

TOWN OF LANSING

LOCAL LAW NUMBER 6 OF 2009 STORMWATER AND EROSION CONTROL

The Town Board of The Town of Lansing, New York, pursuant to a Resolution dated May 20, 2009, does hereby adopt and enact a Local Law as follows:

Article 1. General Provisions

A. Definitions: The following terms (and the singular and plural variations thereof) have the following meanings when used in this Local Law:

Agricultural Activity - the pre-existing activities and Building(s) of an active farm or ranch. Agricultural Activity includes grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but does not include the operation of a dude ranch (or similar operation) or the construction of any new Buildings associated with an Agricultural Activity.

Applicant - a property owner or Developer, or agent or representative of a property owner or Developer, who has filed an application in relation to a Land Development Activity or an application under or related to this Local Law.

Building - any structure, either temporary or permanent, having a roof and designed for the shelter or use of any person, animal, property, or agricultural and/or business operation, and containing or sheltering 100 square feet or more of surface area.

Channel - a natural or artificial watercourse with a definite bed and bank(s) that conducts continuously or periodically flowing water.

Clearing - any activity, including but not limited to grubbing, wasting, and razing that removes pre-existing vegetative surface cover and/or related root structures from a Parcel.

Construction Materials - construction and construction related materials and waste materials, including construction chemicals.

Dedication - the deliberate appropriation of, and/or transfer of rights in or to, a Parcel or a portion of a Parcel by its owner to the Town for an improvement district or for general public use or welfare.

Department or "DEC" - the New York State Department of Environmental Conservation.

Design Manual - the current or most recent version of the New York State Stormwater Design Manual, including applicable updates, which herein serves as the official guide for Stormwater Control principles, methods, and practices.

Design Storm - an engineering specification that applies to the Stormwater Runoff potential of a meteorological event, such as a “ten-year storm,” or a “hundred-year storm,” which may precipitate a specific and measurable quantity of water in either a liquid or solid state upon a Parcel during a specified length of time.

Developer - any person or entity that undertakes a Land Development Activity.

EPA - The United States Environmental Protection Agency.

Erosion - a process, usually environmental in origin and/or effect, caused and contributed to by the elements and Stormwater Runoff and Sedimentation.

Erosion Control Manual - the most recent or current version of the New York Standards and Specifications for Erosion and Sediment Control manual, commonly known as the “Blue Book”.

Erosion Control Facility - a Sedimentation Containment Facility, a Stormwater Control Facility, or any combination thereof that is installed within or in association with any Land Development Activity.

Grading - excavation and/or fill of rock, soil, or other material(s), including the resulting conditions thereof.

Impaired Water - Water whose purity has been diminished by pollution and/or Sedimentation, including waters and Surface Waters upon the DEC Section 303(d) List.

Impervious Cover - any surface, improvement, structure and/or Building that prevents or substantially reduces Infiltration or any soil’s ability to effectively infiltrate Stormwater and/or that otherwise acts to increase Stormwater Runoff or other water accumulating conditions.

Industrial Stormwater Permit - a New York State Pollutant Discharge Elimination System (“SPDES”) permit issued to a commercial industry or group of industries that regulates the pollutant levels associated with industrial stormwater discharges or that specifies on-site pollution control facilities or on-site pollution control strategies.

Infiltration - the process by which Stormwater or other water percolates into soil or subsoil.

Jurisdictional Wetland - an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as “hydrophytic vegetation.”

Land Development Activity - any construction or other activity, including but not limited to Clearing, Grading, excavating, soil disturbance, or the placement of fill or construction or placement of Site Impervious Surfaces that results in land disturbance of: (i) equal to or greater than one acre; or (ii) less than one acre, but part of a larger common plan of development or sale, even though multiple, separate and distinct Land Development Activities may be Phased or occur upon the land at different times and/or upon separate schedules; or (iii) less than one acre, but part of a prior project not previously subject to this Local Law.

Landowner - the legal or beneficial owner of one or more Parcels, including those persons or companies who hold the right to purchase or lease or develop a Parcel, or any other person or company who holds proprietary rights in a Parcel.

Maintenance Agreement - a legally recordable document that acts as a property deed restriction and which provides for the long-term maintenance of Stormwater Management Practices, whether through covenants, obligations, promises, easements, rights-of-way, or otherwise.

Nonpoint Source Pollution - pollution that originates from any source other than from any specific, discernible, confined, and/or distinct source. Nonpoint Source Pollution includes, but is not limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal, and industrial and urban surface and subsurface water runoff sources.

Operator - each person or entity that owns, leases, develops, or engages in construction activities upon any property or Parcel upon which any Land Development Activity occurs.

Parcel - a distinct tract, lot, portion, or piece of land upon which an Applicant, Developer, Landowner, Operator, or other person or entity conducts or proposes to conduct a Land Development Activity.

Phasing - the Clearing of a Parcel in distinct pieces or parts, with the stabilization of each piece or part completed before the Clearing of the next piece or part.

Planning Board - the Planning Board of the Town of Lansing, New York.

