMENT PRACTICES — Those silvicultural practices recommended in a manual entitled, "Best Management Practices for Silviculture", published by the Dutchess County Soil and Water Conservation District, January 1990. A copy is on file in the Town Planning Board office.

BUFFER STRIP — An area of variable width and length in which forest practices are restricted in order to provide a visual screen or to protect water quality.

CLEAR CUTTING — Complete cutting and removing of an entire stand of trees, replaced by natural or planted regeneration.

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

CODE ENFORCEMENT OFFICER — The officer designated by the Town of Pawling Town Board and charged with the enforcement of zoning, building and fire codes.

COMPLETE APPLICATION — An application which has been declared to be complete by the Environmental Director or which has been deemed complete as a result of the Environmental Director's failure to evaluate it for completeness within the required time period.

DATE OF RECEIPT OF COMPLETE APPLICATION — A complete application shall be deemed received by the Planning Board on the date of the first regular meeting of the Planning Board following the filing of the complete application and supporting plans with the Planning Board by the Code Enforcement Officer pursuant to the provisions of § 187-7 of this chapter.

DCSWCD — The Dutchess County Soil and Water Conservation District.

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

ENVIRONMENTAL DIRECTOR — The individual or agency designated by the Pawling Town Board and charged with reviewing and evaluating the environmental impacts of all timber harvesting permit applications, as well as determining their "completeness" in accordance with the provisions of this chapter.

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

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

HOMESITE — That portion of any lot or parcel of land covered or to be covered by any structure, including but not limited to buildings, septic systems and their reserve areas, wells, pools and driveways.

LANDING AREA — A cleared area to which trees are hauled by a skidder for their storage before being transferred to trucks.

NYSDEC — New York State Department of Environmental Conservation.

PERSON — Any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including any political subdivision of the state.

PLANNING BOARD — The duly appointed Planning Board of the Town of Pawling.

PROTECTED STREAM — Any stream as so designated under Article 15 of the Environmental Conservation Law (ECL).

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.

SELECTIVE CUTTING — The cutting of more than one-half (1/2) of the existing living trees measuring more than six (6) inches diameter at breast height (DBH) in an area one-half (1/2) acre or more, over a period of two (2) consecutive years.

SKIDDER — A machine, commonly rubber-tired, used in moving logs from the stump site to a landing.

SKIDDING — The act of moving logs from the stump site to a landing.

SKID ROAD (HAUL ROAD) — A main pathway, normally intended for repeated use by a skidder to reach skid trails, where extensive exposure of soils can be expected from heavy traffic.

SKID TRAIL — A secondary pathway, intended for use by a skidder to reach trees or groups of trees which have been cut, where extensive exposure of soils is not expected.

SLASH — The woody material or debris resulting from cutting trees and left on the ground after an area is logged.

SLOPE — Land with a topographic gradient, usually expressed as percent slope, the percent being calculated by measuring vertical elevation relative to horizontal distance. A slope of twenty-five percent (25%) means a twenty-five-foot rise in elevation from one point to another along a one-hundred-foot horizontal plane [calculated as: twenty-five-foot rise/one-hundred-foot horizontal distance = twenty-five-percent slope].

TIMBER HARVESTING — Any activity which may alter the physical characteristics of any forested land, including but not limited to any activity involving or associated with the cutting of trees, except that the following activities shall not be considered to be timber harvesting:

- (1) The routine maintenance of roads, easements and rights-of-way and the clearing of farm fence lines; and
- (2) The clearing of approved subdivision roads, site plans and public utility easements.

TOWN BOARD — The duly elected Town Board of the Town of Pawling.

TOWN CLERK — The duly elected Town Clerk of the Town of Pawling.

TOWN ENGINEER — Any person or firm employed by the Town of Pawling as the Town Engineer.

TREE — A large woody plant, usually having one (1) self-supporting stem or trunk and numerous branches, normally expected to attain heights in excess of twenty (20) feet and having a stump diameter of at least four (4) inches.

