

**RESOLUTION**

Supervisor Prisco, seconded by Councilman \_\_\_\_\_,  
introduced the following proposed local law, to be known as  
Local Law No. \_\_\_\_\_ of 2007, entitled A LOCAL LAW OF THE  
TOWN OF WASHINGTON, DUTCHESS COUNTY, NEW YORK "STORMWATER  
MANAGEMENT AND EROSION & SEDIMENT CONTROL."

BE IT ENACTED by the Town Board of the Town of Washington  
as follows:

Section 1. "Stormwater Management and Erosion &  
Sediment Control" Law, reading in its entirety as follows:

STORMWATER MANAGEMENT AND EROSION & SEDIMENT CONTROL

ARTICLE I:  
TITLE; FINDINGS OF FACT;  
PURPOSE; STATUTORY AUTHORITY

§1. TITLE

This Law shall be known as the "Stormwater Management and  
Erosion & Sediment Control Law of the Town of Washington".

§2. FINDINGS OF FACT AND PURPOSE

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

1. Land development activities and associated  
increases in site impervious cover often alter  
the hydrologic response of local watersheds and  
increase stormwater runoff rates and volumes,  
flooding, stream channel erosion, or sediment

transport and deposition;

2. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
3. Clearing and grading during construction tend to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
4. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
5. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
6. Substantial economic losses can result from these adverse impacts on the waters of the municipality;
7. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
8. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
9. 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.

- B. Purpose. The purpose of this Law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction, and to address the findings of fact in Section 2(A), above. This Law seeks to meet those purposes by achieving the following objectives:
1. Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no. GP-02-02, as hereafter amended or revised;
  2. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01, as hereafter amended or revised;
  3. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
  4. Minimize increases in pollution caused by stormwater runoff from land development activities that would otherwise degrade local water quality;
  5. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
  6. 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.

§3. STATUTORY AUTHORITY.

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

ARTICLE II:  
DEFINITIONS

§4. DEFINITIONS.

The terms used in this Law or in documents prepared or reviewed pursuant to or under this Law shall have the meaning as set forth in this section.

AGRICULTURAL ACTIVITY - the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

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

BEST MANAGEMENT PRACTICES (BMPs) - A measure that is implemented to protect water quality and reduce the potential for pollution associated with stormwater runoff. Any program, technology, process, siting criteria, operating method, measure, or device that controls, prevents, removes, or reduces pollutants.

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.

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

CLEARING - any activity that removes the vegetative surface cover.

COMMENCEMENT OF CONSTRUCTION - Means the initial removal of vegetation and disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

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*, as hereafter amended or updated, that serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER - a person who undertakes land development activities.

EROSION - The detachment and movement of soil or rock fragments by water, wind, ice or rainfall.

EROSION CONTROL - Erosion Control is a primary source control that is any practice that protects the soil surface and prevents the soil particles from being detached by water, wind, ice or rainfall.

EROSION CONTROL MANUAL - the "New York Standards and Specifications for Erosion and Sediment Control" manual, as hereafter amended or updated, commonly known as the "Blue Book".

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

GRADING - excavation or fill of material, including the resulting conditions thereof.

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 (SPDES) 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 that results in land disturbance of equal to or greater than one-half acre, or activities disturbing less than one-half acre of total land area that is 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.

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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 - As defined in NYSDEC SPDES General Construction Permit GP-02-01, a person currently licensed to practice engineering in New York State or 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 the long-term maintenance of stormwater management practices and facilities.

NONPOINT SOURCE POLLUTION - pollution from any source other than from a discernible, confined, or discrete conveyance, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

OWNER/OPERATOR - The Owner/Operator is the person, persons, or legal entity that owns or leases the property on which the construction activity is occurring. The Owner/Operator is the ultimate responsible party for implementation of the SWPPP.

PHASING - clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next. As per NYSDEC General Construction Permit GP-02-01, no more than five (5) acres of land disturbance may occur at any one time without written approval by the Department.