Point Source Pollution - a specific, discernible, confined, and/or distinct Land Development Activity or other land use that generates concentrations of liquids or solids, including but not limited to organic and inorganic chemicals, hydrocarbons, trace metals, heavy metals, metal deposits, Construction Materials, hazardous materials, toxicants, bio-masses, carcasses, tires, discards, waste, by-products, litter and other pollutants recognized and/or regulated by the EPA and/or the DEC.

Pollutant of Concern - Erosion, Sediment, and/or pollution that is generated by a Land Development Activity and discharged into any Surface Waters.

Recharge - the replenishment of water reserves, either above or under the ground.

Sediment - any chemical, mineral, metal, rock, soil and/or compound, or mixture thereof, that has been exposed and/or eroded and that is subject to transport from one location to another by means of water, ice, wind, gravity or other naturally occurring means.

Sedimentation - the process by which Sediment is transported from one location to another by means of water, ice, wind, gravity or other naturally occurring means.

Sedimentation Containment - a practice, methodology, measure, act, design, or any combination thereof, that reduces or prevents Sedimentation.

Sediment Containment Facility - a physical application of Sedimentation Containment that reduces or prevents Sedimentation. A Sedimentation Containment Facility may include, but is not limited to, a building, a facility, a planting, a control, a device, whether structural or nonstructural, or any combination thereof. A Sedimentation Containment Facility may be utilized and/or built in conjunction with a Stormwater Runoff Facility, an Erosion Control Facility, or a Stormwater Control Facility, and may be a part or component of any thereof.

Sensitive Areas - any fisheries, shellfish beds, swimming beaches, groundwater recharge areas, Wetlands, water supply reservoirs and/or other habitats for wildlife or any threatened, endangered, or special concern species.

Site Impervious Cover - any and all Impervious Cover that is built, attached, or deposited upon a Parcel.

SPDES - an acronym for "State Pollutant Discharge Elimination System".

SPDES General Permit for Construction Activities GP-02-01 ("SPDES GP-02-01") - A SPDES permit that acts to regulate an Applicant's, Developer's, Landowner's, or Operator's Land Development Activity.

SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02 ("SPDES GP-02-02") - A permit issued under SPDES to municipalities that acts to regulate discharges from municipal separate stormwater sewer systems in order to comply with EPA water quality standards and/or to specify Stormwater control standards in the State.

Stabilization - a physical and tangible effort made in order to stabilize soil and vegetation upon a Parcel that acts to reduce or prevent Erosion, Sedimentation or Stormwater Runoff.

State - the State of New York

Stop Work Order - any order issued that requires that most or all construction and Land Development Activities occurring upon a Parcel cease and be stopped.

Stormwater - rainwater, surface runoff, snowmelt, icemelt, drainage, and related naturally occurring surface water and accumulation(s).

Stormwater Control - a practice, methodology, measure, act, design or any combination thereof that reduces or prevents Stormwater Runoff.

Stormwater Control Facility - a physical application of Stormwater Control that reduces or prevents Stormwater Runoff, and which may include, but is not limited to, a building, a facility, a planting, a control, a device, whether structural or nonstructural, or any combination thereof. A Stormwater Control Facility may be utilized and/or built in conjunction with any other Stormwater Management Practice and may be a part or element thereof.

Stormwater Hotspot - any Land Development Activity or land use activity that generates higher Sedimentation or higher concentrations of hydrocarbons, trace metals, or toxicants than are found in typical Stormwater Runoff, based upon monitoring studies.

Stormwater Management Officer or SMO - an employee, agent, or officer appointed by the Town to (i) accept, review, and forward Stormwater Pollution Prevention Plans ("SWPPP") to the Town; and (ii) inspect Stormwater Management Practices within the Town; and (iii) to interpret and enforce the provisions and requirements of this Local Law.

Stormwater Management Practice - any Erosion Control Facility, Stormwater Control Facility, Stormwater Control, Sedimentation Containment Facility, Watercourses, Waterways, Surface Waters, Channels, ditches, drains, culverts, ponds, retaining facilities, plantings, berms, swales, pipes, and other structures and appurtenances build, used, or intended to be utilized to protect and/or control Stormwater, Stormwater Hotspots, Sediment, Sedimentation, Erosion, Stormwater Runoff, Infiltration, Recharges, Sensitive Areas, Point Source Pollution, Nonpoint Source Pollution, Pollutants of Concern, Impaired Waters, Stabilization, Surface Waters, Channels, Waterways, and Watercourses, including, but not limited to, buildings, facilities, plantings, controls, protocols, designs, practices, methodologies, measures, acts, and devices, whether structural or nonstructural, or any combination thereof.

Stormwater Pollution Prevention Plan ("SWPPP") - a plan for controlling Sedimentation, Erosion, pollutants, and Stormwater Runoff from a Parcel during and following Land Development Activities.

Stormwater Runoff - Stormwater flow and precipitation upon or under the surface of the ground, including above or below ground flow(s) in any Channel, Watercourse, or Waterway.

Surface Waters - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), that are wholly or partially within or bordering the Town, or within or subject to its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons, that may meet the criteria of this definition are not Surface Waters unless they were created in natural Surface Waters or resulted from the impoundment of Surface Waters.

Town - The Town of Lansing, New York.

Town Board - The Town Board of the Town of Lansing.