WATERBODY — Any natural or artificial pond, lake, reservoir or other area containing a surface area of over one thousand (1,000) square feet and which usually or intermittently contains water and has a discernible shoreline.

WATERCOURSE — Any natural or artificial, permanent or intermittent, public or private waterbody or water segment, such as ponds, lakes, reservoirs, rivers, streams, brooks, waterways or natural drainage swales, that is contained within, flows through or borders on the Town of Pawling, except those which are regulated by the NYSDEC.

WETLAND — Any wetland, as that term is defined in Chapter 111 of the Code of the Town of Pawling (Freshwater Wetlands and Watercourse Protection Law of the Town of Pawling).

§ 187-5. Applicability.

A. Neither of the following activities shall be commenced until a permit has been issued under the provisions of this chapter:

- (1) Timber harvesting.
- (2) Commercial cordwood harvesting.
- (3) Clear cutting.

B. The following activities are exempted from permit requirements:

- (1) The selective cutting of trees by a landowner for noncommercial use up to twenty-five (25) cords of wood per land parcel (tax parcel).
- (2) The clearing of homesites, to the extent that the clearing per homesite shall not exceed an area of more than one-half (1/2) of an acre, not including the area for use as a driveway;
- (3) United States Department of Agriculture (USDA) Agricultural Stabilization and Conservation Service cost shared forestry projects or professionally supervised operations under New York State Forest Tax Law § 480-a¹ or similar New York State controlled programs.

§ 187-6. Conflict with other provisions.

Where this chapter imposes greater restrictions than are imposed by the provision of any other law, ordinance, regulation or private agreement, this chapter shall control. Where greater restrictions are imposed by any other law, ordinance, regulation or private agreement than are imposed by this chapter, such greater restrictions shall control.

§ 187-7. Permit applications.

A. Timber harvesting permit application.

- (1) Any person proposing to conduct or causing to be conducted a regulated activity requiring a permit under this law shall file three (3) copies of an application for a

¹ Editor's Note: See § 480-a of the Real Property Tax Law.

permit with the Code Enforcement Officer, together with the filing fee established by resolution of the Town Board. All costs incurred by the town in the review of this application shall be borne by the applicant.

- (2) All permit applications must include the following:
- (a) The name, address and telephone number of the owner.
 - (b) The street address and tax map designation of the property.
 - (c) A statement of authority from the owner for any agent making application.
 - (d) A list of adjacent landowners.
 - (e) A sketch of wetland boundaries and watercourse locations.
 - (f) A description of the proposed timber harvest, including any plans for firewood removal.
 - (g) The estimated number of acres to be harvested and the estimated volume of forest products to be harvested.
 - (h) A general description of the area in which the forest practices are proposed.
 - (i) Maps or supporting documents showing the following:
 - [1] The area in which the proposed forest practices are to occur;
 - [2] The boundaries of the applicant's land; and
 - [3] Proposed and existing access roads, skid roads and yarding areas which are planned to be utilized, if any.
 - (j) The estimated time for start-up and completion.
 - (k) A reclamation plan for the site.
 - (l) Proof of insurance.
- B. Single application required. Where an application has been made to the Code Enforcement Officer for an action that is subsequently determined to require a permit pursuant to this chapter, a copy of the said application may be submitted as the permit application.
- C. Additional information. Where deemed appropriate and necessary, the applicant may be required to submit more detailed information and/or plans for the proposed site alterations.
- D. Fees for technical review. In the event that an application requires the town to incur additional expenses for technical assistance in the review of an application, the applicant shall pay the reasonable expenses incurred by the town. The applicant shall be notified of the expenses and shall deposit said necessary funds prior to the cost being incurred.
- E. Review of applications. The Code Enforcement Officer shall refer all applications and related plan materials to the Environmental Director within five (5) business days of receipt. The Environmental Director may conduct such site inspections as deemed necessary in order to evaluate the application. The review of all applications by the Environmental Director shall involve a two-step process. First, within fourteen (14) days

of receipt, the Environmental Director shall determine the following and submit a written report to the Code Enforcement Officer:

