



Borough of Netcong

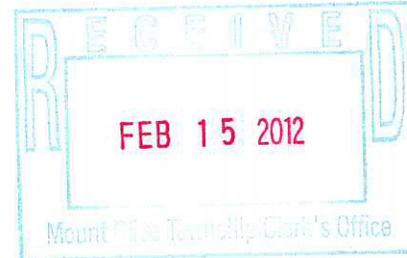
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CC: Adm.
Catherine

February 13, 2012

TO: Borough of Stanhope
Township of Mt. Olive
Township of Roxbury
Borough of Hopatcong



RE: Ordinance #2012-3

The following Ordinance #2012-3 **“AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF NETCONG AND REQUIRING AND REGULATING SOIL EROSION AND SEDIMENT CONTROL”**, was introduced by the Mayor and Council of Netcong on February 9, 2012. A public hearing will be held on March 8, 2012 when said Governing Body will further consider same for second reading and final adoption. The public hearing and final adoption will be held at 7:30 p.m. at the Municipal Building, 23 Maple Avenue, Netcong, N.J.

If you have any comments or questions regarding the above referenced ordinance, please contact me at 973-347-0252 Ext. 105 or email me at boroughclerk@netcong.org.

Sincerely,

Dolores Dalessandro
Borough Clerk

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF NETCONG AND REQUIRING AND REGULATING SOIL EROSION AND SEDIMENT CONTROL

BE IT ORDAINED by the Borough Council of the Borough of Netcong, in the County of Morris and State of New Jersey, as follows:

SECTION 1. The Revised General Ordinances of the Borough of Netcong are hereby amended by the inclusion of new Article XV to Chapter 194 which shall be entitled "Soil Erosion and Sediment Control" and shall read in its entirety as follows:

**ARTICLE XV
SOIL EROSION & SEDIMENT CONTROL**

§194-125. Statutory Authorization

A. This ordinance is adopted pursuant to the provisions of the Soil Erosion and Sediment Control Act, Chapter 251 of the New Jersey Public Laws of 1975, N.J.S.A. 4:24-39 and following.

§194-126. Purpose

A. This Ordinance is intended to promote the public health, safety, convenience, and general welfare of Netcong Borough, including overall water quality, through the protection of environmental resources by preventing floods and controlling soil erosion, sedimentation, and related environmental damage resulting from, but not necessarily limited to, the disturbance of land or earth by construction activities such as those for housing, commercial, utility, highway, public works and other similar developments, as well as from the modification of stream channels and drainage ways and the creation of recreational facilities. This Ordinance shall be known as the Soil Erosion and Sediment Control Ordinance of the Borough of Netcong,

B. The specific purposes of this Ordinance are to require adequate provisions for:

- (1) Protecting land from soil erosion.
- (2) Protecting the water quality and biodiversity of streams and water bodies by preventing sedimentation.
- (3) Preventing danger to life and property from flooding resulting

from excessive runoff and sedimentation of waterways and drainage facilities.

(4) Detaining surface runoff, including both temporary and permanent measures.

(5) Preserving the recreational use of water bodies for swimming and fishing.

(6) Reducing public expenditures for repair and maintenance of public facilities resulting from flooding, soil erosion and sedimentation.

(7) Conserving the taxable value of property by preserving the environmental character of the Borough.

(8) Ensuring that adequate inspection and enforcement procedures are followed.

§194-127. APPLICABILITY

This ordinance shall be applicable for any development project which includes land disturbance and is not subject to soil erosion and sediment control approval from the Morris County Soil Conservation District. The provisions in this ordinance shall also be applicable to the new construction of single and multi-family dwelling units, as well as all building additions.