Watercourse - a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Waterway - a channel that directs surface water or runoff to a Watercourse or to a storm drain.

ZBA - the Zoning Board of Appeals of the Town of Lansing.

B. Findings of Fact: It is hereby determined that:

1. Land Development Activities and increases in Site Impervious Cover within the Town adversely impact the hydrologic responses of the Town's watershed and increase Sedimentation and Erosion rates and volumes, flooding, and stream channel Erosion; and
2. Erosion increases the quantities of water-borne pollutants that adversely impact the environment; such water-borne pollutants include, but are not limited to, the diminution or destruction of the size and/or quality of Sensitive Areas; and
3. Land Development Activity acts to increase Erosion and Sedimentation and contributes to the loss of native vegetation and vegetative diversity necessary and useful for terrestrial and aquatic habitat, such as Sensitive Areas and Wetlands; and
4. Improper design and construction of Erosion Control Facilities acts to increase the rate of Erosion within the Town; and
5. Impervious Covers act to increase Erosion and to decrease the rates of Infiltration, groundwater Recharge, and stream base flow within the Town; and
6. Land Development Activities, Impervious Cover and the improper design, construction and implementation of Erosion Control Facilities, Sediment Containment Facilities, Stormwater Control Facilities, Stormwater Management Practices, act to create economic and ecological losses by adversely impacting the soil and waters of the Town; and
7. Erosion, Sedimentation, Point Source Pollution, and Nonpoint Source Pollution may be partially controlled and minimized through the effective design, construction and implementation of Stormwater Management Practices; and
8. Town regulation of Land Development Activities is in the public interest, will act to minimize adverse impacts upon the environment, will act to promote the public health, welfare and safety, will act to control and minimize increases in Erosion, Sedimentation, Point Source Pollution and Nonpoint Source Pollution, and will protect and enhance valuable Town resources, including, but not limited to Surface Waters and Wetlands; and
9. Town regulation of Land Development Activities by establishing performance and other standards governing Stormwater Management Practices will act to mitigate the adverse effects of Erosion, Sedimentation, Point Source Pollution, and Nonpoint

Source Pollution that may result from Land Development Activities.

C. Purpose: The purpose of this Local Law is to establish minimum Stormwater management requirements and standards, including, as applicable, Land Development Activity and Stormwater Management Practice requirements and standards necessary to minimize potential harm to the environment, to promote public health, welfare, and safety, and to control and minimize the adverse effects associated with Erosion, Sedimentation, unregulated Stormwater, Point Source Pollution, and Nonpoint Source Pollution, and to address the other findings of fact stated above, by achieving the following objectives:

1. Meeting the minimum requirements set by measures 4 and 5 of SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no. GP-02-02, as amended or revised; and
2. Requiring Land Development Activities to conform to the substantive requirements of the SPDES General Permit for Construction Activities GP-02-01, as amended or revised; and
3. Minimizing increases in Stormwater Runoff and Erosion generated by Land Development Activities in order to, among other things, reduce flooding, reduce siltation, reduce increases in stream temperatures, reduce Erosion, and maintain the integrity of stream and other Watercourse and Waterway channels and Channels and Surface Waters; and
4. Minimizing increases in water pollution caused by Stormwater Runoff and Erosion generated by Land Development Activities in order to preserve local water quality; and
5. Minimizing the total annual volume of Stormwater Runoff and Erosion that is generated by Parcels during and following Land Development Activities; and
6. Reducing Erosion, Sedimentation, Point Source Pollution and Nonpoint Source Pollution, wherever possible, through Stormwater Management Practices; and to ensure that the Stormwater Management Practices within the Town are properly maintained on a perpetual basis and eliminate threats to public safety; and
7. To maintain Salmon Creek and its tributaries as a natural fishery and as natural breeding/spawning areas, as well as to protect Cayuga Lake from excessive turbidity from Sediments, including, but not limited to, phosphorous and other pollutants, whether organic or otherwise.

D. Statutory Authority: In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Town Board has the authority to enact and amend local laws for the purpose of promoting the health, safety, or general welfare of the Town, and to protect and enhance the Town's physical environment. As part of such local laws, the Town Board may appoint municipal officers, employees, or independent contractors to effectuate, administer and enforce such laws.

E. Application: In applying this Local Law, each of the following shall apply:

1. This Local Law shall be applicable to all Land Development Activities.
2. The Town shall designate a SMO, who shall receive and review all proposed SWPPPs and forward such proposed SWPPPs to the applicable municipal board. The SMO may (a) review proposed Land Development Activities and SWPPPs; and (b) upon approval by the Town Board, engage the services of a registered professional or professional engineer to review the proposed Land Development Activities and SWPPPs and related documents at a cost not to exceed the limits set by the Town Board; and (c) accept the certification of licensed professionals that the proposed SWPPP conforms to the requirements of this Local Law; and (d) conduct inspections and undertake other acts and actions as allowed or permitted by this Local Law.
3. All Land Development Activities subject to review and approval by the Planning Board under subdivision, site plan, planned development area, and special permit laws, rules, regulations, and such applications shall be reviewed subject to the standards contained in this Local Law.
4. All Land Development Activities not subject to review by the Planning Board are required to submit SWPPPs to the SMO, who shall approve or reject such SWPPPs according to the requirements of this Local Law.
5. Any Land Development Activity, SWPPP, or other or related plan or proposal that envisions or purports to transfer, sell, assign, or grant to the Town any rights in and to any Parcel, or any interest therein, including but not limited to the dedication of any part of a Parcel, or the granting of rights-of-way or easements therein, shall be subject to the final review and approval of the Town Board.