- (1) What additional information is required in order to process the application.
- (2) Completeness of the application. If the application is incomplete, the specific information necessary to make the application complete shall be identified.
- (3) A recommendation on whether referrals should be made to the Town Engineer, the Conservation Advisory Board, and/or the DCSWCD.
 - (a) If the Environmental Director's report finds that the application is incomplete, within five (5) business days of the receipt of this report, the Code Enforcement Officer shall notify the applicant, in writing, of the information which must be filed to make the application complete. Upon the receipt of this subsequent information, the Code Enforcement Officer shall make the same referrals as specified in this section.
 - (b) If the Environmental Director's report finds that the application is complete, within five (5) business days of the receipt of this report, the Code Enforcement Officer shall refer the complete application and supporting documents and all referral letters to the Planning Board for its review and action.
 - (c) If the Environmental Director does not file a report on the application within the required time period, the application shall be deemed complete, and the Code Enforcement Officer shall process the application as provided in this section.
 - (d) Once the Environmental Director deems an application complete, a detailed review of the permit application will then be performed. As Step 2, the Environmental Director shall make a report to the Code Enforcement Officer and Planning Board within thirty (30) days of receipt of the application and supporting materials from the Code Enforcement Officer. The report from the Environmental Director shall address, at a minimum, the following matters:
 - [1] A recommendation of approval, disapproval or approval with conditions of the application, based upon an evaluation of the site to be harvested.
 - [2] A recommendation on whether any waivers permitted under § 187-7G should be granted by the Planning Board.

F. Duties of the Planning Board.

- (1) During its review of the application, the Planning Board shall:
 - (a) Review the complete application in order to determine whether the requirements of this chapter have been satisfied and ensure that applicable State Environmental Quality Review Act (SEQRA) regulations are met.
 - (b) Approve, approve with conditions or deny applications, in accordance with this chapter. Such decision shall be filed in the Office of the Planning Board, with the Code Enforcement Officer and with the Town Clerk. Pursuant to an application approval, a permit will be issued by the Code Enforcement Officer.

- (c) Establish the amount of a performance bond or other security as a condition of approval, the amount of such bond or other security to be approved by the Town Board, in accordance with procedures contained in Chapter 39 of the Town Code. No more than one (1) performance bond shall need to be posted in order to fulfill these requirements pursuant to both chapters.
 - (2) The Planning Board shall have the right to delegate any or all of the above-mentioned duties to the Code Enforcement Officer. If the Code Enforcement Officer is so delegated, he or she is subsequently responsible for all applicable written reports related to a particular delegated duty. In addition, the Code Enforcement Officer shall provide a monthly written status report to the Planning Board on any applications so delegated.
- G. Waiver of requirements.
- (1) Should the Planning Board determine, after review of said application and upon recommendation of the Environmental Director, that an action proposed for a regulated area is insignificant, the Planning Board shall have the power to:
 - (a) Waive any information requirements contained in § 187-7A and C of this chapter.
 - (b) Waive referrals to outside agencies.
 - (c) Waive the requirement for a performance bond or other security.
 - (d) Suspend the permitting process for the action and authorize the immediate issuance of the permit.
 - (2) Where the Planning Board finds that any waivers are appropriate, it shall set forth its decision and reasons therefor in writing and file the same with the Code Enforcement Officer, the Conservation Advisory Board (CAB), the office of the Planning Board and the Town Clerk.
- H. Inactive applications. Applications must be diligently pursued by the applicant. Should any application before the Planning Board remain inactive for six (6) months while awaiting receipt of information as requested by either the Code Enforcement Officer or the Planning Board, the application shall be considered abandoned. The Planning Board may consider the granting of no more than one six-month extension for the submittal of the requested information and only upon the written request of the applicant if, in its opinion, particular circumstances warrant it. The declaration of an application as abandoned shall not prevent the submission of a subsequent new application, including fees, which shall be considered without reference to the prior application.

§ 187-8. Administration of permit applications.

- A. Time to act. Within sixty (60) days of the date of receipt of a complete application from the Code Enforcement Officer, the Planning Board must approve, approve with conditions or deny applications, in accordance with this chapter.
- B. Permit decisions.

