

# Final

## Town of Dryden Stormwater Management, Erosion and Sediment Control Law

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## **Town of Dryden Stormwater Management, Erosion and Sediment Control Law**

Proposed Local Law Number \_\_\_\_\_ of the Year 2007.

Be it enacted by the Town Board of the Town of Dryden as follows:

### **Article 1. General Provisions**

#### **Section 1. Title**

This local law may be cited as the Town of Dryden “Stormwater Management, Erosion and Sediment Control Law.”

#### **Section 2. Findings of Fact**

The Town of Dryden finds that uncontrolled stormwater runoff associated with land development has a significant impact upon the health, safety and welfare of the community, and quality of the environment. Specifically:

1. Land development activities, increases in impervious cover, and improper design and construction of drainage facilities often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, sediment transport, and stream channel erosion.
2. Improperly managed stormwater runoff can increase the incidence of flooding and the level of floods that occur, endangering property and human life.
3. Construction involving land clearing and the alteration of natural topography, particularly near a watercourse, wetland, or on steep slopes, increases erosion and leads to siltation of water bodies, decreasing their capacity to hold and transport water, damaging public and private property, and harming flora and fauna.
4. Sediment from soil erosion can spill onto roads, making them less safe, and can clog catch basins, storm sewers, and ditches, resulting in increased maintenance expense for the Town of Dryden and other public and private entities.
5. Clearing and grading during construction can result in loss of valuable topsoil and loss of native and other vegetation necessary for terrestrial and aquatic habitat.
6. Loss of wetlands from land development leads to the significant loss of water quality and quantity control functions. Any decrease in wetlands reduces hydrologic absorption, storage capacity, biological and chemical oxidation sites, sedimentation and filtering functions of wetland areas.
7. Stormwater runoff from developed areas can carry significant quantities of water-borne pollutants into surface waters and groundwater, degrading water bodies, affecting public and private water supplies and recreational uses, and degrading terrestrial and aquatic habitats. Nutrients in runoff, such as phosphorous and nitrogen, accelerate eutrophication of receiving waters.
8. The southern end of Cayuga Lake, which ultimately receives drainage from much of the land area in Dryden, has been placed on the New York State 303(d) List of Impaired Waters, which identifies sediment/silt and phosphorus as the major pollutants contributing to this impairment.
9. Increasing impervious surfaces increases the volume and rate of stormwater runoff and allows less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow. Stormwater management practices that improve infiltration are desirable to mitigate this effect.

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10. Substantial economic losses can result from these adverse impacts on community waters.
11. Stormwater runoff, soil erosion, and non-point source pollution can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new land development and redevelopment activities, through the use of both structural and nonstructural practices.
12. Non-structural or better site design practices can help to control stormwater runoff by protecting or mimicking natural hydrologic functions of a site, and often are less expensive and may require less maintenance than structural practices.
13. 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, sedimentation, and runoff from development. Such regulation is in the public interest and will minimize threats to public health and safety.

## **Section 3. Purpose**

The purpose of this local 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 the Town and to address the findings of fact in Section 2 hereof. This local 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.
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.
3. Minimize increases in the magnitude, rate, and frequency of stormwater runoff between pre-development and post-development conditions so as to prevent an increase in flood flows and in the hazards and costs associated with flooding.
4. Where increases occur, restrict stormwater runoff entering and leaving development sites to non-erosive velocities.
5. Minimize the accumulation, and facilitate the removal of pollutants in stormwater runoff so as to perpetuate the natural biological and recreational functions of streams, water bodies, and wetlands.
6. Reduce the need for costly maintenance and repairs to roads, embankments, ditches, streams, lakes, ponds, wetlands, and stormwater control facilities resulting from inadequate control of soil erosion and stormwater runoff.
7. Reduce the detrimental impacts of stormwater flows on adjacent properties and downstream communities.
8. Prevent accelerated soil erosion and sedimentation so as to avoid its deposit in streams and other receiving water bodies.
9. Assure soil erosion control and stormwater runoff control systems are incorporated into site planning at an early stage.
10. Maintain the integrity of local drainage systems, particularly natural systems, so as to sustain their hydrologic functions.

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11. Encourage groundwater recharge so as to maintain stream base flows, aquatic life, and adequate water supplies.
12. Enhance, to the extent possible, secondary community benefits (such as open space protection and increased recreational opportunity) derived from stormwater management planning and facilities.
13. Maintain the integrity of stream flow in such a way as to perpetuate natural communities, food chains and recreational opportunities.
14. Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety.
15. Establish provisions to ensure there is an adequate funding mechanism, including financial surety, for the proper review, inspection and long-term maintenance of stormwater facilities implemented as part of this local law.
16. Establish administrative procedures for the submission, review, approval or disapproval of stormwater management plans, and for the inspection of approved active development projects, and long-term follow up on post-construction stormwater management practices.

## Section 4. 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 Dryden 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 Dryden and for the protection and enhancement of its physical environment. Such local law may provide for the appointment of any municipal officer, employees, or independent contractor to administer and enforce such local law.

## Section 5. Definitions

The terms used in this local law or in documents prepared or reviewed under this local law shall have the meaning as set forth in this section.