F. Exemptions: The following activities are exempt from review under this Local Law:

1. Agricultural Activities as defined above.
2. Silvicultural activities, except that landing areas and log haul roads are subject to the requirements of this Local Law as Land Development Activities.
3. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity, or original purpose of pre-existing Buildings and/or any pre-existing Site Impervious Cover attached to or contiguous to such Buildings.
4. Repairs to any Stormwater Control Facility ordered by the SMO.
5. Cemetery graves.
6. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
7. Emergency activities (as determined by the SMO) made in order to protect against immediate threats to life, property, or the environment within the Town.
8. Activities of persons who engage in home gardening by growing flowers, vegetable and other plants primarily for use by those persons and their families.
9. Landscaping and horticultural activities performed in connection with an existing Building.

Article 2. Construction with Zoning, Subdivision, and Site Plan Review Laws, Regulations, and Rules:

A. Definitions: The terms used in this Local Law or in documents prepared or reviewed under this Local Law shall have the meaning as set forth above.

B. Stormwater Pollution Prevention Plans (SWPPPs):

1. **Stormwater Pollution Prevention Plan Requirements:** No application for approval of proposed Land Development Activities, including their related SWPPPs, shall be reviewed by the Town Board or the Planning Board until the SMO receives, reviews, and forwards such proposals to the Town Board or the Planning Board,

which, respectively, shall approve or reject such SWPPPs according to the requirements of this Local Law.

2. Contents of Stormwater Pollution Prevention Plans (SWPPPs).

- a.** Each SWPPP shall contain the following information concerning each and all of any Land Development Activity's Stormwater Management Practices:
- (i) Background information concerning the scope of each Land Development Activity, including the location, type, physical size, estimated cost, duration, and anticipated life-span;
 - (ii) Site maps and construction drawing(s), including a general location map. At a minimum, a site map must show or account for the total site area; all proposed improvements; areas of land disturbance; areas of land that will not be disturbed; areas of pre-existing and proposed vegetative cover; locations of on-site and adjacent off-site Surface Water(s); a delineation of watershed boundaries; areas of wetlands and drainage patterns that could be affected by the Land Development Activity; areas of existing and proposed final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the proposed Stormwater Management Practices and their related discharge(s), if any. Generally, site maps should not be scaled smaller than 1"=100';
 - (iii) A description of the pre-existing soil, vegetative surface cover, and Site Impervious Cover present;
 - (iv) A Land Development Activity phasing plan describing the intended sequence of construction activities, including Phasing, Clearing and Grading, utility and infrastructure installation, and any other activity at the site that results in soil disturbance. No more than 2 acres may be disturbed at any one time unless pursuant to an approved SWPPP;
 - (v) A description of the measures that will be used to minimize, control, prevent and/or dispose of Construction Materials, Sediment, and Point Source Pollution and/or Nonpoint Source Pollution;

- (vi) A description of the types, quantities, sizes and disposal methods concerning Construction Materials expected to be stored on-site, with updates as appropriate, and a description of the measures taken to reduce the release, discharge or effluence of pollutants from the Construction Materials, including but not limited to the construction and/or utilization of temporary or permanent storage facilities to minimize exposure of such Construction Materials to the environment, and to prevent pollution spills and the release, discharge, or effluence, if any, from such Construction Materials, all together with the response measures to be taken by the Developer in the event that any spill, release, discharge, or effluence takes place with respect to the Construction Materials;
- (vii) The temporary and permanent structural and vegetative measures to be used for Stabilization, from initial Clearing to project close-out;
- (viii) A site map/construction drawing(s) specifying the location, size and expected life-span of each Stormwater Management Practice;
- (ix) The dimensions, material specifications, and installation details for each Stormwater Management Practice, including siting and sizing;
- (x) A list of each Stormwater Management Practice that will be converted from temporary to permanent;
- (xi) An implementation schedule, including the timing of initial placement and the duration for staging of each temporary Stormwater Management Practice;
- (xii) A list of the maintenance and operating procedures as well as the schedule necessary to ensure the effective operation of each permanent Stormwater Management Practice;
- (xiii) The name(s) of any Surface Water(s) that will receive Stormwater Runoff and/or Sedimentation;
- (xiv) A Delineation of SWPPP implementation responsibilities for each Phase and each part of the Parcel;