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 - land development activity

QUALIFIED PROFESSIONAL - As defined in NYSDEC SPDES General Construction Permit GP-02-01, a person knowledgeable in the principles and practice of erosion and sediment controls, such as a licensed professional engineer, and Certified Professional in Erosion and Sediment Control (CPESC), or soil scientist.

RECHARGE - the replenishment of underground water reserves.

SEDIMENT CONTROL - Sediment Control is a secondary measure and is any practice that traps the soil particles after they have been detached and moved by water, wind or ice, preventing the eroded sediment from leaving the site.

Deleted: SEDIMENT CONTROL - measures that prevent eroded sediment from leaving the site.¶

SENSITIVE AREAS - cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, steep slopes, habitats for threatened, endangered or special concern species.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 - 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 - 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 EPA established water quality standards and/or to specify stormwater control standards.

STABILIZATION - The use of practices that prevent exposed soil from eroding, or by means of covering or maintaining an existing cover over soil. Cover can be vegetative (e.g. grass, trees, shrubs, seed and mulch, or turf) or non-vegetative (e.g. geotextiles, riprap, or gabions).

Deleted: STABILIZATION - the use of practices that prevent exposed soil from eroding.¶

STOP WORK ORDER - an order issued which requires that all construction activity on a site be stopped.

STORMWATER - rainwater, surface runoff, snowmelt and drainage

STORMWATER HOTSPOT - a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies, or as classified in the New York State Stormwater Design Manual.

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)- an employee or officer designated by the municipality to accept review and approve stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices. Plan reviews and site inspections may be delegated to a consulting engineer and/or a consultant paid for through the applicant's escrow account; however, a municipal employee or board member must make the final approval.

STORMWATER MANAGEMENT PRACTICES (SMPS) - measures, either structural or nonstructural, 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.

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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 or snow melt.

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 which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which 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.

TOWN - The Town of Washington

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

WATERWAY - a channel that directs surface runoff to a watercourse or to the public storm drain.

ARTICLE III:  
APPLICABILITY & EXEMPTIONS

§5. APPLICABILITY; STORMWATER MANAGEMENT OFFICER; REVIEW OF PLANS.

A. This Law shall be applicable to all land development activities as defined in Section 4 of this Law.

B. The municipality shall, by resolution, designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may:

(1) Review the plans; or

(2) Upon approval of the Town Board, engage the services of a registered professional engineer and/or a Licensed Certified Professional to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by the Town Board. The Town Board may require the owner/operator to pay for the aforesaid review in advance by establishment of an escrow account.

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C. All land development activities subject to review and approval by the applicable board of the Town pursuant

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to subdivision, site plan, and/or special permit regulations shall be reviewed subject to the standards contained in this Law. The review of the Stormwater Pollution Prevention Plan (SWPPP) shall run concurrently with the procedure for review, approval and permitting under the other above noted regulations.

- D. All land development activities not subject to review as stated in section 5(C), above, shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP in consultation with the Town's Consulting Engineer and/or other consultant and in accordance with the requirements of this law.

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§6. EXEMPTIONS.

The following activities are exempt from review under this Law.

- A. Agricultural activity as defined in §4 of this Law.
- B. Silvicultural activity except that landing areas and log haul roads are subject to this Law.
- C. Routine maintenance activities that disturb less than five acres, to be determined in consultation with the Stormwater Management Officer, and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- D. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer, Town Engineer, and/or Town Highway Superintendent.
- E. Any part of a subdivision if a plat for the subdivision has been approved by the Planning Board of the Town on or before the effective date of this Law.
- F. Land development activities for which a building permit has been approved on or before the effective date of this Law.

- G. Cemetery graves.
- H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- I. Emergency activity immediately necessary to protect life, property or natural resources.
- J. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants solely for use by that person and his or her family.

K. Landscaping and horticultural activities in connection with an existing structure.

L. A single-family dwelling that is not part of a new subdivision of land.

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ARTICLE IV:  
STORMWATER POLLUTION PREVENTION PLANS

§7. STORMWATER POLLUTION PREVENTION PLAN REQUIREMENT.

