

LOCAL LAW NO. 1 OF THE YEAR 2000

**A LOCAL LAW TO ADD CHAPTER 108
"REGULATION OF BERMS"
TO THE CODE OF THE VILLAGE OF BROOKVILLE**

Section 1. Add Chapter 108, "Regulation of Berms", as follows:

§108.1. Legislative Findings, Purpose.

The Board of Trustees of the Incorporated Village of Brookville hereby finds and declares:

A. The installation of excessive or improperly placed berms on private property in the Village is detrimental to the public health, comfort, convenience, safety, peace and repose of Village residents.

B. The restrictions and prohibitions contained in this chapter are necessary to protect and preserve the environment and natural contours of land in the Village, the safety of public streets, and the quiet use and enjoyment of private property by Village residents.

§108.2. Definitions.

For the purposes of this chapter, the following terms shall have the meanings ascribed herein:

APPLICANT - The owner, contract vendee or lessee of real property or his duly authorized agent.

BERM - A constructed or man-made deposit of clean fill such as sand, gravel or soil or combination thereof (not asphalt, flyash, concrete, demolition or other debris), that is in excess of two (2) feet above the natural grade and over twenty (20) feet in length.

PERSON - Any individual, firm, partnership, association, corporation, company, public agency, public utility or organization of any kind or agent thereof.

REAL PROPERTY - Includes all unimproved and improved real property within the Incorporated Village of Brookville.

§108.3. Restrictions on Installation.

It shall be unlawful for any person to install, erect, excavate, establish or maintain on any real property in the Village any berm which is not in compliance with this chapter.

§108.4. Administration.

This chapter shall be administered by the Building Inspector of the Village of Brookville.

§108.5. Building Permit Required.

A. Whenever a person shall deem it necessary to erect a berm on any real property within the Village, such person shall first make application for a building permit to the Building Inspector.

B. The application shall be made on such form as may be prescribed by the Building Inspector and shall include, but not be limited to, the following:

- (1) The name and address of the applicant and the owner of the real property.
- (2) Written consent of the owner or owners of the real property, if the applicant is not the owner.
- (3) Location of the property, including a street number and address and tax map designation.
- (4) The purpose of the proposed berm.
- (5) The site of the proposed berm.
- (6) An attached sketch or plan of the area indicating the following:
 - (a) The location and size of the berm to be installed, including height, width and length.
 - (b) The location of any existing and proposed improvements and structures on the real property.
 - (c) The location of the nearest boundary to the proposed berm, including the number of feet therefrom.

- (d) The location of all trees and landscaping within twenty (20) feet of the proposed berm, and the size, types and species thereof.
- (e) The materials of which the berm is to be constructed.
- (f) The proposed vegetation, landscaping or other cover for the proposed berm.
- (g) Any additional information that the Building Inspector may deem necessary for evaluation of the application. Said information includes, but is not limited to, an engineer certified drainage plan and topographical survey, and a report by a certified arborist describing the impact of the berm on area trees and vegetation.

C. The fee schedule for building permits shall apply to this chapter.

D. Upon the completion of the work, the applicant shall obtain a certificate of completion from the building inspector. The building inspector may require a certified survey for such purpose.

§108.6. Standards for Construction.

A. All berms shall be constructed, erected, installed, excavated, established or maintained in conformity with the following standards:

- (1) The material to be used shall be uncontaminated and approved by the Village building inspector.
- (2) The outer edge of the berm shall be at least fifteen (15) feet from the nearest edge of the road surface and must be within the property boundary.
- (3) The slope of the outer surface of the berm shall not exceed an angle of thirty (30) degrees from the natural grade.
- (4) The width of the berm shall be at least four (4) feet at the top.
- (5) The height of a berm shall not exceed four (4) feet above the natural grade.
- (6) Berms shall be constructed only along roadways. A berm shall not be constructed between adjoining private properties.

- (7) Berms shall be landscaped on all visible surfaces with living ground cover and shall be maintained in a neat and clean condition. Such landscaping shall be of a size, type and height approved by the building inspector.
- (8) The Building Inspector may require the installation of drywells or other drainage facilities as he deems necessary.
- (9) Trees retained within a berm shall be protected with wells around them of a type, design and diameter approved by the building inspector.
- (10) The provisions of chapter 197 pertaining to trees shall apply to this chapter.

§108.7. Prohibitions.

- (1) No fence shall be erected atop a berm.
- (2) A berm shall not obstruct vision at an intersection in a manner which would create a safety hazard to motorists or pedestrians.
- (3) A berm shall not create a drainage problem on Village or other municipal or State property, nor onto adjacent or adjoining private property.
- (4) A berm shall not create stagnant water or ponding areas on any real property in the Village, unless a designated drainage reserve area.

§108.8. Existing Berms.

Any berms presently existing in violation of this chapter shall be removed, relocated or altered so as to comply with the provisions herein within six (6) months from the date of this chapter.

§108.9. Variances.

The Zoning Board of Appeals of the Village, after a public hearing, may grant variances from the requirements of this chapter. The standards for area variances in the Village Law shall apply.

§108.10. Penalties.

Any person, firm or corporation found to be in violation of any section of this Chapter shall

be guilty of a violation of the Penal Law and shall be liable to a penalty not exceeding in the case of any one violation Two Hundred Fifty Dollars (\$250.00) or imprisonment not exceeding fifteen (15) days or by both such fine and imprisonment.

Section 2. Severability.

If any section, provision or part thereof in this local law shall be adjudged invalid or unconstitutional by a Court of competent jurisdiction, then such adjudication shall not affect the validity of the local law as a whole or any section, provision or part thereof not so judged invalid or unconstitutional.

Section 3. Effective Date.

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

NOW, THEREFORE, BE IT RESOLVED, that the Board does and hereby determines that pursuant to the criteria in the State Environmental Quality Review Act (SEQRA), the proposed action is not environmentally significant, and

BE IT FURTHER RESOLVED, that the foregoing local law be and is hereby adopted in its entirety.