

**DRAFT**  
**Based on Land Design Recommendation #6**

(Shoreline erosion)

**INCORPORATED VILLAGE OF OLD FIELD  
BOARD OF TRUSTEES**

**PROPOSED LOCAL LAW NO. 3 OF 2009 ADDING A  
CHAPTER TO THE CODE OF THE VILLAGE OF OLD  
FIELD AS IT RELATES TO EROSION PROTECTION  
STRUCTURES LAW OF THE VILLAGE**

Be it hereby enacted by the Board of Trustees of the Incorporated Village of Old Field as follows:

**Section 1. Legislative intent.**

Erosion protection structures, if improperly designed or constructed, may be ineffective or even harmful to neighboring waterfront properties. They are to be encouraged only where they are likely to minimize or prevent damage or destruction to public or private property, to natural protective features and other natural resources. The purpose of this Article is to set forth the basic requirements for the construction of useful and successful erosion protection structures and the standards which must be met by such construction in the Village of Old Field.

**Section 2. Title.**

This Chapter shall be known as the "Erosion Protection Structures Law of the Village of Old Field."

**Section 3. Definitions.**

The following definitions apply to the terms used in this Article:

EROSION - The loss or displacement of land along the coastline from the action of currents, waves, tides, wind-driven water, waterborne ice or other impacts of storms. "Erosion" also means the loss or displacement of land from the action of wind, runoff or surface water or groundwater seepage.

EROSION PROTECTION STRUCTURE - A structure specifically designed to reduce or prevent erosion, such as a groin, jetty, seawall, revetment, bulkhead, breakwater or project for artificial beach nourishment.

MODIFICATION - A change of any kind in size or design.

RECONSTRUCTION - The rebuilding of an erosion protection structure, the cost of which equals or exceeds 50% of the estimated full replacement cost of the structure.

#### **Section 4. Standards and restrictions.**

The following requirements apply to all erosion protection structures constructed, reconstructed or modified:

A. All erosion protection structures must be designed and built according to generally accepted engineering principles which have demonstrated success or, in cases in which sufficient data is not currently available, show a reasonable likelihood of controlling long-term erosion. The proposed protective measures must have a reasonable probability of controlling erosion at the immediate site for a least 30 years.

B. A long-term maintenance program must be provided which includes specifications for normal maintenance of degradable materials and periodic replacement of removable materials.

C. Any bulkheading required which is adjacent to wetlands shall be located upland of the high marsh wetland boundary. Bulkheads and other erosion protection structures may not block the surface or subsurface flow of freshwater to the wetland. The yearly highest tide level shall be the minimum bulkhead location upland of a wetland.

#### **Section 5. Permits and approvals.**

The following Village procedures must be followed in connection with the construction, reconstruction or modification of erosion protection structures:

A. Building Permit. A design plan must be provided, with engineering data to indicate reasonable likelihood of success in long-term erosion control for a minimum of 30 years, which must be approved by the Village Engineer before the Building Inspector may issue a building permit.

B. The submitted plan must include a long-term maintenance program, including specifications for normal maintenance of degradable materials and periodic replacement

of removable materials. This program must also be approved by the Village Engineer prior to the issuance of a building permit.

C. Because any erosion control structure may induce changes in natural coastal processes, such as shifts in tidal activity, silting or patterns of currents, and may have an impact upon wildlife habitats, the construction or modification of any such structure shall be regarded as a Type I action under the New York State Environmental Quality Review Act (“SEQRA”).

D. The submitted erosion protection structure plan must be approved by the Environmental Conservation Board of the Village, which shall not issue an approval until a written evaluation has been made of available nonstructural erosion protection measures at the site.

E. Because nonstructural erosion management measures are to be preferred wherever practical, approval by the Environmental Conservation Board is dependent upon demonstration of the impracticability of such measures and that the mitigation of adverse impacts connected with the erecting of an erosion protection structure is provided to the greatest practicable extent.

## **Section 6.     Violations and penalties for offenses.**

As the damage to private and public properties adjacent to an improperly designed or constructed erosion protection structure is potentially great, the fines and penalties of this chapter shall be as follows:

A. Any person who violates any provision of this chapter shall be guilty of a violation pursuant to the Penal Law, punishable by a fine of not less than \$1,000 nor more than \$5,000. For each subsequent offense, the violator shall be guilty of a misdemeanor punishable by a fine of not more than \$5,000 or a term of imprisonment of not less than 15 days nor more than six months, or both.

B. Any person who violates any provision of this chapter may be liable for a civil penalty not to exceed \$3,000 for every such violation. Before the civil penalty is imposed, the alleged violator shall be afforded an opportunity to be heard before the approving authority upon due notice. He shall have the right to know the specific charges against him and to be represented by counsel.

- C. In lieu of or in addition to these punishments, any offender may be punished by being ordered to restore the affected land to its condition prior to the offense. Any such order shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the approving authority.
  
- D. Each offense shall be a separate and distinct offense and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.
  
- E. In addition to the foregoing provisions the Board of Trustees shall have the right, to seek equitable relief to restrain any violation or threatened violation of any provision of this chapter.
  
- F. Any violation of a permit or a letter of permission or a condition made part of a permit or a letter of permission shall be deemed a violation of this chapter.

**Section 7. Severability.**

If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which judgment should have been rendered.

**Section 8. Effective date.**

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

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