No application for approval of a land development activity shall be reviewed until the appropriate officer or board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this Law. The submittal shall include: (1) the appropriate application forms; (2) fees in accordance with the Town of Washington fee schedule (most current); (3) the plans and materials described below; (4) the SWPPP requirements and contents, described below; and (5) the performance and design criteria set forth elsewhere herein.

§8. CONTENTS OF STORMWATER POLLUTION PREVENTION PLANS:

All SWPPPs shall provide the following background information and erosion and sediment controls. Plans shall be at a scale no less detailed than one inch equals fifty feet (1"=50') and should be prepared by and bear the name, signature and seal of a professional engineer, registered architect, landscape architect or certified professional, as required by law and licensed by the State of New York. Plans prepared at

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larger scales, showing more detail, may be required by the Town's Consulting Engineer and/or other consultant, as necessary. Elements of such plans and related studies and materials may be prepared by other designers or technicians as authorized by law and noted on the documents submitted. The professional preparing the plan shall certify that the design of all Stormwater Management Practices (SWMPs) meets the requirements of Law. The following information and plans shall be provided

- A. Background information about the scope of the project, including location, type and size of project.
- B. 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; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
- C. Description of the soil(s) present at the site;
- D. Construction phasing plan describing the intended sequence of construction activities, including tree removal, stumping, clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time without written approval from the NYSDEC.
- E. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
- F. Description of construction and waste materials

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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;

- G. 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;
- H. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- I. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting, sizing and supporting calculations of any temporary sediment basins; Deleted: and
- J. Temporary practices that will be converted to permanent control measures;
- K. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
- L. Inspection and maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice; Deleted: M
- M. Name(s) of the receiving water(s);
- N. Delineation of SWPPP implementation responsibilities for each part of the site;
- O. Description of structural practices designed 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; Deleted: and

P. Any existing data that describes the stormwater runoff at the site;

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Q. A completed Notice of Intent (NOI). Said NOI shall be submitted to the NYSDEC and the Town to obtain SPDES General Permit GP-02-01 coverage prior to commencement of construction. Proof of coverage shall be submitted to the SMO and Planning Board, prior to final approval and prior to endorsement of the Subdivision Plat, Special Use Permit, or Site Plan by the Planning Board Chairman.

§9. WATER QUALITY AND WATER QUANTITY CONTROLS FOR CERTAIN LAND DEVELOPMENT ACTIVITIES.

Land development activities as defined in Section 4 and meeting at least one of the three conditions in subsection 9(A), below, (i.e. Conditions "A", "B" or "C") shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Section 9(B) below as applicable:

A. Condition A - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waterbodies or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment; or

Condition B - Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

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Condition C - Stormwater runoff from land development activities disturbing five (5) or more acres; or

B. SWPPP Requirements for land development activities that meet Conditions A, B or C, above:

1. All information in Section 8 of this Law.
2. Description of each post-construction stormwater management practice;
3. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
4. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms
5. Comparison of post-development stormwater runoff conditions with pre-development conditions. The comparison shall include peak flows for the one (1), ten (10) and one-hundred (100) year design storm;
6. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
7. Inspection and maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
8. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall comply in all respects with Section 14 of this Law.
9. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Section 16 of this Law.
10. The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices

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meet the requirements in this Law.

§10. OTHER ENVIRONMENTAL PERMITS

The applicant shall provide proof, to the satisfaction of the SMO, or the authorized representative of the SMO, that all other applicable environmental permits have been acquired for the land development activity prior to approval of the final stormwater pollution prevention plan (SWPPP).

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§11. CONTRACTOR CERTIFICATION

- A. 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 certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
- 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, and submission of a Notice of Termination (NOT) to the NYSDEC.

ARTICLE V:  
PERFORMANCE AND DESIGN CRITERIA FOR  
STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

§12. CRITERIA.

All land development activities shall be subject to the following performance and design criteria:

A. TECHNICAL STANDARDS

For purposes of this Law, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by Law:

1. The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)
2. New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2005, most current version or its successor, hereafter referred to as the Erosion Control Manual).