- (xv) A Description of the Stormwater Management Practices built to divert Stormwater Runoff away from exposed soils, to store Erosion flows, or otherwise limit the discharge of Stormwater and pollutants, or to limit the processes of Sedimentation and Erosion; and
 - (xvi) Data that accurately reflects current and projected future Stormwater Runoff and Erosion rates.
3. Land Development Activities that meet any of Conditions A, B, or C below shall also include water quantity and water quality controls (post-construction Stormwater Management Practices) as required by this Local Law:
- a. Condition A - Land Development Activities discharging a Pollutant of Concern to either an Impaired Water or to a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in Stormwater Runoff have been identified as a source causing the condition of the Impaired Waters.
 - b. Condition B - Stormwater Runoff, Erosion, or Sedimentation occurring from Land Development Activities disturbing 5 or more acres.
 - c. Condition C - Land Development Activities disturbing between 1 and 5 acres of land, exclusive of the construction of single-family residences that result in the disturbance of less than 2 acres.
4. SWPPP Requirements Necessary to Meet Conditions A, B and C:
- a. All information required in Article 2, Section (B)(2) above;
 - b. A description of each post-construction Stormwater Management Practice;
 - c. A site map and construction drawing(s) showing the specific location(s) and size(s) of each post-construction Stormwater Management Practice;
 - d. Hydrologic and hydraulic analyses concerning all structural components of the Stormwater Management system necessary to physically control the Erosion, Sedimentation and Stormwater Runoff caused by a Design Storm;

- e. A comparison of post-development Stormwater Runoff conditions with pre-development Stormwater Runoff conditions;
 - f. The dimensions, material specifications, and installation details for each post-construction Stormwater Management Practice;
 - g. A maintenance schedule to ensure continuous and effective operation of each post-construction Stormwater Management Practice;
 - h. The maintenance easements and rights-of-way necessary to ensure access to, and rights to inspect, repair, replace and improve, all Stormwater Management Practices upon the Parcel. Such easements shall be in a recordable form acceptable to the Town and recorded on the plan and upon any approved plat, and shall remain in effect with transfer of title to the Parcel;
 - i. Inspection and maintenance agreement(s) binding on all subsequent Landowners served by the on-site Stormwater Management Practices.
5. **Plan Certification:** The SWPPP shall be prepared by a landscape architect, a licensed professional (such as a Certified Professional in Erosion & Sediment Control - "CPESC"), or a professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all Stormwater Management Practices meet the requirements of this Local Law.
6. **Other Environmental Permits:** The Landowner or Developer shall assure that all applicable environmental permits have been or will be acquired for the Land Development Activity to occur. No final Stormwater Management Practices may be approved without possession of each, any, and all required permits.
7. **Contractor Certification**
- a. Each contractor and subcontractor identified in the SWPPP who will be involved in a Land Development Activity or a the construction or installation of any Stormwater Management Practice shall sign and date a copy of the following certification statement before undertaking any work: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the

attached Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards established by the State of New York, the County of Tompkins, and/or the Town of Lansing.”

b. The above certification must include the name and title of the person executing the certification as well as the signature, address, and telephone number of the contracting firm; the address (or other identifying description) of the Land Development Activity and/or Stormwater Management Practice site; and the date the certification is made.

c. The above certification statement(s) shall become part of the SWPPP.

8. A copy of the SWPPP shall be retained at the site of the Land Development Activity and/or Stormwater Management Practice during construction from the date of initiation of construction activities to the date of final close-out.

C. Performance and Design Criteria for Stormwater Management Practices:
All Land Development Activities shall be subject to the following performance and design criteria:

1. **Technical Standards:** For the purpose of this Local Law, the Design Manual and/or the Erosion Control Manual shall serve as the official guides and specifications for Stormwater Management Practices. Stormwater Management Practices that are designed and constructed in accordance with the Design Manual and/or the Erosion Control Manual may be presumed to meet the standards imposed by this Local Law. Where Stormwater Management Practices are not in accord with technical standards set forth in the Design Manual and/or the Erosion Control Manual, the developer must demonstrate equivalence to technical standards and the SWPPP must be prepared by a licensed professional.

2. **Water Quality Standards:** Land Development Activities shall not cause an increase in turbidity in any Surface Waters that will result in substantial visible contrast to natural conditions in such Surface Waters.

D. Maintenance and Repair of Stormwater Management Practices:

1. **Maintenance During Construction:**

- a. The Owner and/or Developer of a Site or of a Land Development Activity shall at all times properly operate and maintain all Stormwater Management Practices. Sediment shall be removed from Sediment traps or Sediment ponds whenever their design capacity has been reduced by 50%.
- b. For Land Development Activities meeting Condition A, B, or C, the Developer or Applicant shall have a qualified professional conduct site inspections and document the effectiveness of all Stormwater Management Practices every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a log book. Such log book shall be produced and made available for inspection by the SMO upon request.
- c. The Developer or its representative shall be on site at all times when Land Development Activity takes place and shall inspect and document the effectiveness of all Stormwater Management Practices. Inspection reports shall be completed and recorded at least every 7 days, and within 24 hours of any storm event that generates 0.5 inches or more of rain or Stormwater. The reports shall be copied to the site construction log book and delivered to the SMO at any time upon the demand of the SMO. All such reports, logs, and books shall be preserved, protected, and retained for a minimum period of 3 years after final project completion.