**Adverse Impact** – a negative impact on land or waters resulting from a land development activity. The negative impact may include impairment to human or natural uses (such as increased risk of flooding, degradation of water quality, sedimentation, reduced groundwater recharge, impaired recreational use, impacts on aquatic organisms or other resources, or threats to public health).

**Area of Disturbance** – the total land area subject to Land Development Activity, as defined below. If activities are part of a larger common plan of development or sale, total Area of Disturbance is calculated for the entire project, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**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.

**Basic SWPPP** – A Stormwater Pollution Prevention Plan (SWPPP) that includes all requirements for erosion and sediment control, but does not require post construction water quality and quantity controls.

**Best Usages** – the protected uses identified for each class of waters of New York State, under the classification

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system described in 6 NYCRR Part 701, Classifications-Surface Waters and Groundwaters.

**Borrow Area** – An area from which soil, sand, gravel, or other similar material is excavated.

**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 150 square feet of area.

**Certified Inspector** – a Certified Erosion, Sediment, and Stormwater Inspector (CESSWI), in accordance with the procedures of the certifier, CPESC, Inc., or whose qualifications are approved by DEC or the Town Board.

**Certified Professional** – A Certified Professional in Erosion and Sediment Control (CPESC) or Certified Professional in Stormwater Quality (CPSWQ), as appropriate for the task at hand, in accordance with the procedures of the certifier, CPESC, Inc., or whose qualifications are approved by DEC or the Town Board.

**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.

**Common Plan of Development or Sale** – a plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name. The term also includes phased construction activity by a single entity for its own use. For discrete construction projects that are located within a larger common plan of development or sale that are at least ¼ mile apart, each project can be treated as a separate plan of development or sale provided any interconnecting road, pipeline or utility project that is part of the same “common plan” is not concurrently being disturbed.

**Concentrated Flow** – runoff that accumulates or converges into well-defined channels, whether man-made or formed naturally by erosion. The opposite of concentrated flow is sheet flow, where flowing water is distributed evenly over the ground surface. Over distance on natural surfaces, sheet flow tends to become concentrated flow due to erosion. To convert concentrated flow into sheet flow, use of an engineered structure, such as a flow spreader, is generally required.

**Connected Impervious Surface** – the total area of impervious surface in a project (such as paved areas and rooftops) that will drain directly, via impervious conveyance (such as gutters, pipes, or paved or compacted channels or ditches), to the municipal separate storm sewer system (whether a road ditch or storm sewer) or to a surface water. Also see definition of “Disconnected impervious area”.

**Dedication** – the deliberate appropriation of property by its owner for general public use.

**DEC** – the New York State Department of Environmental Conservation.

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

**Detention** – temporary storage of stormwater runoff.

**Developer** – a person undertaking land development activity, or for whose benefit land development activities are carried out.

**Development** – to make a site or area available for use by physical alteration. Development includes but is not limited to providing access to a site, clearing of vegetation, grading, earth moving, excavating, providing utilities and other services such as parking facilities, stormwater management and erosion control systems, altering landforms, or constructing a structure on the land.

**Disconnected impervious area** – Impervious area that is not directly connected to a stream or drainage system, but which directs runoff towards pervious areas where it can infiltrate, be filtered, and slowed down. See DEC’s document “The Use and Implementation of Stormwater Credits”, for more detailed guidelines.

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**Drainage Area** – a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

**EPA** – Environmental Protection Agency

**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”.

**Final stabilization** – when 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 and areas not covered by permanent structures.

**Floodplain** – the area of land that is inundated when flow exceeds the capacity of the normal channel.

**Flood** – A flow event where the capacity of the channel is exceeded.

**Full SWPPP** – A Stormwater Pollution Prevention Plan that includes all requirements for erosion and sediment control, and also post construction water quality and quantity controls.

**Grading** – any excavating, filling, or stockpiling, including resulting conditions thereof.

**High Pollutant Loading Areas** – areas in industrial and commercial developments where solvents or petroleum products are loaded/unloaded, stored, or applied; areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than “reportable quantities” as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities.

**Hydric Soil** – a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part. The Natural Resources Conservation Service (NRCS) maintains a list of criteria for the designation of hydric soils, and the US Army Corps of Engineers Wetland Delineation Manual, Technical Report Y-87-1 (Environmental Laboratory, 1987) contains further detail on field indicators of hydric soils.

**Impervious Area** – those surfaces, improvements, and structures (such as but not limited to pavement, sidewalks, patios, terraces, decks, rooftops, tennis courts, and swimming pools) that cannot effectively absorb rainfall, snowmelt, and water.

**Industrial Stormwater Permit** – a State Pollution 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 stormwater percolating into the subsoil.

**Land Development Activity** – all activities including clearing, grubbing, grading, excavating, stockpiling, placement of fill, paving, installation of utilities, and construction of buildings or structures that result in soil disturbance.

**Landowner** (Owner, or Property Owner) – the legal or equitable 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 Professional** - a licensed professional engineer or licensed landscape architect who is knowledgeable in the principles and practices of erosion and sediment control and stormwater management.