§194-128. DEFINITIONS

A. Certain words and phrases are used in this article for which the purposes are defined as follows.

Applicant - a person requesting the issuance of a land disturbance permit

Application - a submission meeting the requirements of a complete application, as hereinafter defined

Approved Plan - a plan, as hereinafter defined, which has been reviewed and approved by the proper Borough authority

Certification - a written and signed statement by the Borough engineer that specific construction and/or land treatment measures required by a Plan, as hereinafter defined, have been performed in accordance with all of the terms and conditions therefore and in accordance with State standards, as hereinafter defined, and the provisions of this ordinance

Clearing - any activity which removes all of the vegetative ground cover

Complete Application - the submission to the Borough of each of the following:

- a. An application form completed and executed by the applicant
- b. A Plan, as hereinafter defined
- c. All required accompanying documents
- d. The appropriate review, escrow and inspection fees

Conditional use - a land use permitted under the Zoning Ordinance of Borough of Netcong, but only upon the issuance of an authorization therefore by the Borough Land Use Board.

Construction permit - a permit issued for a building or structure in accordance with the State Uniform Construction Code Act and Regulations. \

Critical area - an area which has a high potential for erosion, sedimentation or related environmental damage, or an area which has experienced such damage

Cut - a portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface

Detention pond or basin - a pond, basin or other structure or measure that provides for temporary storage of storm water and which includes a spillway or other facility to release the water at a controlled rate of flow

Diversion - a channel with or without a supporting ridge on the lower side constructed across or at the bottom of a slope

Embankment - a man-made deposit of soil, rock or other materials

Erosion - the detachment, wearing away or movement of soil or rock fragments by the action of water, wind, ice or gravity

Excavation - any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated and shall include the conditions resulting from such action.

Existing grade - the vertical location of the existing ground surface prior to excavation, cutting or filling

Farm conservation plan - a plan developed in accordance with the Morris County Soil Conservation District which provides for use of land, within its capabilities and treatment, within practical limits, according to chosen use to prevent further deterioration of soil and water resources

Fill - a man-made deposit of soil, rock or other materials

Finished grade - the final grade or elevation of the ground surface conforming to a proposed design

Government agency - any department, commission, independent agency or instrumentality of the United States or of the State of New Jersey, and any County or other governmental unit

Grading - any stripping, cutting, filling or stockpiling, or any combination thereof, this term including the land in its cut or filled condition.

Land - any ground, soil or earth including marshes, swamps, drainage ways and areas not permanently covered by water.

Land disturbance - Any activity involving the clearing, cutting, excavation, grading, filling, storing, transporting of land or any other activity which causes land to be exposed to the danger of erosion, or compaction of soil which degrades soil so as to make it less conducive to vegetative stabilization.

Land disturbance permit - a permit issued pursuant to the provisions of this ordinance authorizing land disturbance subject to the terms and conditions of the permit

Morris County Soil Conservation District - a governmental subdivision of this State, which encompasses Netcong Borough, organized in accordance with the provisions of N.J.S.A. 4:24-1

Mulching - the application of plant or other suitable materials on the soil surface to conserve moisture, hold soil in place and aid in establishing plant cover

Multi-family dwelling unit - any building containing two or more dwelling units per building and being designed for occupancy of families living independently of one another

Natural ground surface - the existing surface of land prior to any land disturbance

Natural drainage - channels formed in the existing surface topography of the earth prior to changes made by unnatural causes

Permit - see land disturbance permit

Plan - see Soil Erosion, Sediment Control and Flood Prevention Plan

Planned development- any planned development that may be permitted under the provisions of the Zoning Ordinance of Borough of Netcong

Project - Any activity, undertaking, construction or work of any nature which involves land disturbance. The term includes but is not limited to the improvement or development of land pursuant to any conditional use, construction permit, planned development, site plan, subdivision or zoning variance

Retention pond or basin - a facility designed to retain stormwater runoff on a development site

Sediment - soil material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by erosion **Sediment basin** - a pond, basin or other structure or measure that provides for the detention of water and the deposit of sediment

Single-family dwelling unit - a detached building designed and occupied by a single family