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B. EQUIVALENCE TO TECHNICAL STANDARDS

Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Section 12(A) and the SWPPP shall be prepared by a licensed professional.

C. WATER QUALITY STANDARDS

Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

ARTICLE VI:  
MAINTENANCE AND REPAIR OF STORMWATER FACILITIES

§13. MAINTENANCE AND INSPECTION DURING CONSTRUCTION

- A. The applicant or developer of the land development activity or their 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 Law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
  
- B. For land development activities as defined in Section 4 of this Law and meeting Conditions A, B or C in Section 9(A), the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site log book, to be kept onsite at all times and made available to the local governing authority, the SMO, or the authorized representative of the SMO.
  
- C. The applicant or developer or their 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.

§14. MAINTENANCE EASEMENT(S)

Prior to the issuance of any approval that has 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 to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Law. The easement shall be recorded in the office of the County Clerk after approval by the

Town Attorney.

§15. MAINTENANCE AFTER CONSTRUCTION

The owner or operator of permanent stormwater management practices installed in accordance with this Law shall ensure they are operated and maintained to achieve the goals of this Law. Proper operation and maintenance also includes as a minimum, the following:

- A. A preventive/corrective inspection and maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this Law.
- B. Written procedures for operation and maintenance and training new maintenance personnel.
- C. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section 12(C).

§16. MAINTENANCE AGREEMENTS

The landowner shall execute a formal maintenance agreement for stormwater management facilities which shall be binding on all subsequent landowners. The maintenance agreement shall be approved by the Town Attorney, and shall be recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The Town, 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 Law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

ARTICLE VII:  
ADMINISTRATION AND ENFORCEMENT

§17. CONSTRUCTION INSPECTION

A. Erosion and Sediment Control Inspection

The Town Stormwater Management Officer may require such inspections as necessary to determine compliance with this Law 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 Law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall be required to notify the Town Stormwater Management Officer at least 48 hours before any of the following:

(1) Installation of erosion and sediment control measures (initial site assessment).

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(2) Commencement of construction.

(3) Completion of site clearing

(4) Completion of rough grading

(5) Completion of final grading

(6) Close of the construction season

(7) Completion of final site stabilization (final site assessment)

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(8) Successful establishment of landscaping in public areas.

If any violations are found, the Stormwater Management Officer shall notify the applicant and developer in writing of the nature of the violation and the required corrective actions. 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 Stormwater Management Officer.

B. Stormwater Management Practice Inspections

1. The Town Stormwater Management Officer, or the authorized representative of the SMO, is

responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a NYS licensed professional engineer.

2. Inspection programs shall be established on any 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 control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.
3. The Town Stormwater Management Officer may require monitoring and the submission of written reports from entities subject to this Law as are necessary to determine compliance with this Law.

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#### C. 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 storm water system, the landowner shall grant to the Town the right to enter the property at reasonable times and in a reasonable manner for the

purpose of inspection as specified in Section 18(B)(2).

§18. PERFORMANCE GUARANTEE

A. Construction Completion Guarantee.

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town in its approval of the Stormwater Pollution Prevention Plan, the applicant or developer may be required to provide, prior to construction, cash escrow, irrevocable letter of credit, or certified check drawn upon a national or state bank or other cash equivalent, which guarantees satisfactory completion of the project and names the Town as the beneficiary. The security shall be in an amount to be determined by the Town based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the applicant and/or developer is released from liability by the Town, provided that such period shall not be less than two year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a two year inspection has been conducted and the facilities have been found to be acceptable to the Town. Per annum interest on cash escrow deposits shall be reinvested in the account until the applicant and/or developer is released from liability.

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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 with an irrevocable letter of credit from an approved financial institution 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 landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town may draw upon the letter of credit to cover the costs of proper operation and

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maintenance, including engineering and inspection costs.

C. Recordkeeping

The Town may require entities subject to this Law to maintain records demonstrating compliance with this Law.