2. Maintenance Easement(s) and Rights-of-Way: Prior to the issuance of any approval of any SWPPP or Stormwater Management Practice, the Applicant, Developer, Landowner, Operator, or other person or entity conducting or proposing to conduct a Land Development Activity, shall execute an inspection, repair, upgrade and maintenance easement and right-of-way agreement that shall be binding on all subsequent Landowners served by the Stormwater Management Practices. The easement and right-of-way shall provide for access inspection and maintenance by the Town to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Local Law. This easement and right-of-way shall be recorded by the grantor in the office of the Tompkins County Clerk, after review and approval by the Town Board.

3. Maintenance after Construction: The Developer, Owner, Landowner, or Operator of permanent Stormwater Management Practices shall operate and maintain all facilities and practices to achieve the goals of this Local Law. Proper operation and maintenance includes, but is not limited to, the following:

- a. A preventative/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the Developer, Owner, Landowner, or Operator to meet the requirements and achieve the goals of this Local Law; and
- b. Written procedures for the operation and maintenance of any facilities, together with written procedures for the training of new maintenance personnel; and
- c. Discharges from any Stormwater Management Practices shall not exceed design criteria or cause or contribute to water quality standard violations.

4. Maintenance Agreements: Any Applicant, Operator, Developer, or Landowner must receive the Town Board's approval of a formal maintenance agreement for Stormwater Management Practices that is (1) binding on all subsequent Landowners, and (2) recorded in the office of the County Clerk as a deed restriction on the Parcel, prior to receiving final SWPPP approval. The Town, in lieu of a maintenance agreement and in the Town's sole discretion, may accept the dedication of any existing or future Stormwater Management Practices, or any portion thereof, provided (i) such Stormwater Management Practices, or portions thereof, meet the requirements of this Local Law and include adequate and perpetual access and sufficient area, by easement or otherwise, for inspection, improvement, and regular maintenance, and (ii) the Developer (and/or Applicant, Landowner, or Operator) proposes and the Town accepts a special benefit drainage district for the inspection, maintenance, and, when necessary, expansion, of any facilities.

Article 3. Construction with Subdivision Laws and Regulations:

A. Preliminary Plats: For all Preliminary Subdivision Plats a SWPPP is required. The SWPPP shall meet the performance and design criteria and standards set forth in Article 2 of this Local Law. The approved Preliminary Subdivision Plan shall be consistent with the requirements of this Local Law.

B. Final Plats: For all Final Subdivision Plats a SWPPP shall be required. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this Local Law. The approved Final Subdivision Plat shall be consistent with the requirements of this Local Law.

Article 4. Construction with Site Plan Review Regulations: A SWPPP is required for all Site Plan applications and approvals whenever required by this Local Law. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this

Local Law. The approved Site Plan shall be consistent with the provisions of this Local Law.

Article 5. Prior Laws or Ordinances: Any prior erosion or sediment containment law, ordinance, or regulations of the Town are hereby repealed. This Local Law shall take precedence over any other inconsistent requirement of any local law, ordinance, or regulation of the Town.

Article 6. Administration and Enforcement:

A. Construction Inspection:

1. Stormwater Management Practices Inspection: The SMO may require such inspections as are or may be deemed necessary to determine compliance with this Local Law, and may either approve that portion of the work completed or give notice when the work fails to comply with the requirements of this Local Law and/or the approved SWPPP. To obtain inspections, the Applicant shall notify the SMO at least 48 hours before any of the following:

- a. Start of construction; and
- b. Installation of Sediment and erosion control measures; and
- c. Completion of site clearing; and
- d. Completion of rough grading; and
- e. Completion of final grading; and
- f. Close of the construction season for the Project; and
- g. Completion of final landscaping; and
- h. Successful establishment of landscaping in public areas.

If any violations are found, the Applicant, Developer, Landowner and/or Operator shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted, except for Stabilization, until each, any, and all violations are corrected and all work previously completed has received approval by the SMO.

2. Stormwater Inspections: The SMO is responsible for conducting inspections of all Stormwater Management Practices. All Applicants, Developers, Landowners and/or Operators shall submit to the SMO all "as built" plans for any Stormwater

Management Practices after final construction is completed. The plan must show the final design specifications for all Stormwater Management Practices and must be certified by a professional engineer.

3. **Inspection Programs:** Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notices of possible violations; inspection of drainage basins or areas identified as higher than typical sources of Sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or Sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other Stormwater Management Practice areas, structures and appurtenances. Inspections may be performed by the SMO, or by a qualified professional designated by the Town. All inspections shall be memorialized in writing, and all such writings shall be supplied to the SMO.
4. **Submission of Reports:** The SMO may require monitoring and reporting from entities subject to this Local Law as are or may be necessary to determine compliance with this Local Law.
5. **Right-of-Entry for Inspection:** When any Stormwater Management Practice is installed or implemented upon private property, or when any new connection is made between private property and the public storm water system or any Watercourse, Waterway, or Surface Waters, the Landowner shall grant to the Town an easement and permanent right-of-way in a form as referenced in Article 2, Sections (D)(2) and (D)(4) for the purpose of inspections as specified in Article 6.

