

# Exhibit 19

## Local Law No.1 of the Year 2008

### Stormwater Management and Sediment and Erosion Control

The Town Board of the Town of North Greenbush (Town) adopted Local Law No. 1 of the Year 2008 (Local Law) at their January 10, 2008 meeting. The Local Law is intended to be a tool for the Town of North Greenbush to meet the Phase II stormwater management requirements of the National Pollutant Discharge Elimination System (NPDES) regulations, administered by New York State through the State Pollutant Discharge Elimination System (SPDES) regulations.

The purpose of the Local Law is to safeguard persons, protect property, and prevent damage to the environment in the Town of North Greenbush, New York. This law will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any land development activity as it relates to erosion and sedimentation control and stormwater management. The purpose of this law is to also require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised.

Based upon a recent audit of the Town's SMWP Plan by the Environmental Protection Agency (EPA) and the New York State Department of Environmental Conservation (DEC), the Town is in the process of updating the Local Law. The Town's Designated Engineer (TDE) conducted a review of the existing Local Law, and while finding it to be substantially similar to the DEC Model Law, did recommend that the Local Law be updated and amended. As such, the Town has worked with the TDE to draft a new local law. Due to limited interaction between review parties and the temporary suspension of Public Hearings, the Town Board has not currently enacted the new law, but expects to be able to do so in early 2021. The existing 2008 Local Law as well as the proposed new local law are included in this Exhibit.

Copies of the 2008 law are available at the Town Clerk's Office, North Greenbush Town Hall, 2 Douglas Street, Wynantskill, New York 12198 and through the Town's website at [townofng.com](http://townofng.com).

## Chapter 165

### STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

#### GENERAL REFERENCES

Sewers and sewage disposal — See Ch. 151.      Water — See Ch. 189.

Storm sewers — See Ch. 152.

Zoning — See Ch. 197.

Subdivision of land — See Ch. 163.

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#### § 165-1. Findings of fact.

It is hereby determined that:

- A. Uncontrolled drainage and runoff associated with land development has a significant impact upon the health, safety and welfare of the community.
- B. Eroded soil endangers water resources by reducing water quality and causing the silting of streams, lakes and other water bodies, adversely affecting aquatic life.
- C. Stormwater runoff and sediment transports pollutants such as heavy metals, hydrocarbons, nutrients and bacteria to water resources, degrading water quality.
- D. Eroded soil necessitates repair and accelerates the maintenance needs of stormwater management facilities.
- E. Clearing, grading and altering natural topography during construction tends to increase erosion.
- F. Improper design and construction of drainage facilities can increase the velocity of runoff, thereby increasing stream bank erosion and sedimentation.
- G. Impervious surfaces increase the volume and rate of stormwater runoff and allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow.
- H. Improperly managed stormwater runoff can increase the incidence of flooding and the severity of floods that occur, endangering property and human life.
- I. Substantial economic losses can result from these adverse impacts.
- J. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of land development activities.

**§ 165-2. Purpose.**

The purpose of this chapter is to safeguard persons, protect property, and prevent damage to the environment in the Town of North Greenbush, New York. This chapter will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any land development activity as it relates to erosion and sedimentation control and stormwater management. This chapter seeks to meet these purposes by achieving the following objectives:

- A. Meet the requirements of minimum control measures four (construction site stormwater runoff control) and five (post-construction stormwater management) of the State Pollution Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02 or as amended or revised.
- B. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised.
- C. Minimize soil erosion and sedimentation impacts on streams, water bodies, and neighboring properties.
- D. Avoid excessive and/or unnecessary tree and vegetation removal.
- E. Minimize windblown soil associated with properties being cleared and graded for development.
- F. Maintain the integrity of watercourses and sustain their hydrologic functions.
- G. Minimize increases in the magnitude and frequency of stormwater runoff to prevent an increase in flood flows and the hazards and costs associated with flooding.
- H. Minimize decreases in groundwater recharge and stream base flow to maintain aquatic life, assimilative capacity, and water supplies.
- I. Facilitate the removal of pollutants in stormwater runoff to perpetuate the natural biological function of water bodies.

**§ 165-3. Applicability; exempt activities.**

- A. Except as otherwise provided herein, no person shall commence or perform any land development activity, as defined herein, without the approval of a stormwater pollution prevention plan (SWPPP) by the Town of North Greenbush Stormwater Management Officer (SMO).
- B. Applicants shall also obtain all other permits required by state, federal, and local laws. Whenever the particular circumstances of proposed land development activity require compliance with special use, site

plan, or subdivision procedures of the Town of North Greenbush, the responsible board shall integrate the requirements prescribed herein as appropriate and request the Town of North Greenbush Stormwater Management Officer (SMO) to determine the adequacy of the SWPPP.

- C. Redevelopment projects, as defined herein, provide an opportunity to reduce pollutant discharges and the rate, the amount and quality of stormwater runoff leaving the redevelopment site. However, the nature of the site, particularly in an urban location, may impose constraints that prevent implementation of full post-construction compliance. Chapter 9 of the New York State Stormwater Management Design Manual sets forth the standards for compliance with water quality and quantity standards and specifications. Consideration shall be given to using alternative stormwater management practices such as rain gardens, pervious pavers, green roofs and other low-impact development techniques to reduce stormwater impacts.
- D. No SWPPP is required for the following exempt activities:
- (1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
  - (2) Agricultural operations conducted as a permitted principal or accessory use, including the construction of structures where the land disturbance is less than one acre.
  - (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 a stormwater management facility.
  - (4) Mining as defined herein.
  - (5) The renovation/replacement of a septic system serving an existing dwelling or structure.
  - (6) Normal lawn and landscaping activities/maintenance.
  - (7) Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.
  - (8) Selective cutting of trees as defined herein, except log haul roads and landing areas are subject to this chapter. (Landing areas are cleared areas to which trees are hauled for their storage before being transferred off site.)
  - (9) Repairs and maintenance of any stormwater management practice or facility.

#### **§ 165-4. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**AGRICULTURE** — The use of land for sound agricultural purposes, including farming, dairy, horse boarding, pasturing, grazing, horticulture, floriculture, viticulture, timber harvesting, animal and poultry husbandry, and those practices necessary for the on-farm production, preparation, and marketing of agricultural commodities. Agriculture does not include dude ranches or similar operations.

**CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC)** — A person who has received training and is certified to review, inspect and/or maintain erosion and sediment control practices.

**COMMENCEMENT OF CONSTRUCTION** — The initial disturbance of soils associated with clearing, grading, or excavating activities, or other construction activities.

**CLEARING** — Any activity that removes the vegetative surface cover.

**DESIGN MANUAL** — The New York State Stormwater Management Design Manual, most recent version, including applicable updates, which serves as the official guide for stormwater management principles, methods and practices.

**EROSION** — The wearing away of the land surface by action of wind, water, gravity, or other natural forces.

**EROSION AND SEDIMENT CONTROL PLAN** — A set of plans prepared by or under the direction of a licensed/certified professional indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

**EROSION CONTROL MANUAL** — The most recent version of the New York Standards and Specifications for Erosion and Sediment Control manual, commonly known as the "Blue Book."

**GRADING** — Excavation of fill, rock, gravel, sand, soil or other natural material, including the resulting conditions therefrom.

**LAND DEVELOPMENT ACTIVITY** — Construction activity including clearing, grading, excavating, soil disturbance, or placement of fill resulting in land disturbance of equal to or greater than one acre. Also includes activities disturbing less than one acre of total land area that are part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**LICENSED/CERTIFIED PROFESSIONAL** — A person currently licensed to practice engineering, or landscape architecture in New York State or who is a certified professional in erosion and sediment control (CPESC).

**MINING** — Any excavation subject to permitting requirements of the State Department of Environmental Conservation under the Mined Land Reclamation Law (Environmental Conservation Law, Article 23, Title 27).

**NOTICE OF INTENT (NOI)** — A permit application prepared and filed by an owner or operator with the Department of Environmental Conservation as an affirmation that a stormwater pollution prevention plan (SWPPP)

has been prepared and will be implemented in compliance with the State Pollution Discharge Elimination System General Permit for Stormwater Runoff for Construction Activity (GP-02-01 or as amended or revised).

**OPERATOR** — The person, persons, or legal entity that owns or leases the property on which the construction activity is occurring.

**PERIMETER CONTROL** — A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

**PHASING** — Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

**PROJECT (MAJOR)** — Any land development activity that disturbs one acre or more, including all commercial, industrial, or mixed-use development, as well as any residential development consisting of buildings that contain two or more dwelling units, or any land development activity not classified as a minor project. The operator of a major project must submit a SWPPP that addresses water quality and quantity controls in addition to erosion and sedimentation controls as per NYSDEC regulations.