Site - a lot, tract or parcel of land or a combination of contiguous lots, tracts or parcels of land

Slope - the degree of deviation of a surface from the horizontal usually expressed in percent or degree

Soil - all unconsolidated mineral and organic material of whatever origin which overlies bedrock and which can be readily excavated

Soil Erosion, Sediment Control and Flood Prevention Plan - a plan (referred to in this ordinance by the term "Plan") which indicates construction and/or land treatment measures, including a schedule of the timing for their performance, to effectively prevent floods and minimize soil erosion and sedimentation, and which specifies the soil restoration measures. Every Plan shall meet or exceed State standards as hereinafter defined

Soils engineer - a professional engineer who is qualified by education, training and experience to practice applied soil mechanics and foundation engineering

Soil restoration measures –those measures taken to ensure, to the maximum extent possible, cost-effective restoration to the optimal physical, chemical, and biological functions for specific soil types and the intended land use.

Standards - State standards

State standards - standards for soil erosion and sediment control in New Jersey as promulgated by the State Soil Conservation Committee

Stripping - any activity which removes or significantly disturbs vegetated or otherwise stabilized soil surface, including clearing and grubbing operations

Temporary protection - stabilization of erosion or sediment-producing areas of land

Vegetative protection - stabilization of erosive or sediment-producing areas of land by covering the soil with one (1) or more of the following: permanent seeding or permanent plantings producing long-term vegetative cover; short-term seeding or short-term plantings producing temporary vegetative cover; and sodding, producing areas covered with a turf or perennial sod-forming grass

For the purposes of this ordinance the word "shall" indicates a mandatory requirement, and the word "may" indicates a permissive action

§194-129. LAND DISTURBANCE PERMIT REQUIRED

No person within Netcong Borough shall undertake or commence any project, as defined in this ordinance, except a project which is exempt under the provisions herein without first having obtained either a Soil Erosion or Sediment Control Permit from the Morris County Soil Conservation District or a Land Disturbance Permit from the Borough of Netcong.

§194-130. ACTIVITIES EXEMPT FROM PERMIT REQUIREMENTS

A. The following projects are exempt from the provisions of this ordinance:

(1) Land disturbance in accordance with a farm conservation plan.

(2) The planting and harvesting of crops, plants, flowers or shrubs in fields or devoted to such use prior to the adoption of this

ordinance.

(3) Road and road shoulder maintenance work performed by the Netcong Borough Department of Public Works.

(4) Land disturbance of an area less than one thousand (1,000) square feet or removing, relocating or adding less than 20 cubic yards of material on a lot provided that the subject property is not located along a lake or river waterfront.

(5) Projects which are required to obtain Soil Erosion and Sediment Control Approval from the Morris County Soil Conservation District.

§194-131. APPLICATIONS FOR LAND DISTURBANCE PERMITS

A. Jurisdiction over Applications

All applications for land disturbance permits shall be reviewed and acted upon by the Borough Engineer.

B. Application Forms

An applicant shall obtain application forms from the Borough.

C. Plans to Accompany Application

Every application for a land disturbance permit shall be accompanied by a Plan prepared by a license professional engineer meeting the requirements set forth in this section.

(1) The Plan or plans will show both temporary and permanent measures to be employed to control, minimize and protect against soil erosion, sedimentation and flooding from a proposed land disturbance, taking into account the particular nature and characteristics of the land, the surrounding area, the watercourses, the land disturbance and the development involved.

(2) Appropriate construction details shall be included.

(3) The Plan or plans shall cover all stages and aspects of the proposed land disturbance and planned development from grading, stripping, excavation and other site preparation through and including both finished grade and the installation of permanent improvements. It shall accordingly include a timing schedule or schedules indicating both:

(a) The anticipated starting and completion dates of each step in the land disturbance and development sequence and the time of exposure of each land area prior to the completion of effective erosion and sediment control measures

(b) The sequence of installation of planned erosion and sediment control measures as related to the disturbance and development sequence referred to in paragraph a above, including anticipated starting and completion dates of such installations.