**Maintenance Agreement** – a legally recorded document that acts as a property deed restriction, and which requires long-term maintenance of stormwater management practices.

**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, forestry, mining, construction,

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subsurface disposal and urban runoff sources.

**Operator** – the person having operational control over the construction plans and specifications for a project and/or responsibility for day-to-day supervision and control of the activities occurring at a construction site, and/or responsibility for long term maintenance of a stormwater management facility.

**Person** – shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description, and acting as either the owner or the owner's agent.

**Phasing** – Land Development Activity completed in distinctly separate parts, with the stabilization of each piece completed before the clearing of the next.

**Pollutant of Concern** – sediment or a water quality measurement that addresses a 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

**Project Site** – the portion of a parcel (or parcels) on which land development activity will occur.

**Qualified Professional** – a person knowledgeable in the principles and practices of erosion and sediment control and stormwater management, such as a licensed professional engineer, licensed landscape architect, or certified professional (as defined herein).

**Recharge** – the replenishment of underground water reserves.

**Redevelopment** – Reconstruction or modification to any existing previously developed land such as residential, commercial, industrial, institutional or road/highway, which involves soil disturbance. Redevelopment is distinguished from development or new development in that new development refers to construction on land where there had not been previous construction. Redevelopment specifically applies to constructed areas with impervious surface.

**Retention** – a practice designed to collect and store stormwater runoff without release except by means of evaporation, infiltration, or attenuated release when runoff volume exceeds the permanent storage capacity of the permanent pool or tank.

**Sediment Control** – measures that prevent eroded sediment from leaving the site.

**Sensitive Areas** – cold water fisheries, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species, wetlands, and Unique Natural Areas.

**Silvicultural Activity** – The on-going practice involving the dedicated and cyclic use of land expressly for the periodic production of timber. For example, clear-cutting is not considered an exempt silvicultural activity.

**Simple SWPPP** – A Stormwater Pollution Prevention Plan that includes an erosion and sediment control plan appropriate for small areas of disturbance.

**Slope(s)** – In this law, generally described as percent slope, which is calculated as rise over run (vertical change in elevation between two representative points on the site divided by horizontal distance between the same two points) and multiplied by 100. For example, a 5% slope is a rise of 5 feet over a horizontal distance of 100 feet. Percent slope may be calculated by observing contour lines on a map, or by use of survey equipment. Slope can also be expressed in degrees, as in angle degrees, ranging from 0 to 90 degrees (which would be a vertical cliff). To convert from degrees slope to percent slope, take the tangent of the slope in degrees, and multiply by 100.

**Sole Source Aquifer** – Under the federal Safe Drinking Water Act (42 U.S.C. §300h-3(e)), the Administrator of the EPA may determine that an underground water supply is the sole or principal source of drinking water for an area that, "if contaminated, would create a significant hazard to public health." If such a determination is made, the Administrator may designate the aquifer as a Sole Source Aquifer. Such designation may be initiated by a

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petition. There are currently no Sole Source Aquifers in Dryden. The Stormwater Design Manual contains a map of Sole Source Aquifers in New York State.

**Source Material** – any material(s) or machinery, which is directly or indirectly related to process, manufacturing, or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery; and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

**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 to specify stormwater control standards.

**Stabilization** – the use of practices that prevent exposed soil from eroding.

**Stop Work Order** – an order issued which requires that some or 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. See the Stormwater Design Manual for details and a list of land uses designated as hotspots for the State of New York.

**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 Town Board to accept and review stormwater pollution prevention plans, forward the plans to the applicable board, issue permits and approvals, and inspect and enforce stormwater management practices.

**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.

**Stormwater Pollution Prevention Plan (SWPPP)** – a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**Stormwater Runoff** – flow through or on the ground surface resulting from precipitation.

**Stream Corridor** – the landscape features on both sides of a stream, including soils, slopes, and vegetation, whose alteration can directly impact the stream's physical characteristics and biological properties.

**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

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

**Swale** – low-lying vegetated area with gradual slopes which transports stormwater, either on-site or off-site.

**Time of Concentration** – The time required for storm runoff to flow from the most remote point, in flow time, of a drainage area to the outlet.

**Unique Natural Area** – Those areas included in the Unique Natural Areas Inventory of Tompkins County.

**Watercourse** – a natural or human-made waterway, drainage way, drain, river, stream, diversion, ditch, gully, swale, or ravine having banks, a bed, and a definite direction with continuous or intermittent flow.

**Watershed** – total drainage area contributing runoff to a given point along a watercourse.

**Waterway** – A channel that directs surface runoff to a watercourse or to the public storm drain.

**Wetland** – Any area which meets one or more of the following criteria:

1. Lands and waters that meet the definition provided in New York State Environmental Conservation Law, Article 24, "Freshwater Wetlands Act." The approximate boundaries of such lands and waters are indicated on the official wetlands map promulgated by the Commissioner of the New York State Department of Environmental Conservation, or as amended and updated.
2. Areas which meet the definition used by the US Army Corps of Engineers and US Environmental Protection Agency: "Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas."

**Wetland Delineation** – The process of determining the boundaries of a wetland in the field, as described in the US Army Corps of Engineers Wetland Delineation Manual, Technical Report Y-87-1.

## Section 6. Applicability

- A. This local law applies to all land development activities and redevelopment activities that exceed any one of the thresholds below, unless exempt pursuant to Section 7 below. No person may undertake a land development activity without first meeting the requirements of this law.
- B. This law defines three levels of applicability. Depending on the area of disturbance and other criteria listed below, land development activities will require either:
  1. a Full SWPPP (Stormwater Pollution Prevention Plan) with both erosion and sediment control and post construction water quality and quantity controls;
  2. a Basic SWPPP with erosion and sediment control, or
  3. a Simple SWPPP, with a generic small site erosion and sediment control plan.
- C. Any of the following activities require a Full SWPPP with Erosion and Sediment Control and Post Construction Water Quality and Quantity Controls:
  1. Any land development activity with an area of disturbance greater than or equal to one acre that will discharge a pollutant of concern to either an impaired water identified on the New York State 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as the source of the impairment;

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2. Any land development activity with an area of disturbance greater than or equal to 5 acres;
  3. Any land development activity, exclusive of the construction of single family residences and construction activities at agricultural properties, with an area of disturbance greater than or equal to 1 acre;
  4. Any land development activity that will create ½ acre or more of connected impervious surface;
  5. Any land development activity that is part of a common plan of development or sale which in total exceeds any of the above thresholds;
  6. Any land development activity, regardless of size, that the Town Stormwater Management Officer determines likely to cause an adverse impact due to post-construction water quality or quantity, according to criteria of slope, soil characteristics, layout of impervious surfaces, potential for pollutant generation on-site, proximity to a sensitive area, or proximity to a stormwater structure or facility.
- D. Any of the following activities require a Basic SWPPP with Erosion and Sediment Control, unless already subject to a Full SWPPP as described above:
1. Any land development activity with an area of disturbance greater than or equal to 1 acre;
  2. Any land development activity that is part of a larger common plan of development or sale which involves a total area of disturbance greater than or equal to 1 acre;
  3. Any land development activity, regardless of size, that the Town Stormwater Management Officer determines likely to cause an adverse impact, according to criteria of slope, soil erodibility, proximity to a sensitive area, or proximity to a stormwater structure or facility.
- E. Any of the following activities require a Simple SWPPP, unless already subject to a Basic or Full SWPPP as described above:
1. Any land development activity with an area of disturbance greater than or equal to 5,000 square feet;
  2. Any land development activity, regardless of size, within 100 feet of a surface water of the state of New York, or a wetland;
  3. Any land development activity involving a linear disturbance 500 feet or longer and 3 feet or wider on average slope(s) of 5% or greater from high point(s) to low point(s) along the line of disturbance;
  4. Any land development activity that involves excavation or filling, resulting in the movement of 250 cubic yards or more of soil or similar material;
  5. Any land development activity, regardless of size, that the Town Stormwater Management Officer determines likely to cause an adverse impact, according to criteria of slope, soil erodibility, proximity to a sensitive area, or proximity to a stormwater structure or facility.

### **Section 7. Exemptions**

The following activities are exempt in part or in whole from review under this law:

1. Silvicultural activities as defined herein, except that landing areas and log haul roads are subject to this law.
2. Agricultural activity as defined herein.
3. Routine maintenance activities that disturb less than 2 acres and are performed to maintain the original

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line and grade, hydraulic capacity or original purpose of a facility.

4. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
5. Subdivision plats approved by the Town before the effective date of this law, except individual building permits applied for on or after the effective date of this law are subject to this law.
6. Land development activities for which a building permit has been approved before the effective date of this law, although the provisions of this law may be applied to permit renewals, or substantial modifications to the original proposal if occurring on or after the effective date of this law.
7. Cemetery graves.
8. Emergency activity immediately necessary to protect life, property or natural resources.
9. 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.

### **Section 8. Administration**

- A. The Town Board will appoint one (or more) qualified SMO(s) to administer, implement, and enforce the provisions of this law. This appointment shall be renewed annually. Qualification will be based upon, but not limited to, familiarity with applicable stormwater regulations and practices, understanding of stormwater hydrology and water quality, and familiarity with Town code enforcement procedures. The SMO must be a town employee or board member. In the case that there are multiple Stormwater Management Officers appointed, one person shall be designated as Stormwater Manager, with primary responsibility for program oversight.
- B. The SMO shall accept and review all Stormwater Pollution Prevention Plans for completeness and compliance with this law and, when required, forward such plans to the applicable board. The SMO is responsible for the completion of all New York State DEC and EPA forms to meet the requirements of the DEC General Permit for Construction Activities GP-02-01. The SMO may, if necessary, subject to budget restrictions and Town Board approval, engage the services of a registered professional engineer or certified professional to review the plans, specifications and related documents submitted in connection with any SWPPP.
- C. All land development activities subject to review and approval by the Town Board or Planning Board of the Town under Site Plan, Special Permit, or Subdivision regulations reviewed by such Board must be reviewed subject to the standards contained in this local law. No approval by any such Board shall be made unless it determines that the SWPPP complies with the requirements of this local law.
- D. All land development activities subject to review under this law, but not subject to review under Section 8(C) above, require a Stormwater Pollution Prevention Plan (SWPPP) based upon the Notice of Ground Disturbance to be submitted to the SMO who shall determine completeness of the SWPPP and compliance with this local law before issuing any required permits.
- E. Where this law grants the SMO discretion to apply additional requirements to a project, or to request additional information from an applicant, the SMO must give the applicant written explanation of such decision as early as possible in the application process.
- F. Prior to beginning any Land Development Activity, unless exempt pursuant to Section 7, the owner or operator must submit to the SMO a completed "Notice of Ground Disturbance." This information must be submitted along with initial application requiring a Town permit or approval. This form will enable the SMO to assist in determining what kind of SWPPP is required, if any.

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- G. The applicant must also meet the current requirements for the DEC's State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities.

## **Section 9. Severability and Effective Date**

### **A. Severability**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local 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 local law.

### **B. Effective Date**

This Local Law shall be effective upon filing with the office of the Secretary of State.

## **Article II. Stormwater Control**

### **Section 10. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control**

All land development activities exceeding the thresholds in Section 6 are subject to the following performance and design criteria:

#### **A. Technical Standards**

For the purpose of this local 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 this 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, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).
3. The Town of Dryden Stormwater Standards, attached as Schedule A.

#### **B. Equivalence to Technical Standards**

Where stormwater management practices are not in accordance with technical standards, the applicant must demonstrate equivalence to the technical standards set forth in Section 10(A) and the SWPPP must be prepared and certified by a licensed or certified professional.

#### **C. Water Quality Standards**

Any land development activity shall not cause or contribute to a violation of water quality standards in surface waters of the State of New York. The standards are contained in Parts 700 through 705 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, including, but not limited to:

1. There shall be no increase in turbidity that will cause a substantial visible contrast to natural

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conditions;

2. There shall be no increase in suspended, colloidal and settleable solids that will cause deposition or impair the waters for their best usages; and
3. There shall be no residue from oil and floating substances, visible oil film, or globules of grease.

These standards apply whether or not a project is subject to this local law, and whether or not a project meets the requirements of this law. These standards are enforceable by the DEC under the Environmental Conservation Law.

## **Section 11. Stormwater Pollution Prevention Plans (SWPPP)**

### **A. Notice of Ground Disturbance**

No land development activity which exceeds the thresholds in Section 6 above shall be commenced until the SMO has approved a SWPPP. The developer shall submit to the SMO, on a form to be supplied by the SMO, a Notice of Ground Disturbance prepared in accordance with the requirements of this local law. The Notice of Ground Disturbance shall include the following:

1. Contact Information including: Owner and Developer's Name, Address, Project Address, Phone Numbers, Tax Parcel #.
2. A brief description of the project, including a sketch, which may be combined with other drawings required for a building permit, specifically showing existing drainage features and vegetation on the site.
3. A description of the proposed project phases.
4. The ground area in square feet or acres that will be disturbed for each phase and for all phases of the project. The areas to be measured include but are not limited to: driveways, parking areas, buildings, septic systems, wells, grading and clearing, lawns, ditches, drainage structures, utilities, stockpiles, etc., including the total project area of disturbance, total parcel acreage, area of existing impervious surface, total area of impervious surface expected at completion, and total connected impervious area.
5. A description of the distance(s) from the areas of ground disturbance on any part of the site to the edge of any stream, pond, lake, or wetland on or in the vicinity of the site.
6. Any mapped or other indicators of wetlands on the site or adjacent to the site.
7. A description of the slope(s) of the site (in numerical or descriptive format).
8. A description of any linear excavations greater than or equal to 500 feet long and 3 feet wide.
9. A description of any activities that may involve the fill or excavation of greater than 250 cubic yards of soil.
10. A list of and brief description of any other permits required for the project.
11. Any additional details requested by the SMO.

### **B. Contents of a Simple SWPPP:**

1. The completed Notice of Ground Disturbance.
2. The SMO will provide a generalized plan describing the erosion control measures to be used to minimize the impacts of the land development activity appropriate for the site, based upon the

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guidelines in the DEC Erosion Control Manual or as developed by the Town for this purpose. Measures may include:

- a. Stabilized construction entrance;
- b. Stabilization of exposed soil;
- c. Protection of adjacent properties, waterways, and natural areas;
- d. Management of concentrated flow areas; and
- e. Maintenance during construction.

## **C. Contents of a Basic Stormwater Pollution Prevention Plan** (to address Erosion and Sediment Control):

### **1. Notice of Ground Disturbance**

### **2. Existing Pre-Construction Conditions**

- a. Site map, at a scale no smaller than 1"=100', must include the following:
  - (i) project parcel and surrounding areas within 200 feet of the parcel;
  - (ii) existing conditions for drainage including topography, culverts, ditches, surface waters and wetlands (including names and classifications for both, if available), sub-watershed boundaries, and existing vegetation;
  - (iii) existing buildings, structures, utilities, and paved areas;
  - (iv) contour lines in sufficient detail to represent site topography.
- b. Description of the existing soil(s), vegetative surface cover, and site impervious cover present.
- c. Assessment of the site limitations and development constraints with regard to factors including, but not limited to: slope, soil erodability, depth to bedrock (if shallow), depth to seasonal high water, soil infiltration capacity, and proximity to surface waters and wetlands.
- d. Any existing data that describes the stormwater runoff at the site.

### **3. Better Site Design Practices**

Description of the "Better Site Design" practices to be used for this project, as described in the Town of Dryden Stormwater Standards.

### **4. Proposed Construction and Post-Construction Conditions**

- a. Construction map(s) for the project - may be combined with the existing conditions site map, but only if all required features can be shown clearly. At a minimum, the map(s) must show the following for the total site area; all improvements; areas of disturbance; areas that will not be disturbed; post-development topography; proposed changes to drainage patterns; locations of on-site and off-site material, waste, borrow, or equipment storage areas; and location(s) where stormwater from the site will discharge to water bodies or existing manmade drainage structures. The names of downstream receiving waters must be identified.
- b. If the project will create a new or increased concentrated discharge to a man-made drainage structure maintained by a private adjacent landowner, written consent of that landowner in the form of a drainage easement is required, which must be recorded on the plan and must remain in effect with transfer of title to the property. No other discharge of concentrated flow to a neighboring private property is permitted.
- c. Identify on-site storage location for the SWPPP and all relevant records and certifications, including inspection records.

Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation, and any other

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activity at the site that results in soil disturbance. No more than two 2 acres may be exposed by site preparation at any one time. If the applicant determines that this two 2 acre limit is insufficient, the applicant must provide a basis for the contention.

## 5. **Erosion and Sediment Control Plan, including:**

- a. Description of 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.
- b. 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.
- c. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins.
- d. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice. This site map can be incorporated into the construction map described above.
- e. Identification of erosion control facilities, if any, that will be converted from temporary to permanent control measures.
- f. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice will remain in place. Erosion and sediment control measures must be constructed prior to beginning any other land disturbances. The devices must be maintained and must not be removed until the disturbed land areas are stabilized.
- g. Delineation of SWPPP implementation responsibilities for each part of the site.
- h. Maintenance schedule to ensure continuous and effective operation of all erosion and sediment control practices.

## 6. **Construction Site Waste Management Plan, including:**

- a. Description of the pollution prevention measures that will be used to prevent litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff.
- b. Description of the type, quantities / sizes, and disposal methods for construction and waste materials expected to be stored on-site and off-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.

## **D. Contents of a Full Stormwater Pollution Prevention Plan (with Post-Construction Water Quality and Quantity Controls)**

1. All information required for the Basic SWPPP , and:
2. Identification of any special conditions affecting the design of stormwater management practices, including, but not limited to: discharge to a trout stream; cold climate design considerations; location over a sole source aquifer, or other aquifer of local significance; redevelopment activity; or recognition that the project site is a stormwater hotspot.
3. If the project is subject to an infiltration requirement as described in the Town of Dryden Stormwater Standards (Schedule A) explain how the requirement will be met, including relevant calculations.

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4. Identification of any Stormwater Credits to be used in this project (as described in Dryden Stormwater Standards, Schedule A, with documentation as described in the DEC's guidance on "The Use and Implementation of Stormwater Credits").
5. Narrative summary describing each post-construction stormwater management practice, its purpose, and why it is appropriate for the site (see Schedule A at the end of this document for list of approved practices from the Design Manual). If the designs deviate from the Design Manual, explain how and why.
6. Dimensions, material specifications and installation details for each post-construction stormwater management practice, as well as feasibility assessment.
7. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice. Soil characteristics used to determine feasibility for stormwater management practices must be shown on the map. DEC recommends that the site map for projects requiring Water Quality and Quantity Controls must use no more than 2 foot contour intervals. The map must outline the drainage areas for all post-construction stormwater management practices, and show the stormwater flow paths, and discharge points. If practices or diversion structures receive drainage from large off-site areas, the watershed can be described verbally at the edge of the map. This information can be incorporated into the construction map described in Section 11(C)(4)(a) if all the required information can be clearly shown.
8. Comparison of post-development stormwater runoff conditions with pre-development conditions, including identification of methodology used for the comparison and documentation of relevant variables (including but not limited to: curve numbers, time of concentration, and peak runoff rates) and how they were derived from site characteristics.
9. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms, with documentation that the designs meet the specifications and sizing criteria in the Design Manual.
10. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
11. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements must be recorded on the plan and must remain in effect with transfer of title to the property.
12. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Section 12 of this local law.
13. If the project will make use of a new or existing stormwater management facility on a neighboring property, the maintenance easement and the maintenance agreement must include the owner of that property, and must remain in effect with transfer of title to that property.

### **E. Plan Preparation and Certification**

1. If a Full SWPPP is required, it must be prepared by a qualified professional. Design of any stormwater management control practices that involve substantial structural components, such as a dam for an impoundment, should be performed by a licensed professional engineer.
2. If a project will discharge a pollutant of concern to either an impaired water identified on the New York State 303(d) List of Impaired Waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as the source of the impairment, the SWPPP shall be prepared by a licensed or certified professional, and must be signed by the

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professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law, and State law.

3. If a Basic SWPPP is required, applicants should seek design guidance from a qualified professional when necessary, or if requested by the SMO.

### **F. Other Environmental Permits**

The applicant must 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.

### **G. Contractor Certification**

1. Each contractor and subcontractor who will be involved in soil disturbance or stormwater management practice installation for the project must be identified in the SWPPP and must 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."
2. 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.
3. The certification statement(s) must become part of the SWPPP for the land development activity.

### **H. Availability of Permit on Site**

A copy of the SWPPP must 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.

## **Section 12. Maintenance, Inspection, and Repair of Stormwater Facilities**

### **A. Maintenance and Inspection During Construction**

1. The applicant or developer of the land development activity or their representative must 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 local law. Sediment must be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
2. For land development activities subject to a Full SWPPP, the applicant must have a qualified professional, certified inspector, or person working under the direction and supervision of a licensed professional, conduct site inspections and document the correct installation and effectiveness of all erosion and sediment control practices prior to the commencement of construction, and thereafter every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports must be maintained in a site log book, and copies delivered to the Stormwater Management Officer if requested.
  - a. In the case of a project subject to a Full SWPPP, and with separate and distinct phases, inspections may be ceased in-between phases, as long as the project meets the DEC's requirements for "Final Stabilization" during this interim period.

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- b. In the case of a wintertime pause to construction, the DEC's guidelines for "Winter Site Stabilization/Site Inspections" may be followed.

### **B. Maintenance after Construction**

The owner or operator of permanent stormwater management practices installed in accordance with this law must operate and maintain these practices to achieve the goals of this law. Proper operation and maintenance include as a minimum, the following:

1. A preventive/corrective 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.
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 Section 10(C).

### **C. Inspection, Maintenance and Easement Agreement**

Prior to the issuance of any approval for a project that has the construction of a stormwater management facility as one of the requirements, the applicant or developer must execute an inspection, maintenance and easement agreement that shall be binding on all subsequent landowners benefited by the stormwater management facility. The agreement must provide for Town access to the facility at all reasonable times for periodic inspection, and possible maintenance by the Town (in the sole discretion of the Town and expense of the owner) to ensure that the facility is maintained in proper working condition and continues to meet design standards and any other requirements of approval and this local law. The agreement must be recorded in the office of the County Clerk, and noted on the subdivision plat (if applicable) after approval by the counsel for the Town. The Town reserves the power to require enforcement and charge-back of expense powers in the agreement, and to assign all agreements to any future drainage district.

### **D. Dedication of Stormwater Management Facilities Maintenance Agreement**

The Town, in lieu of the agreement required in (C) above, in its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. Prior to accepting a dedicated facility, the Town may require the formation of a drainage district to include all parcels served by the facility, to pay the expenses of ongoing inspection, maintenance, and, if necessary, modification of the facility.

## **Article III. Administration and Enforcement**

### **Section 13. Construction Inspection**

#### **A. Erosion and Sediment Control Inspection**

The SMO 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 must notify the SMO at least 48 hours before any of the activities listed below, as required by the SMO, or the SMO may develop an inspection schedule specific to an individual project

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including but not limited to:

1. Start of construction
2. Installation of sediment and erosion control measures
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 landscaping
8. Successful establishment of landscaping in public areas.

Additionally, the Town may conduct inspections at any time.

If any violations are found, the applicant and developer shall be notified 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 SMO.

## **B. Stormwater Management Practice Inspections**

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 note any changes from the originally approved design) and must be certified by a professional engineer.

## **C. Inspection of Stormwater Facilities After Project Completion**

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.

## **D. Designation of Inspectors**

Inspections will be performed by the SMO or the SMO may designate a qualified professional, certified inspector, or person working under the direction and supervision of a licensed professional. A designated inspector is required to submit a report to the SMO.

## **E. Submission of Reports**

The SMO may require monitoring and reporting from persons subject to this law as are necessary to determine compliance with this law.

## **F. Right-of-Entry for Inspection**

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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 must 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 13(C).

## **Section 14. Performance Guarantee**

### **A. Construction Completion Guarantee (Security)**

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 Town may require the applicant or developer to provide, prior to construction, security such as a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial institution or surety to guarantee completion of the project and which security names the Town as the beneficiary. The Town can determine the amount and form of the security, in its sole discretion. The security must remain in force until released from liability by the Town, provided no security shall be for a period less than one year from the date of final acceptance and certification that the project has been constructed in accordance with the approved plans and specifications. Prior to release of the security, an inspection shall be conducted and any deficiencies in the project must be corrected.

### **B. Maintenance Guarantee**

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a person who owns or manages such facilities, the Town may require the applicant or developer to provide, prior to construction, security such as a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial institution or surety to guarantee 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 account to cover the costs of proper operation and maintenance, including legal, engineering and inspection costs.

### **C. Record Keeping**

Persons subject to this law are required to maintain records demonstrating compliance with this law. Such records must be provided to the SMO upon request.