**PROJECT (MINOR)** — Any land development activity associated with a permitted agricultural use or single-family residential construction/subdivision that disturbs between one acre and five acres and is not discharging stormwater directly to a water body listed on NYSDEC's Section 303(d) list of impaired water bodies. Snyders Lake is currently the only water body in the Town of North Greenbush that is on this list due to phosphorous levels associated with urban runoff. The operator of a minor project must submit a SWPPP that addresses erosion and sedimentation controls as per NYSDEC regulations.

**REDEVELOPMENT** — Refers to the reconstruction or modification to any existing, previously developed land such as residential, commercial, industrial, institutional, or road or highway that involves soil disturbance.

**SEDIMENT** — Solid material, both mineral and organic, which is in suspension, is being transported, has been deposited, or has been removed from its site of origin.

**SELECTIVE CUTTING** — The cutting of more than 1/2 of the existing living trees measuring six-inch diameter at breast height (DBH) in an area of one acre or more, over a period of two consecutive years.

**SITE** — A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

**SITE DEVELOPMENT PERMIT** — A work permit issued by the Town of North Greenbush Building Department for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

**SLOPES (SEVERE)** — Ground areas with a slope greater than 25% covering a minimum horizontal area of 1/4 acre or 10,890 square feet and a minimum horizontal dimension of 10 feet.

SLOPES (STEEP) — Ground areas with a slope greater than 15% covering a minimum horizontal area of 1/4 acre or 10,890 square feet and a minimum horizontal dimension of 10 feet.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITY, GP-02-01 OR AS AMENDED OR REVISED — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 OR AS AMENDED OR REVISED — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with USEPA-established water quality standards and/or to specify stormwater control standards.

STABILIZATION — Covering or maintaining an existing cover or soil. Cover can be vegetative (e.g., grass, trees, seed and mulch, shrubs, or turf) or nonvegetative (e.g., geotextiles, riprap, or gabions).

STABILIZATION (FINAL) — All soil-disturbing activities at the site have been completed, and a uniform perennial vegetative cover with a density of 80% has been established or equivalent stabilization measures (such as the use of mulches or geotextiles) have been employed on all unpaved areas and areas not covered by permanent structures.

START OF CONSTRUCTION — The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling.

STORMWATER MANAGEMENT OFFICER (SMO) — The Town Engineer and the Building Department Coordinator are designated by the Town of North Greenbush as the SMO and are authorized to enforce this chapter. The SMO is also designated by the Town of North Greenbush to accept and review stormwater pollution prevention plans (SWPPPs) and inspect stormwater management practices.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

SURFACE WATERS OF THE STATE OF NEW YORK — Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York 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), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons that also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water that neither were originally created in waters



of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**WATERCOURSE** — Any body of water, including but not limited to lakes, ponds, rivers, streams, and intermittent streams.

**WATERCOURSE BUFFER** — A horizontal distance 50 feet away from and parallel to the high water level of a watercourse.

**WETLANDS** — Those areas that are inundated or saturated by surface water or groundwater at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include those areas determined to be wetlands by the U.S. Army Corps of Engineers and the New York State Department of Environmental Conservation.

**§ 165-5. Review and approval of stormwater pollution prevention plans.**

No application for a land development activity shall be approved until the Town of North Greenbush Planning Board and/or Town of North Greenbush Building Department has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications contained herein and approved by the designated Town Engineer, or designated agent.

- A. For land development activity not subject to special permit, site plan, or subdivision requirements, the designated Town Engineer, or designated agent, shall review the SWPPP to determine its completeness and conformance with the provisions herein.
- B. Within 30 days of receipt of a SWPPP, or 60 business days if the SWPPP identifies practices or designs that deviate from the prescribed standards established by this chapter, the designated Town Engineer, or designated agent, shall make a determination as to whether the SWPPP is complete. If the SWPPP is deemed incomplete, the applicant shall be notified in writing by the designated Town Engineer, or designated agent, as to the deficiencies in the SWPPP and the requirements for completeness.
- C. Within 30 days after receiving a complete SWPPP, the designated Town Engineer, or designated agent, shall notify the applicant and the Town of North Greenbush Building Department, in writing, that the Town of North Greenbush Building Department can:
  - (1) Approve the site development permit application;
  - (2) Approve the site development permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the site development permit subject to these conditions; or

- (3) Disapprove the site development permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.
- D. Failure of the designated Town Engineer, or designated agent, to act on a complete original or revised SWPPP within 30 days of receipt shall authorize the applicant to proceed in accordance with the site development plans as filed unless such time is extended by agreement between the applicant and the Town of North Greenbush Building Department. Pending preparation and approval of a revised SWPPP, land development activities shall not be allowed to proceed. Nothing herein shall relieve an applicant's need to obtain a work permit as required by Town of North Greenbush Building Department or file a notice of intent (NOI) with the New York State Department of Environmental Conservation.
  - E. For land development activity subject to special permit, site plan, or subdivision requirements, the responsible board shall incorporate the required SWPPP into the review process, allowing for public review and comment on the SWPPP. The responsible board, shall require the designated Town Engineer, or designated agent, to determine the adequacy of the SWPPP. For projects subject to subdivision requirements, final plat approval shall not be granted until the Planning Board has received a SWPPP prepared in accordance with the specifications contained herein.
  - F. In its review of the SWPPP, the responsible board may consult with the designated Town Engineer, or designated agent, the Rensselaer County Soil and Water Conservation District, the New York State Department of Environmental Conservation, or retain any other licensed/certified professionals qualified in the review and/or design of stormwater management and erosion control plans as are determined to be necessary to carry out the review of an SWPPP. Payment for the services of such professionals shall comply with § 165-16 herein.

### **§ 165-6. Stormwater pollution prevention plan contents.**

All designs and procedures to prevent stormwater pollution as set forth within the SWPPP shall be designed in compliance with the New York Standards and Specifications for Erosion and Sediment Control and the New York State Stormwater Management Design Manual as stipulated in § 165-10 of this chapter.

- A. The SWPPP shall include the following:
  - (1) A written narrative identifying the project's scope, including the location, type, and size of the project.
  - (2) A site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that

will not be disturbed; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of stormwater discharge(s). The specific location(s), size(s), and length(s) of each erosion and sediment control practice shall also be shown. Site maps/construction drawings shall be at a scale no smaller than one inch equals 100 feet.

- (3) A natural resources map identifying existing vegetation; on-site and adjacent off-site surface water(s), wetlands, and drainage patterns that could be affected by the construction activity; and existing and final slopes.
- (4) A description of soil(s) present at the site along with any existing data that describes the stormwater runoff characteristics at the site.
- (5) A construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing; excavation and grading; utility and infrastructure installation, and any other activity at the site that results in soil disturbance. Phasing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation. Consistent with the New York Standards and Specifications for Erosion and Sediment Control, there shall not be more than five acres of disturbed soil at any one time without prior written approval from the Department of Environmental Conservation.
- (6) A description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in the stormwater discharges and runoff.
- (7) A description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.
- (8) A description of the temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
- (9) The dimensions, material specifications (e.g., seeding mixtures and rates, types of sod, kind and quantity of mulching) and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins. Temporary

practices that will be converted to permanent control measures shall be shown.

- (10) An implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and the duration that each practice should remain in place.
  - (11) A maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practices, including estimates of the cost of maintenance.
  - (12) Name(s) of the receiving water(s) and any existing data that describes the stormwater runoff at the site.
  - (13) Identification of the person or entities responsible for implementation of the SWPPP for each part of the site.
  - (14) A description of structural practices to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.
  - (15) A site map/construction drawing(s) of each post-construction stormwater practice, including a description of each post-construction stormwater control practice, including specific location(s) and size(s), dimensions, material specifications and installation details.
  - (16) The New York State Stormwater Management Design Manual shall serve as the technical design standard. Deviations from this Design Manual are permitted subject to review and approval by the New York State Department of Environmental Conservation within 60 business days of receipt of a completed notice of intent (NOI).
- B. For major projects, the following shall also be provided in the SWPPP:
- (1) A hydrologic and hydraulic analysis for all structural components of the stormwater control system for the applicable design storms.
  - (2) A comparison of post-development stormwater runoff conditions with predevelopment conditions.
  - (3) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater control practice.
  - (4) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair.
  - (5) Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.

- (6) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures required by this chapter.