C. General Requirements

(1) It shall be the responsibility of the applicant to design the project so as to maintain as nearly as possible in its present state and condition any stream, watercourse, swale, floodplain, wetland, swamp, pond or lake.

(2) The maintenance or repair of any of the above or of drainage facilities damaged or otherwise adversely affected by reason of the applicant's project shall be the responsibility of the applicant. Such maintenance or repair work shall be performed within 72 hours of notification by the municipality.

(3) It shall be the responsibility of the applicant to remove sediment from any stream or watercourse, pond, lake, or drainage facility resulting from the applicant's project. Any sediment removal shall be removed within 72 hours of notification by the municipality.

(4) No person shall block, impede the flow of, alter or construct any structure or deposit any material or commit any act which will affect normal or flood flow in any stream or watercourse without having obtained a land disturbance permit or where required, prior approval from the Morris County Soil Conservation District.

(5) An objective of the Plan shall be to retain sediment on the site to the maximum extent feasible.

(6) Soil Erosion and Sediment Control Measures - Soil erosion and sediment control measures shall as a minimum utilize and meet standards for soil erosion and sediment control in New Jersey as promulgated by the State Soil Conservation Committee. In addition, to the extent applicable in particular situations, the following measures or considerations shall be incorporated in the Plan:

(a) The smallest practicable area of land shall be

disturbed at any one time during development and the duration of such disturbance shall be kept to a practical minimum.

(b) Whenever feasible, natural vegetation and the natural ground surface shall be retained and protected. The top layer of soil for a depth of 12 inches of any disturbed areas shall be stockpiled and stabilized for retention on the premises and shall be re-spread over the premises when the rest of the soil has been removed.

(c) Temporary vegetative protection, plant cover or mulching, or a combination thereof, shall be used to protect against erosion of disturbed areas during development.

(d) Diversions and outlets, both temporary and permanent, shall be constructed or installed to accommodate the runoff caused by the changed soil and surface conditions during and after development.

(e) Disturbed soil shall be stabilized as quickly as practicable. In no case shall any disturbed soil be left unstabilized for more than 72 hours from the time of notification by the municipality.

(f) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped and removed by the use of debris basins, sediments basins, desilting basins, silt traps or other acceptable methods.

(g) Adequate provisions shall be made to minimize surface water from damaging slopes and embankments. Diversions may be utilized for this purpose.

(h) Fill shall be placed and stabilized so as to minimize erosion.

(i) During grading operations, approved methods for dust control shall be exercised.

(j) During grading, excavation and other construction activities, slopes and embankments shall be stabilized by mulching with straw sprayed with a liquid mulch binder, or jute matting staked in position, or a seeding of annual rye grass, or a combination of the foregoing, or other acceptable method.

(k) Permanent (final) vegetative protection, plant cover, lawn or ground cover, and mechanical erosion control devices and measures shall be installed or constructed and completed as soon as practicable.

(l) Permanent improvements, such as pavement, catch basins, curbs and the like, shall be installed or constructed and completed as soon as practicable. Fees to Accompany Application

D. Fees to Accompany Application

(1) Review Fee to Accompany Application - Every applicant for a land disturbance permit shall pay a review fee to the Borough at the time of filing the application. The review fee shall be based upon a fee schedule as adopted and updated annually by the governing body. However, if the application is made in connection with an application for the development of land pursuant to the Land Development Ordinance of Netcong Borough, then no separate application fee shall be required for the land disturbance permit as the application will be processed as a part of the land development application.

(2) Escrow Fee to Accompany Application - An escrow fee shall accompany every application for a land disturbance permit at the time of filing an application to Netcong Borough. The appropriate escrow fee shall be based upon a fee as adopted and updated annually by the governing body. No building permit will be issued unless the appropriate escrow fee has been submitted to the Borough. The escrow fee will be used to pay for plan review and inspections by the Borough or its engineer. If additional inspections are required, the escrow account shall be increased to cover the cost of additional inspections. However, if the application is made in connection with an application for the development of land pursuant to the Land Development Ordinance of Netcong Borough, then no separate escrow fee shall be required for the site as the application will be processed as a part of the application for the development.