- (1) In granting, denying or conditioning any permit, the Planning Board shall consider the following:
 - (a) Any reports from other commissions and/or federal, county, state or town agencies;
 - (b) Additional requested information by the Planning Board;
 - (c) All relevant facts and circumstances, including but not limited to the following:
 - [1] The environmental impact of the proposed action;
 - [2] The alternatives to the proposed action;
 - [3] Irreversible and irretrievable commitments of resources that would be involved in the proposed activity;
 - [4] The character and degree of injury to or interference with safety and/or health or the reasonable use of property that is caused or threatened;
 - [5] The suitability or unsuitability of such activity to the area for which it is proposed; and
 - [6] The availability of further technical improvements or safeguards that could feasibly be added to the plan or action.
- (2) Prior to granting any permit under this chapter, the Town Planning Board shall find and determine that the requested permit is in harmony with the purpose and standards set forth in this chapter.

C. Permit conditions.

- (1) Every permit issued pursuant to this chapter shall contain the following general conditions:
 - (a) The Planning Board, Code Enforcement Officer and/or Environmental Director have the right to inspect the project at any reasonable time, including weekends and holidays.
 - (b) The permit holder shall notify the Code Enforcement Officer of the date on which project construction is to begin at least five (5) days in advance of such date.
 - (c) The permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit.
 - (d) The boundaries of the project shall be clearly staked or marked.
 - (e) All permits shall be valid for a period not exceeding one (1) year, unless otherwise indicated, but shall expire upon completion of the acts specified.
- (2) Any permit issued pursuant to this chapter may also be issued with specific conditions, beyond those listed above. Such conditions may be attached as are necessary in order to assure the preservation and protection of affected freshwater

wetlands and to assure compliance with the policy and provisions of this law and the provisions of the Planning Board's rules and regulations.

- D. Permit renewal. Upon written request of the applicant, the Code Enforcement Officer may renew a permit for a period of one (1) year, if authorized by the Planning Board. The fee for a permit renewal will be determined by resolution of the Town Board.

§ 187-9. Permit standards.

- A. All applications for timber harvesting permits shall demonstrate compliance with the performance standards for timber harvesting set forth below or with the standards and specifications contained in the manual entitled "Best Management Practices for Silviculture," published by the Dutchess County Soil and Water Conservation District, January 1990, and on file in the Planning Board Office. Alternatively, an applicant may provide a plan certified by a registered forester to be at least as protective of the public health, safety and welfare as the standards set forth herein.
- B. In granting a permit under this chapter, the standards and considerations taken into account shall include, at a minimum, the following:
- (1) Stream crossings. Every effort shall be made to protect the integrity and quality of all continuously flowing streams. For maximum stream protection, the following practices shall be adhered to:
 - (a) Obtain Stream Protection Permit, as required by the NYSDEC under Article 15 of the ECL, whenever a protected stream must be crossed. A copy of the permit(s) shall be submitted to the Code Enforcement Officer prior to any crossing of a protected stream.
 - (b) Cross all streams by the most direct route. Choose crossing sites that have low, stable banks, a firm stream bottom and gentle slopes along the approaches. Avoid crossing at bends or pools. Cross at a few carefully chosen places rather than any place that seems convenient.
 - (c) Use temporary culverts, bridges or other erosion control devices where stream bottoms or banks would otherwise be damaged, and remove structures after use.
 - (d) Never skid logs or conduct any other logging activities through any stream with running water.
 - (2) Harvesting timber adjacent to streams or water bodies.
 - (a) For slopes up to ten percent (10%), keep skidders back at least fifty (50) feet from the stream bank and winch off any logs that lie closer to the bank in order to prevent soil disturbance which could start erosion. For slopes over ten percent (10%), keep skidders back at least one hundred (100) feet, except when doing so will cause greater erosion problems.
 - (b) Directionally fell trees so that the tops land away from streams.
 - (c) Remove any logging debris that gets into a flowing stream so that stream flow is not affected.

- (d) Leave a fifty-foot-wide buffer strip along both sides of flowing streams, ponds and marshes in order to keep the water shaded and to prevent thermal stress by direct exposure to sunlight.
- (3) Truck roads and skid trails.
- (a) Whenever possible, the utilization of old or existing roads which have proven generally stable and have established drainage patterns should be given preference over new road construction. Except for general road location, modification and improvement of such existing roads may be necessary in order to meet the general and specific requirements set forth in this section. If modification is necessary, such modification may require a permit.
 - (b) Whenever possible, main truck and skid trails should be located on benches or ridges to minimize erosion and should avoid wet and poorly drained spots.
 - (c) Keep roads back from public rights-of-way, streams, ponds or marshes at least one hundred (100) feet on slopes less than twenty-five percent (25%) and at least one hundred fifty (150) feet on steeper slopes.
 - (d) Winch logs off steep slopes where possible. Minimize the number of skid trails and the amount of skidder traffic on steep slopes.
 - (e) Provide ways to divert running water off roads and primary skid trails by using water bars, broad-based dips, outsloping, culverts or other drainage devices as needed to prevent erosion. Drainage devices should divert water into the woods and not directly into streams.
 - (f) After harvesting, roads and primary skid trails should be regraded and water diversion devices installed as necessary to stabilize the road system and prevent erosion and sedimentation.
- (4) Landings.
- (a) Ideally, landings should be located on gently sloping ground that will provide good drainage. Low spots and poorly drained places should be avoided.
 - (b) No landing should be closer than two hundred (200) feet to any stream, watercourse or wetland.
 - (c) If a landing area is required to be near a public road or property boundary, locate landings behind a hill, bank or land form that hides them from the road, or set landings back in the woods as far as practical. In order to make a landing less visible from the road, lay out the landing so that the long axis lies perpendicular to the public road. Build access roads to a landing curved, and keep the entrance to the road as narrow as possible. Remove all trash, such as lunch wrappers, oil cans, Styrofoam or plastic containers and miscellaneous junk during and after the harvest.
 - (d) After the harvest is completed, landings should be smoothed so that they are free of ruts and seeded if necessary in order to reestablish cover. Water diversion devices should be installed where necessary in order to prevent erosion and

sedimentation. Roadside ditches shall be cleaned and regraded as necessary in order to restore them to their condition prior to harvest.

(5) Visual impacts.

- (a) Where logging operations occur along public roads or near property boundaries and are not screened by topography, maintain a one-hundred-foot buffer strip along public roads. Keep at least fifty (50) square feet of basal area in residual trees, including some trees over twelve (12) inches in diameter breast height (DBH), where present. Directionally fell standing trees within the buffer strip so the tops land away from the road.
- (b) Pull down hung-up or partly fallen trees.
- (c) Park skidders back in the woods and off the highway right-of-way.
- (d) Keep stumps low, that is, no higher on the uphill side than the diameter of the tree at the cut.
- (e) Keep all logging debris out of the ditches and back one hundred (100) feet from the right-of-way of public roads.

§ 187-10. Performance guaranty.

- A. After the approval of the application and before the issuance of any permit, the applicant shall file with the Town Clerk one (1) of the following performance guaranties:
 - (1) A certified check in an amount satisfactory to the Environmental Director.
 - (2) A performance bond which shall be satisfactory to the Town Attorney as to form, amount, sufficiency, manner of execution, surety and period of execution.
 - (3) An irrevocable letter of credit from a bank approved by the Town Board and Town Attorney.
- B. The party or parties filing the performance guaranties shall provide that, either upon termination of the permit or the operation, whichever may come first, the project shall be in conformity with both the approved specific requirements of the permit and the provisions of this chapter. In the event of default of such and violation of any other applicable laws, such performance guaranty shall be forfeited to the town. The town shall return to the applicant any amount that is not needed to cover the costs of restoration, administration and any other expenses incurred by the town as a result of the applicant's default. Such performance guaranty shall continue in full force and effect until a certificate of compliance shall have been issued by the Code Enforcement Officer after such consultation with any agencies or individuals as he or she deems necessary to insure that all provisions of this chapter and of the permit have been met.