§19. ENFORCEMENT AND PENALTIES

A. Notice of Violation.

When the Town determines that a land development activity is not being carried out in accordance with the requirements of this Law, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

1. The name and address of the landowner, developer or applicant;
2. The address when available or a description of the building, structure or land upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the land development activity into compliance with this Law and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6. A statement that the determination of violation may be appealed to Town Board by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

B. Stop Work Orders

The Town may issue a stop work order for violations of this

Law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that directly remedy the violations leading to the stop work order. The stop work order shall be in effect until the Town 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, or monetary penalties in accordance with the enforcement measures authorized in this Law.

#### C. Violations

Any land development activity that is commenced or is conducted contrary to this Law, may be restrained by injunction or otherwise abated in a manner provided by law.

#### D. Indemnification of Town.

If the New York State Department of Environmental Conservation (DEC) shall serve a notice of violation upon the Town, bring an administrative complaint against the Town, and/or commence a civil suit against the Town due to a violation of SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02, and such notice of violation, administrative complaint, or civil suit is a result of, due to, a consequence of, or the outcome of the actions of a person who has violated the provisions of this Law, then said person shall indemnify the Town for any and all fines, damages or penalties imposed by the DEC upon the Town.

#### E. Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or

imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this Law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

F. Withholding of Certificate of Occupancy

If any building or land development activity is installed or conducted in violation of this Law the Stormwater Management Officer may prevent the occupancy of said building or land.

G. Restoration of lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§20. FEES FOR SERVICES

A. The Town may require any person undertaking land development activities regulated by this Law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town or performed by private engineers, attorneys or other consultants for the Town.

B. The landowner and applicant/developer, if different, shall be jointly and severally responsible to reimburse the Town for funds expended to compensate for services rendered to the Town under this subsection. In the event of failure to reimburse the Town for such fees, the Town may seek recovery by action, in law or in equity, venued in a court of appropriate jurisdiction.

ARTICLE VIII:  
SEVERABILITY

§21. SEVERABILITY

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Law.

Section 2. Section 21.1(d) of the "Town of Washington Land Subdivision Regulations" is hereby amended as follows:

- (d) Include eight (8) copies of:
  - (1) The Application Form
  - (2) The Preliminary Plat and Supplementary Material described in Section 42
  - (3) Short Form or Long Form Environmental Assessment Form (EAF), as appropriate.
  - (4) Be accompanied by a Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of a local law of the Town of Washington known as "Stormwater Management and Erosion & Sediment Control." The SWPPP shall meet the performance and design criteria and standards in the "Stormwater Management and Erosion & Sediment Control" law. The approved Preliminary Subdivision Plat shall be consistent with the provisions of the "Stormwater Management and Erosion & Sediment Control" law.
  - (5) Such other materials or reports as are required by these Regulations, the instructions accompanying the Application Form, the Zoning Law, and SEQR. Six copies of these materials shall be submitted directly to the Planning Board Secretary, and two copies shall be submitted directly to the Planning Board's designated consultant.

Section 3. Section 22.1 of the "Town of Washington Land Subdivision Regulations" is hereby amended as follows:

22.1 Application Procedure

Within six (6) months of approval of the Preliminary Plat, the applicant shall file with the Planning Board an application for approval of a Final Plat. The application shall:

- (a) Be made on forms provided by the Planning Board.
- (b) Include the entire subdivision, or a section thereof, which derives access from a street improved to Municipal standards, or for which street a bond covering such improvement is held by the Municipality.
- (c) Be accompanied by eight (8) copies of the Final Plat and supplementary materials as described in Section 43 of these Regulations. The Final Plat shall be submitted to the Planning Board Secretary and the Planning Board's consultant in the same manner and time frame as the Preliminary Plat. The Final Plat shall be properly endorsed by the Dutchess County Department of Health as meeting the standards of the State or County Sanitary Code.
- (d) Be accompanied by a Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of a local law of the Town of Washington known as "Stormwater Management and Erosion & Sediment Control" and with the terms of the Preliminary Plat approval. The SWPPP shall meet the performance and design criteria and standards in the "Stormwater Management and Erosion & Sediment Control" law. The approved Final Subdivision Plat shall be consistent with the provisions of the "Stormwater Management and Erosion & Sediment Control" law.
- (e) Comply in all respects with the Preliminary Plat, with any modifications, improvements, and reservations required by the Planning Board in its approval of the Preliminary Plat.
- (f) Have plans for the proposed streets approved by the Town Superintendent of Highways, Town Engineer, and Commissioner of Public Works. In addition, if the proposed street(s) will intersect or connect with a State, County, or Village highway, plans must also have the approval of the appropriate governmental unit.
- (g) Comply with the improvement requirements of Section 51 of these Regulations.
- (h) Be submitted to the Secretary (clerk) of the Planning Board.

Section Section 33.3 of the "Town of Washington Land Subdivision Regulations" is hereby amended as follows:

33.3 Utility and Stormwater Maintenance Easements

Where topography or other conditions make inclusion of utilities or stormwater (i.e. drainage) facilities within street rights-of-way impractical, perpetual unobstructed easements at least twenty (20) feet in width for such utilities shall be provided across property outside the street lines and with satisfactory access to the street.

Section 4. Section 43(q) of the "Town of Washington Land Subdivision Regulations" is hereby amended as follows:

- (q) A Stormwater Pollution Prevention Plan prepared pursuant to the requirements of a local law of the Town of Washington known as "Stormwater Management and Erosion & Sediment Control".

Section 4. The Local Law of the Town of Washington entitled "A Local Law establishing a comprehensive zoning plan for the Town of Washington, New York, and for said purposes dividing the Town into appropriate zoning districts" is hereby amended to revise Section 329 to read as follows:

Section 329. STRIPPING OF TOPSOIL

No person, firm, or corporation shall strip, excavate, or otherwise remove topsoil for sale, or for use other than on the premises from which such topsoil is removed. Stripping of topsoil may be allowed by special permit granted by the Planning Board in connection with the construction or alteration of a building and excavation or grading incidental thereto, provided that such topsoil is located on the same premises, and that a Stormwater Pollution Prevent Plan is approved pursuant to a local law of the Town of Washington known as "Stormwater Management and Erosion & Sediment Control".

Section 5. The Local Law of the Town of Washington entitled "A Local Law establishing a comprehensive zoning plan for the Town of Washington, New York, and for said purposes dividing the Town into appropriate zoning districts" is hereby amended to delete Section 335 in its entirety.

Section The Local Law of the Town of Washington entitled "A Local Law establishing a comprehensive zoning plan for the Town of Washington, New York, and for said purposes dividing the Town into appropriate zoning districts" is hereby amended to revise Section 345(V)(A)(6) to read as follows:

6. The Planning Board shall review and approve the plans for construction of any access road or driveway for the Facility and may require the preparation and implementation of Stormwater Pollution Prevention Plan, in accordance with a local law of the Town of Washington known as "Stormwater Management and Erosion & Sediment Control", as the Board may deem appropriate after referral of the site plan to the Town Highway Superintendent and the Board's consulting Professional Engineer for recommendation. A road and parking plan shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made, provided said use is consistent with safety and aesthetic considerations. Road construction shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and soil erosion potential. Except to the extent that the Planning Board shall determine to apply its own road criteria as the same may exist from time to time, the applicant shall adhere to the standards for unpaved forest roads set forth in New York State Department of Environmental Conservation Unpaved Forest Road Handbook - ECH - 8409.11, as the same may be amended or revised from time to time.

Section The Local Law of the Town of Washington entitled "A Local Law establishing a comprehensive zoning plan for the Town of Washington, New York, and for said purposes dividing the Town into appropriate zoning districts" is hereby amended to revise Section 440 (2)(g)(2) as follows:

- (2) All stormwater (i.e. drainage) easements, maintenance easements, storm sewers, catch

basins, and other stormwater facilities as the same shall be shown on the approved subdivision plat or site plan have been installed and, if the same are to be dedicated to the Town, offered to the Town for dedication, and accepted by the Town.

Section 6. The Local Law of the Town of Washington entitled "A Local Law establishing a comprehensive zoning plan for the Town of Washington, New York, and for said purposes dividing the Town into appropriate zoning districts" is hereby amended to add a new section 472-A, to read in its entirety as follows:

Section 472-A. STORMWATER POLLUTION PREVENTION PLANS FOR SPECIAL PERMITS

An application for a special permit shall be accompanied by a Stormwater Pollution Prevention Plan consistent with the requirements of a local law of the Town of Washington known as "Stormwater Management and Erosion & Sediment Control". The SWPPP shall meet the performance and design criteria and standards in the "Stormwater Management and Erosion & Sediment Control" law. The approved special use permit shall be consistent with the provisions of the Town of the "Stormwater Management and Erosion & Sediment Control" law.

Section The Local Law of the Town of Washington entitled "A Local Law establishing a comprehensive zoning plan for the Town of Washington, New York, and for said purposes dividing the Town into appropriate zoning districts" is hereby amended to revise Section 483(9)(d) to read as follows:

- (d) Stormwater facilities including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.

Section 7. The Local Law of the Town of Washington entitled "A Local Law establishing a comprehensive zoning plan for the Town of Washington, New York, and for said purposes dividing the Town into appropriate zoning districts" is hereby amended to revise Section 483(10) to read as follows:

- (10) A Stormwater Pollution Prevention Plan consistent with

the requirements of a local law of the Town of Washington known as "Stormwater Management and Erosion & Sediment Control" shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards in the "Stormwater Management and Erosion & Sediment Control" law. The approved Site Plan shall be consistent with the "Stormwater Management and Erosion & Sediment Control" law.

Section The Local Law of the Town of Washington entitled "A Local Law establishing a comprehensive zoning plan for the Town of Washington, New York, and for said purposes dividing the Town into appropriate zoning districts" is hereby amended to delete the definition of "Certification" within Section 610.

Section 8. This local law shall take effect immediately upon filing with this state's Secretary of State.

Supervisor Prisco advised the Town Board that, pursuant to the Municipal Home Rule Law of the State of New York, it will be necessary to hold a public hearing upon this law. She offered the following resolution which was seconded by Councilman \_\_\_\_\_, who moved its adoption:

Whereas, on \_\_\_\_\_, 2007, Supervisor Prisco has introduced this local law for the Town of Washington, to be known as "Town of Washington Local Law No. \_\_\_\_\_ of the Year 2007, a Local Law of the Town of Washington, Dutchess County, New York "Stormwater Management and Erosion & Sediment Control."

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties of interest and citizens shall have an opportunity to be heard, to be held at the Town

Hall, Reservoir Road, Millbrook, New York, on \_\_\_\_\_,  
2007, at \_\_\_\_\_ o'clock \_\_.m., Prevailing Time, and that notice  
of said meeting shall be published in the official newspaper of  
general circulation in the Town of Washington, by the Town  
Clerk, at least five (5) days before such hearing and that  
notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE, that the Town Board of the Town of Washington will hold a public hearing at the Town Hall, Reservoir Road, Millbrook, New York on \_\_\_\_\_, 2007 at \_\_\_\_\_ o'clock, \_\_.m., on Local Law No. \_\_ of the Year 2007, "Stormwater Management and Erosion & Sediment Control."

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the office of the Clerk of the Town of LaGrange, at the Town Hall, Reservoir Road, Millbrook, New York between the hours of 8:30 a.m. and 4:00 p.m. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Millbrook, New York  
\_\_\_\_\_, 2007

\_\_\_\_\_  
MARY ALEX, TOWN CLERK

The foregoing resolution was voted upon with all councilmen  
voting as follows:

Supervisor Prisco	_____
Councilman Turletes	_____
Councilman Rappleyea	_____
Councilman Murphy	_____
Councilman Audia	_____

DATED: Millbrook, New York  
\_\_\_\_\_, 2007

\_\_\_\_\_  
MARY ALEX, TOWN CLERK