(3) No plans submitted to Netcong Borough shall be approved unless all appropriate application and escrow fees have been paid by the applicant.

E. Application Procedure

(1) A complete application for a land disturbance permit shall

be filed with the Borough.

(2) The applicant shall file two copies of the application form accompanied by four copies of the Plan and any other required documents.

§194-132. ACTION ON APPLICATIONS

A. Review of Applications

(1) Applications for land disturbance permits within the jurisdiction of the Land Use Board shall be reviewed by the Land Use Board and the Borough engineer. The Borough engineer shall furnish comments on the application to the Land Use Board during the course of the Land Use Board Hearing. Review of the Land Use board and Borough engineer does not relieve the applicant from obtaining a Soil Erosion and Sediment Control Permit from the Morris County Soil Conservation District if the project requires same.

(2) Applications which do not require Land Use Board approval shall be reviewed by the Borough Engineer.

(3) The purpose of every review shall be to determine whether or not the application, Plan and any other accompanying documents meet the standards for soil erosion and sediment control in New Jersey as promulgated by the State Soil Conservation Committee and any other standards established by this ordinance.

B. Approval of Applications

(1) An application within the jurisdiction of the Land Use Board shall be approved by the Land Use Board if upon review the Board determines that the application meets the standards referred to in this ordinance. An application within the jurisdiction of the Borough engineer shall be approved by the Borough engineer if upon review it is determined that the application meets such standards.

(2) In the event that an application does not meet the standards referred to in this ordinance, the Land Use Board or the Borough engineer, as the case may be, may approve the application subject to the imposition of terms and conditions which will provide for compliance with such standards. Any such terms and conditions shall be endorsed upon or attached to the application before approval is granted.

(3) All terms and conditions imposed by the Land Use Board or Borough Engineer, as the case may be, shall become a part of the

approved Plan for all purposes of the provisions of this ordinance.

(4) If an application is disapproved, the reason for disapproval shall be endorsed upon or attached to the application.

(5) As soon as any application has been reviewed and acted upon the Borough shall promptly notify the applicant in writing of the action taken by the Land Use Board or Borough engineer, as the case may be, indicating whether the application was approved as submitted, approved subject to attached conditions, or denied for reasons stated.

C. Time Limitations

(1) The Borough engineer, as the case may be, shall approve or disapprove the application for a land disturbance permit within a period of thirty (30) days after the submission of a complete application to the Borough, unless by mutual agreement in writing between the applicant and the reviewing authority the period of thirty (30) days is extended for an additional period of thirty (30) days.

(2) For purposes of this subsection, a major revision by the applicant of the Plan accompanying the application shall constitute a new submission of an application by the applicant.

§194-133. PERFORMANCE OF WORK

A. General

(1) A person to whom a land disturbance permit has been issued shall be responsible for the performance of all work in strict conformity with the approved Plan and all terms and conditions of the approval, including the time schedule for exposure of land areas and for the construction and installation of improvements or the taking of other measures to prevent soil erosion, sedimentation and flooding.

B. Inspections by the Borough Engineer

(1) The Borough engineer shall inspect every project for which a land disturbance permit has been issued. The Borough engineer shall be responsible for enforcing compliance with the permit and the provisions and requirements of this ordinance.

(2) To assist in making inspections, a copy of the land disturbance permit to which is attached a complete copy of the application with the accompanying Plan and other documents as well as any terms and conditions imposed by the approving authority shall be kept at the site at all

times during construction.

(3) Generally, inspections shall be conducted at the following times:

(a) Prior to any construction or measures, in order to check details of location and field conditions.