B. Performance Guarantee:

1. **Construction Completion Guarantee:** In order to ensure the full and faithful completion of all Land Development Activities in compliance with all terms and conditions set forth in the SWPPP and all requirements of this Local Law, the Town may require the Applicant, Developer, Landowner, and/or Operator to provide,

prior to the commencement of any Clearing, Grading, or construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution that guarantees satisfactory completion of the project and names the Town as the beneficiary. The security shall be in an amount to be determined by the Town Board or the Planning Board based upon submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town Board, provided that (1) such period shall not be less than one year from (i) the date of final completion, or (ii) the date of final acceptance, or (iii) such other final determination or certification that the facilities have been constructed in accordance with the approved plans and specifications, whichever shall last occur, and (2) that a one year inspection has been conducted and the facilities have been found to be acceptable to the Town. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

2. **Maintenance Guarantee:** When Stormwater Management Practices are to be operated and maintained by any Person or entity other than the Town, the Applicant, Developer, Landowner, or Operator may be required to provide the Town with an irrevocable letter of credit from an approved financial institution or surety prior to the commencement of any Clearing, Grading, or construction, to ensure proper operation and maintenance of all Stormwater Management Practices both during and after construction, and until the facilities are removed from operation. If the Applicant, Developer, Landowner, and/or Operator fail(s) to properly operate and maintain Stormwater Management Practices, the Town may draw upon the account to cover the costs of proper operation and maintenance, including engineering, legal, and inspection costs.
3. **Recordkeeping:** The Town may require entities subject to this Local Law to maintain records demonstrating compliance with this Local Law.

C. **Enforcement and Penalties:**

1. **Notice of Violation:** When the SMO determines that a Land Development Activity is not being carried out in accordance with the requirements of this Local Law, the SMO may issue a written notice of violation. Such notice of violation shall be served upon each person or entity to who it is addressed. Delivery of the notice of violation by certified mail shall be deemed sufficient "service" of the notice of violation. The notice of violation shall contain:

- a. The name and address of the Landowner, Developer, Operator, and/or Applicant;
 - b. The address, when available, or a description of the building, structure, or Parcel upon which the violation occurred or is occurring;
 - c. A statement specifying the nature of the violation;
 - d. A description of the remedial measures necessary to bring the Land Development Activity into compliance with this Local Law, and a time schedule for the completion of such remedial action;
 - e. A statement of the penalty or penalties that may be assessed against any person or entity to whom the notice of violation is directed;
 - f. A statement that the determination of violation may be appealed by filing a written notice of appeal within 10 days of service of notice of violation. Such notice of appeal shall be filed with the Town Clerk and shall be directed to the attention of the Town Board.
2. **Stop Work Orders:** The SMO may issue a stop work order for violations of this Local Law. Any person or entity receiving a stop work order shall be required to halt all Clearing, Grading, and construction, except for those activities that address the violations leading to the stop work order and except for Stabilization and such work as may be necessary to mitigate or control Stormwater Runoff and Erosion. The stop work order shall be and remain in effect until the SMO confirms that the Land Development Activity is in compliance and the violation has been satisfactorily addressed.
3. **Violations:** In addition to any other right or remedy allowed by law or in equity, the Town Board may also maintain actions or proceedings in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision or requirement of this Local Law. Any Land Development Activity that is commenced or is conducted contrary to, in violation of, or in non-compliance with this Local Law may be restrained by injunction, or otherwise abated in any manner provided by law.
4. **Penalties & Fines:** All provisions of New York law generally applicable to misdemeanors shall apply to any criminal proceeding

brought under this sub-section, and/except that each and any misdemeanor shall be deemed an unclassified misdemeanor. The following civil and criminal fines and penalties shall apply to any violation of this Local Law:

- a.** First Violation: Any person or entity that violates any of the provisions of this Local Law shall be (1) guilty of an unclassified misdemeanor and subject to a fine of not more than \$1,500.00, or (2) subject to a civil penalty of not more than \$2,500.00 to be recovered by the Town in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each week that such violation, disobedience, omission, neglect or refusal shall continue.
- b.** Second Violation: Any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any other violation of this Local Law shall be deemed a second violation. Any person or entity that commits or permits any second violation upon the same or an adjacent Parcel shall be (1) guilty of an unclassified misdemeanor and subject to a fine of not more than \$5,000.00, or (2) subject to a civil penalty of not more than \$7,500.00 to be recovered by the Town in a civil action. Every such person or entity shall be deemed guilty of a separate unclassified misdemeanor for each week that such violation, disobedience, omission, neglect, or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each week that such violation, disobedience, omission, neglect, or refusal shall continue.
- c.** Third and Subsequent Violations: Any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any second violation of this Local Law shall be deemed a third or subsequent violation, as applicable. Any person or entity who commits or permits a third or subsequent violation upon the same or an adjacent Parcel shall be (1) guilty of an unclassified misdemeanor and subject to a fine not more than \$10,000.00 and a period of incarceration not to exceed 120 days, or (2) subject to a civil penalty of not more than \$15,000.00 to be recovered by the Town of Lansing in a civil action. Every such person or entity shall be deemed guilty of a separate unclassified misdemeanor for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply

and/or be assessable for each week that such violation, disobedience, omission, neglect, or refusal shall continue.

d. Any civil penalty or criminal fine that shall be and remain unpaid for over 180 days shall automatically become a lien against the Parcel, and such lien may be assessed and collected with the next year's taxes due for such Parcel, together with any incurred costs of the Town for inspection, maintenance, repair, and remediation of any Stormwater Management Practices or any violations of this Local Law.