#### **§ 165-7. Plan certification.**

The SWPPP shall be prepared by a licensed/certified professional. The SWPPP must be signed by the professional preparing the plan and shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that false statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law."

#### **§ 165-8. Contractor certification.**

- A. The SWPPP must clearly identify each contractor(s) and subcontractor(s) involved in soil disturbance that will implement each stormwater and erosion control measure. Each contractor and subcontractor identified in the SWPPP shall sign a copy of the following certification statement before undertaking any land development activity:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the stormwater pollution prevention plan (SWPPP) as a condition of authorization to discharge stormwater. I also understand that the operator must comply with the terms and conditions of the New York State Pollutant Discharge Elimination System ("SPDES") general permit for stormwater discharges from construction activities and that it is unlawful for any person to cause or contribute to a violation of water quality standards."

- B. The certification must include the name and title of the person providing the signature; address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- C. The certification statement(s) shall become part of the SWPPP for the land development activity.

#### **§ 165-9. SWPPP review and amendment.**

- A. The permittee shall amend the SWPPP whenever there is a significant change in design, construction, operation, or maintenance which may have a significant effect on the potential for the discharge of pollutants

to the waters of the United States and which has not otherwise been addressed in the SWPPP; or the SWPPP proves to be ineffective in:

- (1) Eliminating or significantly minimizing pollutants from sources identified in the SWPPP; or
  - (2) Achieving the general objectives of controlling pollutants in stormwater discharges from permitted construction activity.
- B. Additionally, the SWPPP shall be amended to identify any new contractor or subcontractor that will implement any measure of the SWPPP.
- C. Significant amendments or changes to the SWPPP as outlined above in Subsections A and B may be subject to review and approval in the same manner as § 165-5 herein.

**§ 165-10. Design and performance standards.**

- A. Grading, erosion, and sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the New York Standards and Specifications for Erosion and Sediment Control published by the Empire State Chapter of the Soil and Water Conservation Society. For the design of post-construction structures, the technical standards are currently detailed in the publication New York State Stormwater Management Design Manual published by the Department of Environmental Conservation.
- B. Where stormwater management practices are not in accordance with above design and technical standards, the applicant or developer must demonstrate equivalence to the design and technical standards set forth in this section and the equivalence shall be documented and certified by a licensed/certified professional as part of the SWPPP.
- C. Cut and fill slopes shall be no greater than 2:1, except where retaining walls, structural stabilization or other methods acceptable to the designated Town Engineer, or designated agent, are used. Disturbed areas shall be restored as natural-appearing landforms, and shall blend in with the terrain of adjacent undisturbed land. Abrupt, angular transitions shall be avoided.
- D. Clearing and grading shall be substantially confined to designated building envelopes, utility easements, driveways, and parking footprint. Clearing and grading techniques that retain natural vegetation and drainage patterns, as described in the most recent version of Standards and Specifications for Erosion and Sediment Control referenced above, shall be used to the satisfaction of the responsible board. No clearing or grading shall take place within the established fifty-foot watercourse buffer area except to provide road crossings where permitted.

- E. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- F. Phasing shall be required on all sites disturbing greater than 30 acres, with the size of each phase to be established at plan review and as approved by the Planning Board. There shall not be more than five acres of disturbed soil at any one time without prior written approval from the NYS Department of Environmental Conservation.
- G. The permittee shall initiate stabilization measures as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. This requirement does not apply in the following instances:
  - (1) Where the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently ceased is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable;
  - (2) Where construction activity on a portion of the site is temporarily ceased, and earth-disturbing activities will be resumed within 21 days, temporary stabilization measures need not be initiated on that portion of the site.
- H. The mere parking and moving of construction vehicles around the site does not constitute construction or earth-disturbing activity. If the permittee is not diligently pursuing the project toward completion as determined by the designated Town Engineer, or designated agent, the permittee may be issued a notice of violation (see § 165-19A) by the Town of North Greenbush Building Department and stipulate that the stabilization measures as outlined above shall be undertaken immediately to prevent site erosion.
- I. If seeding or another vegetative erosion control method is used, it shall become established within 14 days or the applicant may be required to re-seed the site or use a nonvegetative option.
- J. Special techniques that meet the design criteria outlined in the most recent version of Standards and Specifications for Erosion and Sediment Control shall be used to ensure stabilization on steep slopes or in drainageways.
- K. Soil stockpiles must be stabilized or covered at the end of each workday.
- L. The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.

- M. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
- N. Techniques that divert upland runoff past disturbed slopes shall be employed.
- O. Adjacent properties shall be protected by the use of a vegetated buffer strip in combination with perimeter controls.
- P. In general, wetlands and watercourses should not be filled, graded or altered. The crossing of watercourses should be avoided to the maximum extent practicable.
- Q. When protection of wetlands, watercourses, trees, steep slopes or other environmentally sensitive area is required, the location shall be shown on the erosion control plan and the method of protection during construction identified (e.g., silt fence, construction fence, stakes, etc.).
- R. A vegetative buffer shall be maintained between disturbed areas and protected federal wetlands that are not proposed to be filled as part of a United States Army Corps of Engineers wetlands permit. In the case of New York State designated wetlands, the one-hundred-foot adjacent area shall not be disturbed without a New York State Department of Environmental Conservation permit.
- S. Stabilization shall be adequate to prevent erosion located at the outlets of all pipes and paved/rip-rap channels.
- T. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
- U. Development should relate to site conditions and disturbance of steep slopes should be avoided. Grading should be minimized by utilizing existing topography whenever possible. Roads and driveways shall follow the natural topography to the greatest extent possible.
- V. In areas of severe slopes (exceeding 25%), land-disturbing activities are not permitted without prior approval of the designated Town Engineer, or designated agent. A twenty-five-foot buffer must be maintained between any disturbed area and the top of slopes 25% and greater.

#### **§ 165-11. Maintenance.**

- A. Maintenance easement(s). Prior to the issuance of any final approval and/or certificate of occupancy by the Town of North Greenbush Building Department on projects that have a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of North Greenbush personnel to ensure that the facility is maintained in proper working condition to



meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the Rensselaer County Clerk after approval by the Town Attorney for the Town of North Greenbush.

- B. Maintenance agreements. The Town Attorney for the Town of North Greenbush shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the Rensselaer County Clerk as a deed restriction on the property prior to the issuance of any final approval and/or certificate of occupancy by the Town of North Greenbush Building Department. The maintenance agreement shall be consistent with the following Stormwater Control Facility Maintenance Agreement:

#### Stormwater Control Facility Maintenance Agreement

Whereas, the Town of North Greenbush and the \_\_\_\_\_ ("facility owner") want to enter into an agreement to provide for the long-term maintenance and continuation of stormwater control measures approved by the Town of North Greenbush for the \_\_\_\_\_ named project, and

Whereas, the Town of North Greenbush and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components.

Therefore, the Town of North Greenbush and the facility owner agree as follows:

1. This agreement binds the Town of North Greenbush and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.
2. The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.
3. The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.

4. The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five-year period, to determine the condition and integrity of the measures. A professional engineer licensed by the State of New York shall perform such inspection. The inspecting engineer shall prepare and submit to the Town of North Greenbush, within 30 days of the inspection, a written report of the findings, including recommendations for those actions necessary for the continuation of the stormwater control measures.

5. The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Town of North Greenbush.

6. The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Town of North Greenbush or in accordance with the recommendations of the inspecting engineer.

7. The facility owner shall provide to the Town of North Greenbush, within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of a bond, letter of credit or escrow account as approved by the Town Attorney.

8. This agreement shall be recorded in the office of the Rensselaer County Clerk together with the deed for the property where the stormwater control facilities are located. This agreement shall be included in the offering plan and/or prospectus for said project if applicable.

9. If ever the Town of North Greenbush determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Town of North Greenbush or by the inspecting engineer, the Town of North Greenbush is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.

10. This agreement is effective \_\_\_\_\_.

Signatures:

Facility Owner \_\_\_\_\_ Date: \_\_\_\_\_

Town of North Greenbush \_\_\_\_\_ Date: \_\_\_\_\_

C. The Town of North Greenbush Town Board, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and

perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

**§ 165-12. Water quality standards.**

Any land development activity shall not result in:

- A. An increase in turbidity that will cause a substantial visible contrast to natural conditions in surface waters of New York State; or
- B. An increase in suspended, colloidal and settleable solids that will cause deposition or impair the waters for their best uses; or
- C. Residue from oil and floating substances, nor visible oil film, or globules of grease.