(b) Intermittently during construction and vegetative protection measures.

(c) After completion of all construction and establishment of vegetation.

(d) At other times as may be necessary because of unsatisfactory conditions.

(4) The Borough Engineer shall bring to the attention of the person to whom a land disturbance permit has been issued, or to his agent in charge of work at the site, any deviations from the approved Plan and any other violations of this ordinance in order that such deviations and violations may be immediately corrected.

C. Stop Work Orders

When circumstances warrant such action, the Borough Engineer may issue a stop work order to a person to whom a land disturbance permit has been issued or to his agent in charge of work at the site. Thereupon, until all deviations from the approved Plan and any other violations of this ordinance have been corrected, no work shall be carried on at the site except such work as is necessary to effect such correction. If such deviations and violations are not promptly corrected, the Borough engineer shall bring the matter to the attention of the Borough administrator for appropriate action by the Borough.

D. Minor Modifications

When deemed necessary or appropriate by reason of conditions arising in the field during the course of the performance of work, the Borough engineer may order or approve amendments, changes or modifications of a minor nature in an approved plan.

E. Approval of Completion

(1) When the Borough engineer finds that all construction or installation work and all measures required under an approved Plan have

been fully performed in accordance with all the terms and conditions thereof, the Borough engineer shall approve the completed soil erosion and sedimentation control measures.

(2) No Certificate of Occupancy shall be issued for any building or structure which is part of a project for which a land disturbance permit has been issued until the aforementioned approval has been issued by the Borough Engineer.

§194-134. APPEALS

Any person who claims to be aggrieved by any decision or action of the Land Use Board or Borough Engineer in the administration of the provisions of this ordinance may appeal to the governing body. The procedure followed with respect to such appeal shall be as set forth in Section 8 of the Municipal Land Use Law, N.J.S.A. 40:55D-17.

§194-135. PENALTIES AND INJUNCTIVE RELIEF

A. If any person violates any of the provisions of this ordinance, any of the standards for soil erosion and sediment control in New Jersey as promulgated by the State Soil Conservation Committee, or any standard established by this ordinance, or if any person fails to comply with the provisions of an approved Plan, or any terms or conditions imposed by the Borough authority approving such Plan, the Borough may institute a civil action in the Superior Court of New Jersey for injunctive relief to prohibit and prevent such violation or violations and the court may proceed in a summary manner.

B. Any person who violates any of the provisions of this ordinance, any of the standards for soil and sediment control in New Jersey as promulgated by the State Soil Conservation Committee, or any standard established by this ordinance, and any person who fails to comply with the provisions of an approved Plan, or any terms or conditions imposed by the Borough authority approving such Plan shall be liable to a penalty of not less than 500 dollars nor more than \$1,000 dollars to be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S. 2.A., 58-1 and following). The Superior Court, County Court, County District Court and Borough Court shall have jurisdiction to enforce the Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional separate and distinct offense.

SECTION 2. This ordinance may be renumbered for codification purposes.

SECTION 3. All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in such conflict or inconsistent.

SECTION 4. In the event that any section, part or provision of this ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

SECTION 5. This ordinance shall take effect after passage and publication as soon as practicable and in the manner provided by law.

NOTICE IS HEREBY GIVEN, that the foregoing Ordinance was introduced in writing at a meeting of the Borough Council of the Borough of Netcong, County of Morris and State of New Jersey, held on the 9th day of February , 2012 introduced and read by title and passed on the first reading and that the said Governing Body will further consider the same for second reading and final passage thereon at a meeting to be held on the 8th day of March, 2012 at 7:30 p.m., prevailing time, at the Municipal Building in said Borough, at which time and place a public hearing will be held thereon by the Governing Body and all persons and citizens in interest shall have an opportunity to be heard concerning same.

INTRODUCED: February 9, 2012

ADOPTED:

Attest:

Dolores Dalessandro, Borough Clerk

EFFECTIVE DATE: