

LOCAL LAW NO. 3 OF THE YEAR 2023

**A LOCAL LAW AMENDING CHAPTER 165 ENTITLED STEEP SLOPES TO THE
CODE OF THE VILLAGE OF BUCHANAN**

Section One: Section 165-1 “Legislative Intent” shall be amended to read as follows:

The way in which presently undeveloped acreage in the Village is developed is of critical importance to the public interest. The standards for lot count contained in Chapter 211 of the Village Code, which exclude environmentally sensitive lands from the acreage upon which lot count is based, are designed to provide for flexibility in the siting of buildings and other facilities so that the disturbance or alteration of steep slope areas and other environmentally sensitive lands can be avoided. Nonetheless, the Village recognizes that disturbance or alteration of steep slope areas may be necessary in some cases involving only moderately steep slopes (grades of between 15% and 30%), and in exceptional cases involving grades of 30% or greater in which compelling circumstances clearly demonstrate the need to disturb steep slopes and adequate protection measures will be provided. The purpose of this chapter is to establish regulations which prevent improper disturbance or alteration of steep slopes. The intent is not to restrict general development in the Village, but to guide land use proposals into areas where they best preserve and enhance these natural resources and preserve and protect the visual and environmental character of the land.

Section Two: Section 165-3 “Definitions” shall be amended to read as follows:

As used in this chapter, the following terms shall have the meanings indicated:

CUSTOMARY LANDSCAPING

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

DISTURBANCE

Excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

EXCAVATION

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

EXCESSIVELY STEEP SLOPES

Steep slopes as defined herein with grades 30% and greater.

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.

HILLTOP

A roughly circular area defined by a radius of 50 feet from the highest point of a hill or rise of land.

MODERATELY STEEP SLOPES

Steep slopes as defined herein with grades equal to or greater than 15% but less than 30%

PLATEAU:

Plateau means a flat or predominantly flat area of land which is raised sharply above adjacent land on at least one side.

RIDGELINE:

Areas 50 feet back from prominent hilltops, ridges, plateaus with a slope of at least 15% and a minimum length of 100 feet as measured along the centerline of the ridge, and other such topographic features that are visible from a public property, roads open to the public or other areas open to or accessible to the public, the development of which may impact scenic views, surface water drainage systems, open space, wildlife corridors, and existing vegetation as determined by the Village

STEEP SLOPES

Ground areas with a slope 15% or greater with a minimum area of 1000 square feet which possesses one dimension of a minimum of 20 feet. Measurements shall be made along a horizontal plane.

Section Three: Section 165-6 “Standards for approval of permit” shall be amended as follows:

H. Disturbance or alteration of areas with steep slopes shall additionally be in conformance with the following provisions:

- (1) The planning, design and development of buildings and site modifications shall provide the maximum in structural safety, slope stability and human enjoyment while adapting the affected site to, and taking advantage of, the best use of the natural terrain and aesthetic character.
- (2) Retaining walls six feet or greater in height shall be considered an accessory structure and shall be subject to the requirements of § 211-19.

(3) The terracing of building sites shall be kept to an absolute minimum. Terraced retaining walls within a horizontal distance equal to half the height of the greater wall shall be considered and measured as a single wall.

(4) Structures are designed to fit into the hillside rather than altering the hillside to fit the structure, employing methods such as reduced footprint design, step down structures, stilt houses, and minimization of grading outside the building footprint.

(11) 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 fill slopes. Generally, such distance shall be considered to be six feet plus 1/2 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 by a NYS licensed professional engineer to retain the slope and withstand the forces exerted on it by the retained slope.

(16) Soil stabilization must be applied within two days of disturbance if the final grade is not expected to be established within 60 days or prior to close of the construction season, whichever occurs first.

I. Burden of proof.

(1) The presumption in all cases shall be that no disturbance or alteration of any steep slope shall be approved by the approval authority. The applicant shall in all cases have the burden of proof of demonstrating, by clear and convincing evidence, that the proposed activity is fully consistent with each of the findings set forth in § 165-2 and that each of the standards for approval set forth in Subsections A through G above have been fully and completely met.

(2) With respect to applications involving proposed disturbance or alteration of any excessively steep slope with a grade of 30% or greater, the applicant shall have the additional burden of demonstrating, full compliance with all sections of this Chapter and standard engineering practices are followed to avoid slope failure, erosion, or adverse impacts to neighboring properties or natural resources. It must be further demonstrated that the proposed disturbance of excessively steep slopes is limited in extent, reasonable and necessary for construction, safe, and consistent with the other provisions of the Village Code.

(3) Not more than 30% of a site's excessively steep slopes should be disturbed. For proposed disturbances in excess of 30% of a site's excessively steep slopes, the applicant shall submit a before and after visual impact analysis and a report prepared by a NYS licensed geotechnical engineer indicating the impacts of the disturbance to the steep slopes and provide a slope stability analysis.