**§ 165-13. Maintenance during construction.**

The applicant or developer of the land development activity or his/her representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

**§ 165-14. Erosion and sediment control inspection.**

- A. The designated Town Engineer or designated agent and/or personnel from the Town of North Greenbush Building Department may require such inspections as necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this chapter and the SWPPP as approved. To obtain inspections, the applicant shall notify the Town of North Greenbush Building Department at least 48 hours before the following as required by the SWPPP:
  - (1) Start of construction and initial installation of sediment and erosion controls.
  - (2) Installation of sediment and erosion measures as site clearing and grading progresses.
  - (3) Completion of site clearing.
  - (4) Completion of rough grading.
  - (5) Completion of final grading.
  - (6) Close of the seasonal land development activity.
  - (7) Completion of final landscaping.

- (8) Successful establishment of landscaping in public areas.
- B. If any violations are found, the applicant and developer shall be notified in writing by the Town of North Greenbush Building Department of the nature of the violation and the required corrective actions. Corrective actions may include the repair/restoration of off-site impacts. No further work shall be conducted, except for site stabilization, until any violations are corrected and all work previously completed has received approval by the designated Town Engineer or designated agent and/or personnel from the Town of North Greenbush Building Department.
- C. For land development activities, the applicant shall have a qualified licensed/certified professional conduct an assessment of the site prior to the commencement of construction and certify in an inspection report that the appropriate erosion and sediment controls described in the SWPPP have been adequately installed or implemented to ensure overall preparedness of the site. Following the commencement of construction, site inspections shall be conducted by a qualified licensed/certified professional at least every seven calendar days and within 24 hours of the end of a storm event 0.5 inch or greater. The purpose of such inspections will be to determine the overall effectiveness of the plan and the need for additional control measures. During each inspection, the qualified licensed/certified professional shall record the following information:
- (1) On a site map, indicate the extent of all disturbed site areas and drainage pathways. Indicate site areas that are expected to undergo initial disturbance or significant site work within the next fourteen-day period;
  - (2) Indicate on a site map all areas of the site that have undergone temporary or permanent stabilization;
  - (3) Indicate all disturbed site areas that have not undergone active site work during the previous fourteen-day period;
  - (4) Inspect all sediment control practices and record the approximate degree of sediment accumulation as a percentage of the sediment storage volume;
  - (5) Inspect all erosion and sediment control practices and record all maintenance requirements such as verifying the integrity of barrier or diversion systems and containment systems. Identify any evidence of rill or gully erosion occurring on slopes and any loss of stabilizing vegetation or seeding/mulching. Document any excessive deposition of sediment or ponding water along barrier or diversion systems. Record the depth of sediment within containment structures, any erosion near outlet and overflow structures, and verify the ability of rock filters around perforated riser pipes to pass water; and

- (6) All deficiencies that are identified with the implementation of the SWPPP.
- D. A copy of the NOI and a brief description of the project shall be posted at the construction site in a prominent place for public viewing. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the beginning of construction activities to the date of final stabilization. The SWPPP and inspection reports are public documents that the operator must make available for inspection, review and copying by any person within five business days of the operator receiving a written request by such person to review the SWPPP and/or the inspection reports. Copying of documents will be done at the requester's expense. A copy of each report shall be e-mailed to the Town of North Greenbush Building Department on a weekly basis.
- E. The operator shall maintain a record of all inspection reports in a site logbook. The site logbook shall be maintained on site and be made available to the Town of North Greenbush Building Department personnel upon request. The operator shall post at the site, in a publicly accessible location, a summary of the site inspection activities on a monthly basis.
- F. The applicant or developer or his/her representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.
- G. The designated Town Engineer or designated agent and/or Town of North Greenbush Building Department personnel shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under local law.

**§ 165-15. Project completion.**

- A. Inspections of stormwater management practices (SMPs). The designated Town Engineer or designated agent and/or Town of North Greenbush Building Department personnel are responsible for conducting inspections of stormwater management practices (permanent water quantity/quality improvement structures). All operators are required to submit "as built" plans certified by a professional engineer for any permanent stormwater management practices located on site after final stabilization. Final stabilization means that all soil-disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of 80% has been established or equivalent stabilization measures (such as the use of mulches, or geotextile mats) have been employed on all unpaved areas and areas not covered by permanent structures. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. Operators shall also provide the owner(s) of such structure(s) with a manual

describing the operation and maintenance practices that will be necessary in order for the structure to function as designed. The operator must also certify that the permanent structure(s) has been constructed as described in the SWPPP. This certification can be accomplished by providing to the Town of North Greenbush Building Department a copy of the notice of termination (NOT) filed with the NYSDEC.

- B. All certified "as built" plans, lands, structures, and/or appurtenances to be dedicated to the Town of North Greenbush shall be reviewed, inspected and approved by the designated Town Engineer or designated agent and/or Town of North Greenbush Building Department personnel prior to Town Board acceptance.
- C. Notice of termination (NOT). Upon certification by the operator's licensed/certified professional that a final site inspection has been conducted and that "final stabilization" has been accomplished and all stormwater management practices have been constructed as described in the SWPPP, the operator shall complete and file an NOT as proscribed by the NYSDEC and file a copy with the Town of North Greenbush Building Department to notify it that the operator has complied with this chapter and that the project is complete.

#### **§ 165-16. Post-construction activities.**

- A. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall ensure they are operated and maintained to achieve the goals of this chapter. Proper operation and maintenance also includes, at a minimum, the following:
  - (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) that are installed or used by the owner or operator to achieve the goals of this chapter.
  - (2) Written procedures for operation and maintenance and training new maintenance personnel.
  - (3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 165-12 of this chapter.
- B. Inspection of stormwater facilities after project completion. Inspection programs shall be established on a reasonable basis, including, but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice 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 facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

- C. Submission of reports. The Town of North Greenbush Stormwater Management Officer may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.
- D. Right of entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Town of North Greenbush the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection B.

**§ 165-17. Performance guarantees; records.**

- A. Construction completion guarantee. The applicant or developer, prior to construction, may be required by the Town of North Greenbush Building Department to provide surety, in the form, approved by the Town Attorney, of 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 of North Greenbush as the beneficiary. The surety shall be in an amount determined by the designated Town Engineer or designated agent based on 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 Attorney of the Town of North Greenbush, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facilities have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the designated Town Engineer or designated agent. Per-annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.
- B. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of North Greenbush Building Department, after being approved by the Town Attorney, with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion

control facilities both during and after construction, and until the facilities are removed from operation. If the developer or property owner fails to properly operate and maintain stormwater management and erosion control facilities, the Town of North Greenbush may, upon notification, draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

- C. Recordkeeping. The Town of North Greenbush may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

**§ 165-18. Retention of licensed/certified professional; payment.**

- A. The Town of North Greenbush is hereby authorized to retain licensed/certified professionals as are determined to be necessary to carry out the review of a SWPPP or to make regular or final inspections of all control measures, lands, structures, and/or appurtenances, to be dedicated to the Town of North Greenbush in accordance with the approved plan.
- B. Payment for the services of such professionals is to be made from funds deposited by the applicant with the Town of North Greenbush in escrow accounts for such purposes.
- C. It shall be the responsibility of the applicant to submit to the Town of North Greenbush a certified check(s) in an amount equal to the estimate of the licensed/certified professional for the cost of services to be rendered. Estimates shall reflect reasonable costs at prevailing rates. The Town of North Greenbush shall make payments to said professional for services rendered to it upon acceptance by the Town of North Greenbush of said service.

**§ 165-19. Enforcement; penalties for offenses.**

- A. Notice of violation.
  - (1) The operator and all contractors and subcontractors must comply with all conditions of a SWPPP submitted pursuant to this chapter. In the event that the Town of North Greenbush determines that a land development activity is not being carried out in accordance with the requirements of this chapter, the Town of North Greenbush Building Department Coordinator may issue a written notice of violation to the operator/landowner, applicant and all contractors/subcontractors subject to the provisions of this chapter. The notice of violation shall contain:
    - (a) The name and address of the operator/landowner, developer, or applicant.
    - (b) The address of the site or a description of the building, structure or land upon which the violation 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 chapter and a time schedule for the completion of such remedial action.
    - (e) A statement of the penalty or penalties that can be assessed against the person to whom the notice of violation is directed.
  - (2) Within 15 days of notification of violation or as otherwise provided by the Town of North Greenbush, the violator shall take the remedial measures necessary to bring the land development activity into compliance with this chapter.
- B. Stop-work order. The Town of North Greenbush Building Department Coordinator may issue a stop-work order for violation of this chapter. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violation(s) identified in the stop-work order. The stop-work order shall be in effect until the Town of North Greenbush Building Department Coordinator confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, and/or monetary penalties in accordance with this chapter.
- C. Violations. The Town of North Greenbush Building Department Coordinator may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.
- D. Penalties. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this chapter is committed, continued, or permitted shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than \$250 for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this chapter shall be required to bear the expense of such restoration. To the extent that the noncompliance with this chapter constitutes a violation of the Clean Water Act and the Environmental Conservation Law, there may be substantial criminal, civil, and administrative penalties depending upon the nature and degree of the offense.
- E. Withholding certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, the Town of North Greenbush Building Department Coordinator may prevent the occupancy of said building or land.
- F. 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 of North Greenbush

Building Department Coordinator may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

**Chapter 165****STORMWATER MANAGEMENT AND EROSION AND  
SEDIMENT CONTROL****GENERAL REFERENCES**

Sewers and sewage disposal — See Ch. 151.

Water — See Ch. 189.

Storm sewers — See Ch. 152.

Zoning — See Ch. 197.

Subdivision of land — See Ch. 163.

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**PROPOSED NEW LAW – NOT YET APPROVED BY TOWN BOARD**

*In accordance with Article 10 of Municipal Home Rule Law of the State of New York, the North Greenbush Town Board has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the Town of North Greenbush and for the protection and enhancement of its physical environment. The North Greenbush Town Board may include in any such local law provision for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.*

**§ 165-1. Findings of fact.**

It is hereby determined that:

- A. Uncontrolled drainage and runoff associated with land development has a significant impact upon the health, safety and welfare of the community.
- B. Eroded soil endangers water resources by reducing water quality and causing the silting of streams, lakes and other water bodies, adversely affecting aquatic life.
- C. Stormwater runoff and sediment transports pollutants such as heavy metals, hydrocarbons, nutrients and bacteria to water resources, degrading water quality.
- D. Eroded soil necessitates repair and accelerates the maintenance needs of stormwater management facilities.
- E. Clearing, grading and altering natural topography during construction tends to increase erosion.
- F. Improper design and construction of drainage facilities can increase the velocity of runoff, thereby increasing stream bank erosion and sedimentation.
- G. Impervious surfaces increase the volume and rate of stormwater runoff and allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow.
- H. Improperly managed stormwater runoff can increase the incidence of flooding and the severity of floods that occur, endangering property and human life.

- I. Substantial economic losses can result from these adverse impacts.
- J. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of land development activities.
- K. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

165-2

165-3

**§ 165-2. Purpose.**

The purpose of this chapter is to safeguard persons, protect property, and prevent damage to the environment in the Town of North Greenbush, New York. This chapter will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any land development activity as it relates to erosion and sedimentation control and stormwater management. This chapter seeks to meet these purposes by achieving the following objectives:

- A. Meet the requirements of minimum control measures four (construction site stormwater runoff control) and five (post-construction stormwater management) of the State Pollution Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02 or as amended or revised.
- B. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised.
- C. Minimize soil erosion and sedimentation impacts on streams, water bodies, and neighboring properties.
- D. Avoid excessive and/or unnecessary tree and vegetation removal.
- E. Minimize windblown soil associated with properties being cleared and graded for development.
- F. Maintain the integrity of watercourses and sustain their hydrologic functions.
- G. Minimize increases in the magnitude and frequency of stormwater runoff to prevent an increase in flood flows and the hazards and costs associated with flooding.
- H. Minimize decreases in groundwater recharge and stream base flow to maintain aquatic life, assimilative capacity, and water supplies.
- I. Facilitate the removal of pollutants in stormwater runoff to perpetuate the natural biological function of water bodies.
- J. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and

- K. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

**§ 165-3. Applicability; exempt activities.**

- A. Except as otherwise provided herein, no person shall commence or perform any land development activity, as defined herein, without the approval of a stormwater pollution prevention plan (SWPPP) by the Town of North Greenbush Stormwater Management Officer (SMO).
- B. Applicants shall also obtain all other permits required by state, federal, and local laws. Whenever the particular circumstances of proposed land development activity require compliance with special use, site plan, or subdivision procedures of the Town of North Greenbush, the responsible board shall integrate the requirements prescribed herein as appropriate and request the Town of North Greenbush Stormwater Management Officer (SMO) to determine the adequacy of the SWPPP.
- C. Redevelopment projects, as defined herein, provide an opportunity to reduce pollutant discharges and the rate, the amount and quality of stormwater runoff leaving the redevelopment site. However, the nature of the site, particularly in an urban location, may impose constraints that prevent implementation of full post-construction compliance. Chapter 9 of the New York State Stormwater Management Design Manual sets forth the standards for compliance with water quality and quantity standards and specifications. Consideration shall be given to using alternative stormwater management practices such as rain gardens, pervious pavers, green roofs and other low-impact development techniques to reduce stormwater impacts.
- D. No SWPPP is required for the following exempt activities:
- (1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
  - (2) Agricultural operations conducted as a permitted principal or accessory use, including the construction of structures where the land disturbance is less than one acre.
  - (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 a stormwater management facility.
  - (4) Mining as defined herein.
  - (5) The renovation/replacement of a septic system serving an existing dwelling or structure.
  - (6) Normal lawn and landscaping activities/maintenance in connection with an existing structure.

- (7) Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.
  - (8) Selective cutting of trees as defined herein, except log haul roads and landing areas are subject to this chapter. (Landing areas are cleared areas to which trees are hauled for their storage before being transferred off site.)
  - (9) Repairs and maintenance of any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
  - (10) 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 a facility.
  - (11) 5.7 Cemetery graves.
  - (12) 5.8 Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- E. All land development activities not subject to review as stated in this section shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this law.

#### **§ 165-4. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**AGRICULTURE** — The use of land for sound agricultural purposes, including farming, dairy, horse boarding, pasturing, grazing, horticulture, floriculture, viticulture, timber harvesting, animal and poultry husbandry, and those practices necessary for the on-farm production, preparation, and marketing of agricultural commodities. Agriculture does not include the operation of a dude ranch or similar operations, or the construction of new structures associated with agricultural activities.

**APPLICANT** – A property owner or agent of a property who has filed an application for a land development activity.

**BUILDING** – Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

**CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC)** — A person who has received training and is certified to review, inspect and/or maintain erosion and sediment control practices.

**CHANNEL** – A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

COMMENCEMENT OF CONSTRUCTION — The initial disturbance of soils associated with clearing, grading, or excavating activities, or other construction activities.

CLEARING — Any activity that removes the vegetative surface cover.

DEDICATION — The deliberate appropriation of property by its owner for general public use.

DEPARTMENT — The New York State Department of Environmental Conservation.

DESIGN MANUAL — The New York State Stormwater Management Design Manual, most recent version, including applicable updates, which serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER — A person who undertakes land development activities.

EROSION — The wearing away of the land surface by action of wind, water, gravity, or other natural forces.

EROSION AND SEDIMENT CONTROL PLAN — A set of plans prepared by or under the direction of a licensed/certified professional indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

EROSION CONTROL MANUAL — The most recent version of the New York Standards and Specifications for Erosion and Sediment Control manual, commonly known as the "Blue Book."

GRADING — Excavation of fill, rock, gravel, sand, soil or other material, including the resulting conditions there from.

IMPERVIOUS COVER — Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g. building rooftops, pavement, sidewalks, driveways, etc).

INDUSTRIAL STORMWATER PERMIT — A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION — The process of percolating stormwater into the 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 — Construction activity including clearing, grading, excavating, soil disturbance, or placement of fill resulting in land disturbance of equal to or greater than one acre. Also includes activities disturbing less than one acre of total land area that are part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER — The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

LICENSED/CERTIFIED PROFESSIONAL — A person currently licensed to practice engineering, or landscape architecture in New York State or who is a certified professional in erosion and sediment control (CPESC).

**MAINTENANCE AGREEMENT** – A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

**MINING** — Any excavation subject to permitting requirements of the State Department of Environmental Conservation under the Mined Land Reclamation Law (Environmental Conservation Law, Article 23, Title 27).

**NONPOINT SOURCE POLLUTION** – Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**NOTICE OF INTENT (NOI)** — A permit application prepared and filed by an owner or operator with the Department of Environmental Conservation as an affirmation that a stormwater pollution prevention plan (SWPPP) has been prepared and will be implemented in compliance with the State Pollution Discharge Elimination System General Permit for Stormwater Runoff for Construction Activity GP-20-001 or as amended or revised).

**OPERATOR** — The person, persons, or legal entity that owns or leases the property on which the construction activity is occurring.

**PERIMETER CONTROL** — A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

**PHASING** — Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

**POLLUTANT OF CONCERN** – Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

**PROJECT (MAJOR)** — Any land development activity that disturbs one acre or more, including all commercial, industrial, or mixed-use development, as well as any residential development consisting of buildings that contain two or more dwelling units, or any land development activity not classified as a minor project. The operator of a major project must submit a SWPPP that addresses water quality and quantity controls in addition to erosion and sedimentation controls as per NYSDEC regulations.

**PROJECT (MINOR)** — Any land development activity associated with a permitted agricultural use or single-family residential construction/ subdivision that disturbs between one acre and five acres and is not discharging stormwater directly to a water body listed on NYSDEC's Section 303(d) list of impaired water bodies. Snyders Lake is currently the only water body in the Town of North Greenbush that is on this list due to phosphorous levels associated with urban runoff. The operator of a minor project must submit a SWPPP that addresses stormwater and erosion and sedimentation controls as per NYSDEC regulations.

**RECHARGE** – The replenishment of underground water reserves.

**REDEVELOPMENT** — Refers to the reconstruction or modification to any existing, previously developed land such as residential, commercial, industrial, institutional, or road or highway that involves soil disturbance.



**SEDIMENT** — Solid material, both mineral and organic, which is in suspension, is being transported, has been deposited, or has been removed from its site of origin.

**SEDIMENT CONTROL** — Measures that prevent eroded sediment from leaving the site.

**SELECTIVE CUTTING** — The cutting of more than 1/2 of the existing living trees measuring six-inch diameter at breast height (DBH) in an area of one acre or more, over a period of two consecutive years.

**SENSITIVE AREAS** — Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, and habitats for threatened, endangered or special concern species.

**SITE** — A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

**SITE DEVELOPMENT PERMIT** — A work permit issued by the Town of North Greenbush Building Department for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

**SLOPES (SEVERE)** — Ground areas with a slope greater than 25% covering a minimum horizontal area of 1/4 acre or 10,890 square feet and a minimum horizontal dimension of 10 feet.

**SLOPES (STEEP)** — Ground areas with a slope greater than 15% covering a minimum horizontal area of 1/4 acre or 10,890 square feet and a minimum horizontal dimension of 10 feet.

**SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITY, GP-02-01 OR AS AMENDED OR REVISED** — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

**SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 OR AS AMENDED OR REVISED** — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with USEPA-established water quality standards and/or to specify stormwater control standards.

**STABILIZATION** — Covering or maintaining an existing cover on soil. Cover can be vegetative (e.g., grass, trees, seed and mulch, shrubs, or turf) or nonvegetative (e.g., geotextiles, riprap, or gabions).

**STABILIZATION (FINAL)** — All soil-disturbing activities at the site have been completed, and a uniform perennial vegetative cover with a density of 80% has been established or equivalent stabilization measures (such as the use of permanent landscape mulches, rock rip-rap or washed/crushed stone) have been employed on all unpaved areas and areas not covered by permanent structures.

**START OF CONSTRUCTION** — The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling.

**STORMWATER** — Rainwater, surface runoff, snowmelt and drainage.

**STORMWATER HOTSPOT** — A land use or activity that generates higher concentration of hydrocarbons, trace metals or toxicant than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT – The use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY – One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER (SMO) — The Town Engineer and the Building Department Coordinator are designated by the Town of North Greenbush as the SMO and are authorized to enforce this chapter. The SMO is also designated by the Town of North Greenbush to accept and review stormwater pollution prevention plans (SWPPPs) and inspect stormwater management practices.

STORMWATER MANAGEMENT PRACTICES (SMPs) – Measures, either structural or non-structural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF – Flow on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK — Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York 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), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons that also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water that neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

WATERCOURSE — Any body of water, including but not limited to lakes, ponds, rivers, streams, and intermittent streams.

WATERCOURSE BUFFER — A horizontal distance 50 feet away from and parallel to the high water level of a watercourse.

WATERWAY – A channel that directs runoff to a watercourse or to the public storm drain.

WETLANDS — Those areas that are inundated or saturated by surface water or groundwater at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include those areas determined to be wetlands by the U.S. Army Corps of Engineers and the New York State Department of Environmental Conservation.

#### **§ 165-5. Review and approval of stormwater pollution prevention plans.**

No application for a land development activity shall be approved until the Town of North Greenbush Planning Board and/or Town of North Greenbush Building Department has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the

specifications contained herein and approved by the designated Town Engineer, or designated agent.

- A. For land development activity not subject to special permit, site plan, or subdivision requirements, the designated Town Engineer, or designated agent, shall review the SWPPP to determine its completeness and conformance with the provisions herein.
- B. Within 30 days of receipt of a SWPPP, or 60 business days if the SWPPP identifies practices or designs that deviate from the prescribed standards established by this chapter, the designated Town Engineer, or designated agent, shall make a determination as to whether the SWPPP is complete. If the SWPPP is deemed incomplete, the applicant shall be notified in writing by the designated Town Engineer, or designated agent, as to the deficiencies in the SWPPP and the requirements for completeness.
- C. Within 30 days after receiving a complete SWPPP, the designated Town Engineer, or designated agent, shall notify the applicant and the Town of North Greenbush Building Department, in writing, that the Town of North Greenbush Building Department can:
  - (1) Approve the site development permit application;
  - (2) Approve the site development permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the site development permit subject to these conditions; or
  - (3) Disapprove the site development permit application, indicating the reason(s) and procedure for submitting a revised application and/ or submission.
- D. For land development activity subject to special permit, site plan, or subdivision requirements, the responsible board shall incorporate the required SWPPP into the review process, allowing for public review and comment on the SWPPP. The responsible board, shall require the designated Town Engineer, or designated agent, to determine the adequacy of the SWPPP. For projects subject to subdivision requirements, final plat approval shall not be granted until the Planning Board has received a SWPPP prepared in accordance with the specifications contained herein.
- E. In its review of the SWPPP, the responsible board may consult with the designated Town Engineer, or designated agent, the Rensselaer County Soil and Water Conservation District, the New York State Department of Environmental Conservation, or retain any other licensed/certified professionals qualified in the review and/or design of stormwater management and erosion control plans as are determined to be necessary to carry out the review of an SWPPP. Payment for the services of such professionals shall comply with § 165-16 herein.

**§ 165-6. Stormwater pollution prevention plan contents.**

All designs and procedures to prevent stormwater pollution as set forth within the SWPPP shall be designed in compliance with the New York Standards and Specifications for Erosion and Sediment Control and the New York State Stormwater Management Design Manual as stipulated in § 165-10 of this chapter.

- A. The SWPPP shall include the following:

- (1) A written narrative identifying the project's scope, including the location, type, and size of the project.
- (2) A site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that 165 will not be disturbed; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of stormwater discharge(s). The specific location(s), size(s), and length(s) of each erosion and sediment control practice shall also be shown. Site maps/construction drawings shall be at a scale no smaller than one inch equals 100 feet.
- (3) A natural resources map identifying existing vegetation; on-site and adjacent off-site surface water(s), wetlands, and drainage patterns that could be affected by the construction activity; and existing and final slopes.
- (4) A description of soil(s) present at the site along with any existing data that describes the stormwater runoff characteristics at the site.
- (5) A construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing; excavation and grading; utility and infrastructure installation, and any other activity at the site that results in soil disturbance. Phasing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation. Consistent with the New York Standards and Specifications for Erosion and Sediment Control, there shall not be more than five acres of disturbed soil at any one time without prior written approval from the Department of Environmental Conservation or the Town.
- (6) A description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in the stormwater discharges and runoff.
- (7) A description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.
- (8) A description of the temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
- (9) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice, material specifications (e.g., seeding mixtures and rates, types of sod, kind and quantity of mulching) and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins. Temporary practices that will be converted to permanent control measures shall be shown.

- (10) An implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and the duration that each practice should remain in place.
  - (11) A maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practices, including estimates of the cost of maintenance.
  - (12) Name(s) of the receiving water(s) and any existing data that describes the stormwater runoff at the site.
  - (13) Identification of the person or entities responsible for implementation of the SWPPP for each part of the site.
  - (14) A description of structural practices to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.
  - (15) A site map/construction drawing(s) of each post-construction stormwater practice, including a description of each post-construction stormwater control practice, including specific location(s) and size(s), dimensions, material specifications and installation details.
  - (16) The New York State Stormwater Management Design Manual shall serve as the technical design standard. Deviations from this Design Manual are permitted subject to review and approval by the New York State Department of Environmental Conservation within 60 business days of receipt of a completed notice of intent (NOI).
- B. For major projects, the following shall also be provided in the SWPPP:
- (1) A hydrologic and hydraulic analysis for all structural components of the stormwater control system for the applicable design storms.
  - (2) A comparison of post-development stormwater runoff conditions with predevelopment conditions.
  - (3) The design of stormwater management practices that provide water quality treatment in accordance with The New York State Stormwater Management Design Manual (Design Manual) requirements utilizing the practices per Schedule A of this law and selected in accordance with the Design Manual procedures.
  - (4) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater control practice.
  - (5) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair.
  - (6) Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
  - (7) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures required by this chapter.

**§ 165-7. Plan certification.**

The SWPPP shall be prepared by a licensed/certified professional. The SWPPP must be signed by the professional preparing the plan and shall make the following certification:

"I hereby certify that the Stormwater Pollution Prevention Plan (SWPPP) for this project has been prepared in accordance with the terms and conditions of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised. Furthermore, I understand that certifying false, incorrect or inaccurate information is a violation of this permit and the laws of the State of New York and could subject me to criminal, civil and/or administrative proceedings."

Other Environmental Permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

**§ 165-8. Contractor certification.**

- A. 2.5.1 "Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity:"

"I hereby certify under penalty of law that I understand and agree to comply with the terms and conditions of the SWPPP and agree to implement any corrective actions identified by the qualified inspector during a site inspection. I also understand that the owner or operator must comply with the terms and conditions of the most current version of the New York State Pollutant Discharge Elimination System ("SPDES") general permit for stormwater discharges from construction activities and that it is unlawful for any person to cause or contribute to a violation of water quality standards. Furthermore, I am aware that there are significant penalties for submitting false information that I do not believe to be true, including the possibility of fine and imprisonment for knowing violations."

- B. The certification must include the name and title of the person providing the signature; address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- C. The certification statement(s) shall become part of the SWPPP for the land development activity.
- D. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

**§ 165-9. SWPPP review and amendment.**

- A. The permittee shall amend the SWPPP whenever there is a significant change in design, construction, operation, or maintenance which may have a significant effect on the



- G. The permittee shall initiate stabilization measures as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. This requirement does not apply in the following instances:
- (1) Where the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently ceased is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable;
  - (2) Where construction activity on a portion of the site is temporarily ceased, and earth-disturbing activities will be resumed within 21 days, temporary stabilization measures need not be initiated on that portion of the site.
- H. The mere parking and moving of construction vehicles around the site does not constitute construction or earth-disturbing activity. If the permittee is not diligently pursuing the project toward completion as determined by the designated Town Engineer, or designated agent, the permittee may be issued a notice of violation (see § 165-19A) by the Town of North Greenbush Building Department and stipulate that the stabilization measures as outlined above shall be undertaken immediately to prevent site erosion.
- I. If seeding or another vegetative erosion control method is used, it shall become established within 14 days or the applicant may be required to re-seed the site or use a non-vegetative option.
- J. Special techniques that meet the design criteria outlined in the most recent version of Standards and Specifications for Erosion and Sediment Control shall be used to ensure stabilization on steep slopes or in drainage ways.
- K. Soil stockpiles must be stabilized or covered at the end of each workday.
- L. The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
- M. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
- N. Techniques that divert upland runoff past disturbed slopes shall be employed.
- O. Adjacent properties shall be protected by the use of a vegetated buffer strip in combination with perimeter controls.
- P. In general, wetlands and watercourses should not be filled, graded or altered. The crossing of watercourses should be avoided to the maximum extent practicable.
- Q. When protection of wetlands, watercourses, trees, steep slopes or other environmentally sensitive area is required, the location shall be shown on the erosion control plan and the method of protection during construction identified (e.g., silt fence, construction fence, stakes, etc.).
- R. A vegetative buffer shall be maintained between disturbed areas and protected federal wetlands that are not proposed to be filled as part of a United States Army Corps of Engineers wetlands permit. In the case of New York State designated wetlands, the one-



hundred-foot adjacent area shall not be disturbed without a New York State Department of Environmental Conservation permit.

- S. Stabilization shall be adequate to prevent erosion located at the outlets of all pipes and paved/rip-rap channels.
- T. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
- U. Development should relate to site conditions and disturbance of steep slopes should be avoided. Grading should be minimized by utilizing existing topography whenever possible. Roads and driveways shall follow the natural topography to the greatest extent possible.
- V. In areas of severe slopes (exceeding 25%), land-disturbing activities are not permitted without prior approval of the designated Town Engineer, or designated agent. A twenty-five-foot buffer must be maintained between any disturbed area and the top of slopes 25% and greater.

**§ 165-11. Maintenance.**

- A. Maintenance easement(s). Prior to the issuance of any final approval and/or certificate of occupancy by the Town of North Greenbush Building Department on projects that have a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of North Greenbush personnel to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the Rensselaer County Clerk after approval by the Town Attorney for the Town of North Greenbush.
- B. Maintenance agreements. The Town Attorney for the Town of North Greenbush shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the Rensselaer County Clerk as a deed restriction on the property prior to the issuance of any final approval and/or certificate of occupancy by the Town of North Greenbush Building Department. The maintenance agreement shall be consistent with the following Stormwater Control Facility Maintenance Agreement:

Stormwater Control Facility Maintenance Agreement Whereas, the Town of North Greenbush and the \_\_\_\_\_ ("facility owner") want to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Town of North Greenbush for the \_\_\_\_\_ named project, and

Whereas, the Town of North Greenbush and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components.

Therefore, the Town of North Greenbush and the facility owner agree as follows:

1. This agreement binds the Town of North Greenbush and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.

2. The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.

3. The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.

4. The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five-year period, to determine the condition and integrity of the measures. A professional engineer licensed by the State of New York shall perform such inspection. The inspecting engineer shall prepare and submit to the Town of North Greenbush, within 30 days of the inspection, a written report of the findings, including recommendations for those actions necessary for the continuation of the stormwater control measures.

5. The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Town of North Greenbush.

6. The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Town of North Greenbush or in accordance with the recommendations of the inspecting engineer.

7. The facility owner shall provide to the Town of North Greenbush, within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of a bond, letter of credit or escrow account as approved by the Town Attorney.

8. This agreement shall be recorded in the office of the Rensselaer County Clerk together with the deed for the property where the stormwater control facilities are located. This agreement shall be included in the offering plan and/or prospectus for said project if applicable.

9. If ever the Town of North Greenbush determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Town of North Greenbush or by the inspecting engineer, the Town of North Greenbush is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.

This agreement is effective \_\_\_\_\_.

Signatures:

Facility Owner \_\_\_\_\_

Date: \_\_\_\_\_

Town of North Greenbush \_\_\_\_\_

Date: \_\_\_\_\_

- C. The Town of North Greenbush Town Board, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

**§ 165-12. Water quality standards.**

Any land development activity shall not result in:

- A. An increase in turbidity that will cause a substantial visible contrast to natural conditions in surface waters of New York State; or
- B. An increase in suspended, colloidal and settleable solids that will cause deposition or impair the waters for their best uses; or
- C. Residue from oil and floating substances, nor visible oil film, or globules of grease.

**§ 165-13. Maintenance during construction.**

The applicant or developer of the land development activity or his/her representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

**§ 165-14. Erosion and sediment control inspection.**

- A. The designated Town Engineer or designated agent and/or personnel from the Town of North Greenbush Building Department may require such inspections as necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this chapter and the SWPPP as approved. To obtain inspections, the applicant shall notify the Town of North Greenbush Building Department at least 48 hours before the following as required by the SWPPP:
- (1) Start of construction and initial installation of sediment and erosion controls.
  - (2) Installation of sediment and erosion measures as site clearing and grading progresses.
  - (3) Completion of site clearing.
  - (4) Completion of rough grading.
  - (5) Completion of final grading.
  - (6) Close of the seasonal land development activity.
  - (7) Completion of final landscaping.
  - (8) Successful establishment of landscaping in public areas.