§ 187-11. Waiver of requirements; appeals.

- A. Where practical difficulties, unnecessary hardships and results inconsistent with the general purpose of this chapter or planning provisions thereof are encountered, waiver of requirements may be granted by the Planning Board.
- B. If the Planning Board has delegated its authority to act on a permit application to the Code Enforcement Officer in accordance with § 187-7F of this chapter, any applicant aggrieved by a decision of the Code Enforcement Officer may appeal said decision to the Planning Board or, alternatively, may appeal said decision to the Zoning Board of Appeals in accordance with § 267 of the Town Law.

§ 187-12. Inspections.

- A. General procedure. The Planning Board, Code Enforcement Officer and/or the Environmental Director may enter upon the lands or waters for the purpose of inspections to determine compliance with this chapter and/or for the purpose of undertaking any investigations, examinations, surveys or other activities necessary for the purposes of this chapter. When at all possible, the landowner shall be notified prior to field investigation.
- B. Inspection fee. Where the Planning Board deems inspections to be necessary, an applicant shall be required to pay an inspection fee in an amount set forth in a fee schedule established by resolution of the Town Board.²
- C. Notification. The applicant shall notify the Code Enforcement Officer when reaching stages of the activity as may be required in the permit. No activity requiring inspection will be approved without such notification. Advance notice of at least two (2) working days shall be given whenever possible.

§ 187-13. Penalties for offenses.

- A. Stop-work orders. The Code Enforcement Officer may issue a stop-work order when he or she finds that the permittee is in violation of the provisions of applicable laws, ordinances and/or regulations, has not complied with any term of such permit issued pursuant to this chapter, has exceeded the authority granted in the permit or has failed to undertake or complete the project in the manner set forth in the permit. A stop-work order shall be issued by notifying the permittee performing the work to suspend all work. Any person served with a stop-work order shall forthwith suspend all activity until the stop-work order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which work may be resumed and shall be served upon the person to whom it is directed either by delivering it to the individual personally or by posting the same upon a conspicuous portion of the area and sending a copy of the same, by registered or certified United States mail, return receipt requested, to the permittee at the address shown on the permit or approval. The Code Enforcement Officer shall immediately notify the Environmental Director and the Planning Board when a stop-work order has been issued.

² Editor's Note: Specific fee amounts are on file and available for inspection in the office of the Town Clerk.

The Town Engineer and Environmental Director must inspect and approve corrective actions prior to any lifting of a stop-work order issued.

- B. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including any infraction of a condition of a permit issued pursuant to this chapter, shall constitute a violation. Any person, firm, partnership, corporation or other party who violates any provision of this chapter shall, upon conviction thereof, be punishable by a fine of no less than fifty dollars (\$50.) nor more than three hundred fifty dollars (\$350.) or by a term of imprisonment of not more than fifteen (15) days, or both. The imposition of any such penalty for the violation of this chapter shall not excuse such violation nor permit the continuance thereof. The application of the above penalty or penalties for a violation of the provisions of this chapter shall not be held to prevent the removal of conditions prohibited by this chapter by such legal means as may be proper.
- C. In addition to the foregoing, if there is any damage due to violation of this chapter or if any soil, liquid or other material is caused to be deposited upon or to roll, flow or wash upon any public property, private property or right-of-way in violation of this chapter, the person, firm, partnership, corporation or other party responsible shall be notified and shall cause the same to be removed from such property or way within thirty-six (36) hours of notice. In the event of an immediate danger to the public health or safety, notice shall be given by the most expeditious means; the violation may then be remedied by the town. The cost of such remedy by the town shall be paid to the town by the party who failed to so remedy.
- D. Every day that a violation of any of the provisions of this chapter occurs shall constitute a separate violation of this chapter.

§ 187-14. Compliance with other standards.

All development and improvement allowed by right or allowed by permit shall also conform to all rules and regulations contained in the Code of the Town of Pawling and all other applicable laws and regulations.

