

DEPARTMENT OF ENGINEERING SERVICES
DIVISION OF BUILDING & HOUSING
INFORMATION BULLETIN

Subject: **COASTAL EROSION MANAGEMENT REGULATIONS**

- I. Coastal Erosion Management [“CEM”] Permit
 - A. Properties that are designated, or “flagged,” as part of the Coastal Erosion Hazard Area are subject to the Coastal Erosion Management Regulation [“CEMR”], Local Law 7- 1989 (enacted 11/14/1989) and 6 NYCRR Part 505 (as amended March, 1988).
 - B. A CEM permit is not required for an “unregulated activity:”
 - An elevated walkway or stairway solely for the property owner’s personal use; A BUILDING PERMIT IS REQUIRED FOR A STAIRWAY TO COMPLY WITH THE RESIDENTIAL CODE OF NEW YORK STATE
 - Seasonal floats (i.e., removed each fall) less than 200 square feet; and
 - Normal beach grooming, planting vegetation and sand fencing.
 - C. A CEM Permit is required for a “regulated activity;”
 - Construction, modification, restoration or placement of a structure;
 - A major addition – an increase of 25% or more in the ground area coverage;
 - an no-major addition (and see Section II regarding a variance);
 - Grading and excavation; and
 - A seawall or similar “erosion protection structure.”
 - D. Regulated Areas: There are five areas defined as follows:
 - Beach – from the mean low water line to a dune or bluff; or if none, than “100 feet landward from a marked change in material or physiographic form or from the line of permanent vegetation;”
 - Bluff – A “bank or cliff with a precipitous or steeply sloped face adjoining a beach or body of water.” The landward limit is 25 feet from the receding edge of the bluff.
 - Dune - a ridge or hill composed primarily of sand;
 - Near-shore – Lands under water from the mean low water line seaward to a depth of 15 feet or 1,000 feet from the mean low water line, whichever is greater; and
 - Structural Hazard – Having shorelines receding at a rate of a foot a year.
 - E. Produce:
 1. The CEM Permit will be part of a Building Permit.
 2. File a building permit application with a site plan and construction plans.

3. Include a CEM Application and separate fee of \$ 100.00
4. The CEM Application shall include:
 - a. The type of Regulated Area;
 - b. The dimensions and gross floor area (“ground area coverage”) or the existing structures not included in a prior CEM Permit;
 - c. The dimensions and gross floor area of structures or additions built with a prior CEM Permit;
 - d. The dimensions and gross floor area of the proposed work (in the case of a seawall, the length, overall height [from footing to top-of –wall] and overall width [from exposed face to maximum lateral support]; and
 - e. A short environmental assessment form [“EAF”].
5. Note that a “structure” includes the building as well as a shed, deck, pool, garage, mobile home, road, tanks, docks, piers, wharf, groins, jetties, seawalls, breakwaters and revetment [CEMR§ 1, DEFINITION;6 NYCRR § 505.2(00)]
6. If a variance is not required, then the building permit will include the phrase “Coastal Erosion Management Permit” (or abbreviate as required).

II. Variance

- A. The Town Board acts as the Coastal Erosion Hazard Board of Review.
- B. In **the bluff, dune, and structural hazard areas**, a variance is required for:
 - **A major additions:**
- C. In the beach and near-shore areas, a variance is required for:
 - **All Development except** (see 6NYCRR § 505.8(b)):
 - A non-major addition;
 - Restoration of existing structures not damaged by coastal flooding and erosion;
 - An “erosion protection structure,”
- C. Procedure:
 1. Local Law 7 – 1989 requires a written request for a variance with a \$50.00 fee to be filed with the Town Clerk within 30 days “of the adverse decision.”
 2. If a denial letter is required, it will be prepared and signed by a Plans Examiner.
 3. No form has been prepared for a variance request. But, CEMR § 4.2 states, “any request must specify how the variance meets the criteria in Section 4.1.” Further, CEMR 4.6© states that “all appeals must” refer to the specific provision, the alleged

error, the correct interpretation, and the relief claimed. **Section 4.1 is set out in its entirety at the end.**

4. The better practice is found in 6 NYCRR § 505.13(C) which provides that the building permit application may be considered as a request for a variance.
5. Building & Housing personnel will prepare a sponsor's memorandum and resolution for the Town Board to schedule a public hearing and will mail a conformed copy with the hearing date to the applicant and file one with the application.

THERE IS NO REQUIREMENT IN THE LOCAL LAW FOR MAILING A NOTICE OF THE PUBLIC HEARING

6. At the public hearing, the "burden of demonstrating that the requested variance meets those criteria rests entirely with the applicant" [CEMR § 4.2; 6 NYCRR § 505.13 (b)].
7. When Building & Housing personnel are advised of the Board's decision, the appropriate resolution will be prepared for the next available Town Board. After the resolution is voted upon, conformed copies will be mailed to the applicant and filed with the application. If the variance is granted and all other requirements have been met, then the building permit will include the phrase "Pursuant to a Coastal Erosion Variance TB Resolution [#]" (or abbreviated as required).
8. CEMR Section 4.1 – Variances from Standards and Restriction.
[6NYCRR § 505.13(a)]
Strict application of the standards and restrictions of this local law may cause practical difficulty or unnecessary hardship. When this can be shown, such standards and restrictions may be varied or modified provided that the following criteria are met:
 - a. No reasonable, prudent, alternative site is available.
 - b. All responsible means and measures to mitigate adverse impacts on natural systems and their functions and values have been incorporated into the activity's design at the property owner's expense.
 - c. The development will be reasonably safe from flood and erosion damage.
 - d. The variance requested is the minimum necessary to overcome the practical difficulty or hardship which was the basis for the requested variance.
 - e. Where public funds are utilized, the public benefit must clearly outweigh the long-term adverse effects.