- B. If any violations are found, the applicant and developer shall be notified in writing by the Town of North Greenbush Building Department of the nature of the violation and the required corrective actions. Corrective actions may include the repair/restoration of off-site impacts. No further work shall be conducted, except for site stabilization, until any violations are corrected and all work previously completed has received approval by the designated Town Engineer or designated agent and/or personnel from the Town of North Greenbush Building Department.
- C. For land development activities, the applicant shall have a qualified licensed/certified professional conduct an assessment of the site prior to the commencement of construction and certify in an inspection report that the appropriate erosion and sediment controls described in the SWPPP have been adequately installed or implemented to ensure overall preparedness of the site. Following the commencement of construction, site inspections shall be conducted by a qualified licensed/certified professional at least every seven calendar days and within 24 hours of the end of a storm event 0.5 inch or greater. The purpose of such inspections will be to determine the overall effectiveness of the plan and the need for additional control measures. During each inspection, the qualified licensed/certified professional shall record the following information:
- (1) On a site map, indicate the extent of all disturbed site areas and drainage pathways. Indicate site areas that are expected to undergo initial disturbance or significant site work within the next fourteen-day period;
  - (2) Indicate on a site map all areas of the site that have undergone temporary or permanent stabilization;
  - (3) Indicate all disturbed site areas that have not undergone active site work during the previous fourteen-day period;
  - (4) Inspect all sediment control practices and record the approximate degree of sediment accumulation as a percentage of the sediment storage volume;
  - (5) Inspect all erosion and sediment control practices and record all maintenance requirements such as verifying the integrity of barrier or diversion systems and containment systems. Identify any evidence of rill or gully erosion occurring on slopes and any loss of stabilizing vegetation or seeding/mulching. Document any excessive deposition of sediment or ponding water along barrier or diversion systems. Record the depth of sediment within containment structures, any erosion near outlet and overflow structures, and verify the ability of rock filters around perforated riser pipes to pass water; and
  - (6) All deficiencies that are identified with the implementation of the SWPPP.
- D. A copy of the NOI and a brief description of the project shall be posted at the construction site in a prominent place for public viewing. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the beginning of construction activities to the date of final stabilization. The SWPPP and inspection reports are public documents that the operator must make available for inspection, review and copying by any person within five business days of the operator receiving a written request by such person to review the SWPPP and/or the inspection

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reports. Copying of documents will be done at the requester's expense. A copy of each report shall be e-mailed to the Town of North Greenbush Building Department on a weekly basis.

- E. The operator shall maintain a record of all inspection reports in a site logbook. The site logbook shall be maintained on site and be made available to the Town of North Greenbush Building Department personnel upon request. The operator shall post at the site, in a publicly accessible location, a summary of the site inspection activities on a monthly basis.
- F. The applicant or developer or his/her representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.
- G. The designated Town Engineer or designated agent and/or Town of North Greenbush Building Department personnel shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under local law.

**§ 165-15. Project completion.**

- A. Inspections of stormwater management practices (SMPs). The designated Town Engineer or designated agent and/or Town of North Greenbush Building Department personnel are responsible for conducting inspections of stormwater management practices (permanent water quantity/quality improvement structures). All operators are required to submit "as built" plans certified by a professional engineer for any permanent stormwater management practices located on site after final stabilization. Final stabilization means that all soil-disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of 80% has been established or equivalent stabilization measures (such as the use of mulches, or geotextile mats) have been employed on all unpaved areas and areas not covered by permanent structures. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. Operators shall also provide the owner(s) of such structure(s) with a manual describing the operation and maintenance practices that will be necessary in order for the structure to function as designed. The operator must also certify that the permanent structure(s) has been constructed as described in the SWPPP. This certification can be accomplished by providing to the Town of North Greenbush Building Department a copy of the notice of termination (NOT) filed with the NYSDEC.
- B. All certified "as built" plans, lands, structures, and/or appurtenances to be dedicated to the Town of North Greenbush shall be reviewed, inspected and approved by the designated Town Engineer or designated agent and/or Town of North Greenbush Building Department personnel prior to Town Board acceptance.
- C. Notice of termination (NOT). Upon certification by the operator's licensed/certified professional that a final site inspection has been conducted and that "final stabilization" has been accomplished and all stormwater management practices have been constructed as described in the SWPPP, the operator shall complete and file an NOT as

proscribed by the NYSDEC and file a copy with the Town of North Greenbush Building Department to notify it that the operator has complied with this chapter and that the project is complete.

**§ 165-16. Post-construction activities.**

- A. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall ensure they are operated and maintained to achieve the goals of this chapter. Proper operation and maintenance also includes, at a minimum, the following:
- (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) that are installed or used by the owner or operator to achieve the goals of this chapter.
  - (2) Written procedures for operation and maintenance and training new maintenance personnel.
  - (3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 165-12 of this chapter.
- B. Inspection of stormwater facilities after project completion. Inspection programs shall be established on a reasonable basis, including, but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice 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 165-16 165-17 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 facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.
- C. Submission of reports. The Town of North Greenbush Stormwater Management Officer may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.
- D. Right of entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Town of North Greenbush the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection B.

**§ 165-17. Performance guarantees; records.**

- A. Construction completion guarantee. The applicant or developer, prior to construction, may be required by the Town of North Greenbush Building Department to provide surety, in the form, approved by the Town Attorney, of 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 of North Greenbush as the beneficiary. The surety shall be in an amount determined by the designated Town Engineer or designated agent based on 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 Attorney of the Town of North Greenbush, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facilities have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the designated Town Engineer or designated agent. Per-annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

- B. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of North Greenbush Building Department, after being approved by the Town Attorney, with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion 165-17 165-19

control facilities both during and after construction, and until the facilities are removed from operation. If the developer or property owner fails to properly operate and maintain stormwater management and erosion control facilities, the Town of North Greenbush may, upon notification, draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

- C. Recordkeeping. The Town of North Greenbush may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

**§ 165-18. Retention of licensed/certified professional; payment.**

- A. The Town of North Greenbush is hereby authorized to retain licensed/ certified professionals as are determined to be necessary to carry out the review of a SWPPP or to make regular or final inspections of all control measures, lands, structures, and/or appurtenances, to be dedicated to the Town of North Greenbush in accordance with the approved plan.
- B. Payment for the services of such professionals is to be made from funds deposited by the applicant with the Town of North Greenbush in escrow accounts for such purposes.
- C. It shall be the responsibility of the applicant to submit to the Town of North Greenbush a certified check(s) in an amount equal to the estimate of the licensed/certified professional for the cost of services to be rendered. Estimates shall reflect reasonable costs at prevailing rates. The Town of North Greenbush shall make payments to said professional for services rendered to it upon acceptance by the Town of North Greenbush of said service.

**§ 165-19. Enforcement; penalties for offenses.**

## A. Notice of violation.

(1) The operator and all contractors and subcontractors must comply with all conditions of a SWPPP submitted pursuant to this chapter. In the event that the Town of North Greenbush determines that a land development activity is not being carried out in accordance with the requirements of this chapter, the Town of North Greenbush Building Department Coordinator may issue a written notice of violation to the operator/landowner, applicant and all contractors/subcontractors subject to the provisions of this chapter. The notice of violation shall contain:

- (a) The name and address of the operator/landowner, developer, or applicant.
- (b) The address of the site or a description of the building, structure or land upon which the violation is occurring.
- (c) A statement specifying the nature of the violation.
- (c) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action.
- (d) A statement of the penalty or penalties that can be assessed against the person to whom the notice of violation is directed.

(2) Within 15 days of notification of violation or as otherwise provided by the Town of North Greenbush, the violator shall take the remedial measures necessary to bring the land development activity into compliance with this chapter.

- B. Stop-work order. The Town of North Greenbush Building Department Coordinator may issue a stop-work order for violation of this chapter. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violation(s) identified in the stop-work order. The stop-work order shall be in effect until the Town of North Greenbush Building Department Coordinator confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, and/or monetary penalties in accordance with this chapter.
- C. Violations. The Town of North Greenbush Building Department Coordinator may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.
- D. Penalties. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this chapter is committed, continued, or permitted shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than \$250 for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this chapter shall be required to bear the expense of such restoration. To the extent that the noncompliance with this chapter constitutes a violation of the Clean Water Act and the Environmental



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 Conservation Law, there may be substantial criminal, civil, and administrative penalties depending upon the nature and degree of the offense.

- E. Withholding certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, the Town of North Greenbush Building Department Coordinator may prevent the occupancy of said building or land.
- F. 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 of North Greenbush Building Department Coordinator may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

SCHEDULE A

See Table 3.3 Stormwater Management Practices Acceptable for Water Quality per New York State Stormwater Management Design Manual January 2015

Group	Practice	Description
Pond	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond(P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P-4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on ground water to maintain a permanent pool.
Wetland	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a wet shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.
	Pond/ Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.
Infiltration	Infiltration Trench (I-1)	An infiltration practice that stores the water quality

		volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression, before it is infiltrated it into the ground.
	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
Filtering Practices	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Underground Sand Filter (F-2)	A filtering practice that treats stormwater as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter (F-3)	A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter, in the place of sand.
	Bioretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
Open Channels	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.