5. **Withholding of Certificate of Occupancy:** If any Building or Land Development Activity is installed or conducted in violation of this Local Law, the SMO may (1) withhold any Certificate of Compliance or Certificate of Occupancy, and/or (2) prevent the occupancy of said building or land.

6. **Restoration of Lands:** Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid. In addition, the Town may commence any one or more civil proceedings in the Town Court, or any other court of competent jurisdiction, to recover the costs of such restoration.

Article 7. Fees for Services: The Town shall require any person or entity undertaking any Land Development Activity regulated by this Local Law to pay reasonable costs at prevailing rates for the review of SWPPPs, inspections, or maintenance performed by the Town, or performed by a third party for the Town, including but not limited to engineers' or attorneys' services and fees. The Town Board may establish, by resolution, a standardized fee schedule for permits and other required reviews, inspections, and reports created, performed, or filed under, in accord with, or in furtherance of this Local Law, which fee schedule shall (i) be limited to such amounts as are reasonably estimated as the administrative and other costs and expenses incurred by the Town in connection with any matter for which a fee is scheduled, and (ii) be reviewed at least once every year by the SMO or the Town Board to assure that the fees remain reasonable in light of the Town's actual and generally incurred costs and expenses.

Article 8. Application Fees: A non-refundable application fee shall be submitted with each SWPPP delivered to the SMO in an amount as the Town Board may, from time to time, establish by resolution.

Article 9. Appeals: Any aggrieved person or entity may, unless expressly stated otherwise in this Local Law, appeal any action or determination of the SMO, the Town Board, or the Planning Board to the ZBA by filing a written statement setting forth the

reasons for such appeal. Such statement must be filed within 10 days of the delivery or filing of any action or determination from which the appeal is taken. Upon receipt of such appeal, the ZBA shall hold a hearing within 30 days and, after a review of all evidence, shall affirm, modify, or annul the appealed from action or determination.

Article 10. Article 78: The actions and determinations of the Town Board, the Planning Board, the ZBA, and the SMO referenced in this Local Law shall be deemed “final determinations” for purposes of Article 78 of the New York Civil Practice Laws and Rules (“CPLR”). Notwithstanding this, standing under said Article 78 of the CPLR shall only be appropriate after the exhaustion of any administrative appeals as provided for in this Local Law.

Article 11. Limitation upon Town Liability and Indemnity: The Town shall not be liable or responsible for any injury to persons or damage to property due to the Town’s actions, or failures to act, under or pursuant to this Local Law, unless it is proven to a reasonable degree of certainty that such injury or damage was solely caused by a willful or intentional act of the Town. All owners and entities working upon or engaged in any Clearing, Grading, excavation, construction, cleanup, remediation, or restoration work shall indemnify and keep and save harmless the Town from and against any and all losses, costs, damages, expenses, judgments, claims, or liabilities of any kind whatsoever which may accrue against or be charged to or recovered from the Town from or by reason of or on account of accidents, injuries, damages, and/or losses to persons or property. This indemnity provision shall be construed and applied to the maximum extent permitted by law. The Town may require that any such person or entity procure liability insurance in a minimum amount of \$1,000,000.00 per incident per person and that the Town be named an additional insured thereunder.

Article 12. SEQRA: An Environmental Assessment Form (“EAF”) shall be completed and submitted with all applications pursuant to the provisions of the State Environmental Quality Review Act and its implementing Regulations at 6 NYCRR Part 617 (together herein, “SEQRA”). If the EAF indicates that the proposed activity may have significant environmental impacts or consequences, the Town Board or Planning Board, as applicable, shall require that a Draft Environmental Impact Statement (“DEIS”) be submitted. The application shall not be considered complete until the DEIS, if one is required, has been accepted by the Town Board or Planning Board, as applicable. When required by law, the Town Board and/or Planning Board shall hold public hearings upon any aspect of environmental review under SEQRA.

Article 13. Waivers: Where the Town Board or Planning Board finds that, due to the special circumstances of a particular case, a waiver of certain requirements is justified, a waiver may be granted. In all cases, no waiver shall be granted unless the Town Board or Planning Board find and record in their minutes that: (1) granting the waiver would be keeping with the intent and spirit of this Local Law and is in the best interests of the community; (2) there is no adverse effect upon the character, appearance, or welfare of the neighborhood and any Watercourses, Watersheds, or Surface Waters; (3) there are special circumstances involved in the particular case; (4) denying the waiver would result in undue hardship, provided that such hardship has not been self-imposed; and (5) the

waiver is the minimum necessary degree of variation from the requirements of this Local Law.

Article 14. Severability: If any clause or provision of this Local Law shall be held invalid or unenforceable by a court or tribunal of competent jurisdiction, such holding shall not affect or invalidate the remainder of this Local Law and any such invalidity or unenforceability shall be confined in its operation to the clause or provision directly involved in the controversy in which such holding shall have been rendered.

Article 15. Effective Date: This Local Law shall be and become immediately effective upon filing.