Section Four: Section 165-7 “Permit application procedures” shall be amended as follows:

(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 50 feet (unless otherwise specified by the approval authority). Such plans shall be sealed and show the following:

- (a) The location of the proposed construction or area of disturbance and its relationship to property lines, easements, buildings, roads, walls, sewage disposal systems, wells and wetlands within 100 feet of the proposed construction or area of disturbance for adjacent properties at the same elevation and within 500 feet for properties significantly lower.
- (b) The areas of moderately and excessively steep slopes along with a table listing the area of moderately and excessively steep slopes and the proposed area of disturbance to each slope category.
- (c) Soil boundaries as mapped by the United States Department of Agriculture or professional soils scientist along with a table indicating depth to bedrock, depth to water table, soil slope phase, and soil erodibility K-factor for each soil type.
- (d) The estimated material quantities of excavation/fill.
- (e) The location and size of areas of soils by soil types in the area of proposed disturbance and to a distance of 100 feet.
- (f) The existing and proposed contours [National Geodetic Vertical Datum of 1929 (NGVD 1929), North American Vertical Datum of 1988 (NAVD 88) or equivalent national datum acceptable to the Village Engineer at two-foot intervals in the area of proposed disturbance and to a distance of 100 feet beyond.
- (g) Cross sections of steep slope areas.
- (h) Retaining walls or like constructions, with details of construction.
- (i) The erosion and sedimentation control plan.
- (j) 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.
- (k) A list of all applicable county, state or federal permits which are required for such work or improvements.
- (l) An application fee in the amount set forth in a fee schedule established by the Village Board.

Section Five: Section 165-9 “Security” shall be amended as follows:

In granting a permit, the approval authority shall require security, in an amount and with surety and conditions satisfactory to it, securing to the Village of Buchanan compliance with the conditions and limitations set forth in the permit. The amount of the security shall be as recommended by the Village Engineer based on the estimated cost of construction to stabilize the area of steep slope disturbance at prevailing wage rates and municipal administrative costs.

Section Six: Section 165-10 “Inspection and monitoring” shall be amended as follows:

A. The Building Inspector or his designee shall inspect on behalf of the approval authority activities undertaken pursuant to a permit so as to ensure satisfactory completion. If, upon inspection, it is found that any of the activities have not been undertaken in accordance with the permit, the applicant shall be responsible for completing those activities according to the permit (in addition to being subject to the sanctions set forth in § 165-11). Failure of the Village to carry out such inspections shall not in any way relieve the applicant or its surety of its responsibilities.

B. The Building Inspector or his designee may require that the applicant submit for review and approval by the Village Engineer of the Village of Buchanan a detailed monitoring program, including but not necessarily limited to written status reports at specified intervals documenting activities undertaken pursuant to a permit. Where such a monitoring program has been required, the applicant shall notify the approval authority and the Building Inspector upon reaching stages of the activity as may be required in the permit. No activity requiring inspection shall be approved absent such notification.

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

D. At the completion of the project, an as-built plan and construction certification letter prepared by NYS licensed professional engineer shall be prepared and submitted to the Village Engineer for review and acceptance. For the site to be accepted and any security being held by the Village to be released, the site must be constructed in general conformance with the approved plan and fully stabilized as determined by the Village Engineer.

Section Seven: Section 165-11 “Penalties for offenses” shall be amended as follows:

D. The Village Engineer shall have the power to direct a violator to cease violation of this chapter and, with the consultation of the approval authority, satisfactorily restore the affected area within a specified period of time. The exercise of such power may be with or without the imposition of a fine.

Section Eight: This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

**VILLAGE OF BUCHANAN
RESOLUTION TO ADOPT LOCAL LAW #3
AMENDING CHAPTER 165 ENTITLED STEEP SLOPES TO THE TO THE
CODE OF THE VILLAGE OF BUCHANAN**

Introduced by: _____
Seconded by: _____
Dated: _____

WHEREAS, a resolution was duly adopted by the Board of Trustees of the Village of Buchanan for a public hearing to be held by said Village Board at the Municipal Building, 236 Tate Avenue, Buchanan, to hear all interested parties on a proposed Local Law to amend Chapter 165 entitled “Steep Slopes” to the Code of the Village of Buchanan; and

WHEREAS, notice of said public hearing was duly advertised in the official local newspaper; and

WHEREAS, said public hearing was duly held at a regularly scheduled meeting of the Village Board on July 5, 2023 at 7:30 p.m. at the Municipal Building, 236 Tate Avenue, Buchanan, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof; and

WHEREAS, the Board of Trustees of the Village of Buchanan, after due deliberation, finds it in the best interest of the Village of Buchanan to adopt said Local Law;

NOW BE IT THEREFORE RESOLVED that the Board of Trustees of the Village of Buchanan hereby adopts said Local Law No. 3-2023 amending Chapter 165 of the Code of the Village of Buchanan, a copy of which is attached hereto and made a part of this resolution; and

BE IT FURTHER RESOLVED that the Village Clerk be and hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Village of Buchanan, and to give due notice of the adoption of said local law to the Secretary of State of the State of New York.

Upon Roll Call Vote:

Mayor Theresa Knickerbocker _____

Trustee Anthony Capicotti _____

Trustee Steven Laker _____

Trustee Daniel Stewart _____

Trustee Robert Wheeler _____

Vote: Resolution carried by a vote of ____ to ____.

STATE OF NEW YORK)
COUNTY OF WESTCHESTER)

I, Cynthia Kempter, Village Clerk of the Village of Buchanan, do hereby certify that the above is a true and exact copy of a Resolution adopted by the Village Board of the Village of Buchanan at a meeting of said Board held July 5, 2023.

CYNTHIA KEMPTER, Village Clerk