## **Section 15. Enforcement and Penalties**

### **A. Notice of Violation.**

When the SMO determines that a land development activity is not being carried out in accordance with the requirements of this local law, the SMO may issue a written notice of violation to the landowner. A notice of violation shall contain:

1. the name and address of the owner, 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 local 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

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- notice of violation is directed; and
- 6.a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

### **B. Stop Work Orders**

The SMO may issue a stop work order for violations of this law. Persons receiving a stop work order are required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order will be in effect until the SMO 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 local law.

### **C. Violations**

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

### **D. Penalties**

In addition to or as an alternative to any other penalty or remedy provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) 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) 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. For the purposes of conferring jurisdiction upon courts and judicial officers generally, a third violation of this local law shall be deemed an unclassified misdemeanor 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.

### **E. Withholding of Certificate of Occupancy**

If any building is constructed or land development activity is undertaken in violation of this local law the SMO may withhold the certificate of occupancy of any building until compliance with this local law has been completed.

### **F. Restoration of lands**

Any person who violates any provision of this local law 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.

## **Section 16. Fees for Services**

The Town, by local law, may require any person undertaking land development activities subject to this local law to pay the reasonable costs of persons hired by the Town to review SWPPP's, perform inspections of stormwater management facilities and certify the completion of the same. The Town Board may by resolution establish a fee schedule SWPPP review.

**Article IV. Prior Laws**

**Section 17. Prior Laws or Regulations**

This local law shall take precedence over any other inconsistent requirement of any local law, ordinance, or regulation of the Town of Dryden.

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## Schedule A

### TOWN OF DRYDEN STORMWATER STANDARDS

1. The Town will maintain reference copies and current web links, when available, for all of the documents cited below.
2. Sites for all land development activities disturbing more than 5,000 square feet must be stabilized by means of mulch, vegetation, or equivalent as soon as practicable, and within no more than seven (7) days, whenever construction activities have temporarily or permanently ceased at that site, unless earth-disturbing activities will be resumed within fourteen (14) days. In the case of snow cover or frozen ground, sites should still be mulched, to control runoff during snowmelt. Maintenance must be performed as necessary to ensure continued stabilization. Specifications for mulching as well as temporary and permanent vegetative stabilization can be found in the New York State Standards and Specifications for Erosion and Sediment Control.
3. Vegetation planted for the purpose of site stabilization and / or stormwater management shall not include species that are considered “invasive”. Applicants must avoid plants on the list published by the Invasive Plant Council of New York State, as well as the Tompkins County Invasive Plant list. Applicants may refer to table H.5 of the New York State Stormwater Management Design Manual for a list of plants native to New York State which are recommended for stormwater ponds, wetlands, bioretention, and other vegetated treatment areas.
4. The Town experiences cold winters and significant snowfall. Stormwater facility design and sizing strategies appropriate for winter conditions and spring snowmelt are recommended. Those projects with stormwater practices receiving drainage from twenty (20) acres or more must use the water quality sizing guidelines for cold climates found in the New York State Stormwater Management Design Manual. Additional design guidance that may increase the longevity and winter-time effectiveness of stormwater management practices may be found in the document “Stormwater Practices for Cold Climates”, published by the Center for Watershed Protection.
5. Redevelopment projects and high density projects (in areas zoned for high density) often make more efficient use of the land, and may reduce overall impacts to natural areas. This law is not intended to create a disincentive for such projects. The Stormwater Management Officer may allow some degree of flexibility for such projects, so long as the minimum New York State standards are met. Redevelopment projects should follow the guidelines found in the Stormwater Design Manual.
6. The Town notes that the Stormwater Design Manual provides helpful charts and criteria to guide selection of site-appropriate stormwater management practices. Applicants shall consider these criteria when selecting practices.
7. If a project is composed of separate and distinct phases, the stormwater management practices may also be installed in phases, but the standards of this law must be met during all phases.
8. Off-site stormwater control areas may be shared between two or more property owners or developments, provided that the SMO has approved the design and the required maintenance agreements, and the required easements have been obtained and recorded.
9. Applicants must avoid and minimize disturbance of wetlands, stream corridors, and surface waters to the maximum extent practicable at the project site, and the relevant state or federal permits must be obtained if disturbance will take place. Land development activities shall not discharge untreated stormwater directly into a natural wetland or water body without adequate treatment, nor modify natural wetlands for stormwater impoundment. To the extent possible, a buffer must be maintained between land development

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activities (including the placement of silt fencing) and wetland boundaries, stream banks, or lake or pond shorelines.

10. **Wetland Presence and Boundaries.** When relevant in the context of this law, or in accordance with Federal or New York State regulations, it may be necessary for the applicant to determine the presence and boundaries of wetland(s) on a project site. The Town of Dryden Stormwater Management Officer may request the applicant to obtain a wetland delineation, either by a qualified Town staff member, by a United States Army Corps of Engineers wetlands officer, by the DEC, or a wetlands consultant. The following criteria shall be used to indicate the potential presence and location of a wetland, and the SMO shall exercise best judgment on when a delineation is needed:

a) **Map Indicators**

- i. The boundaries indicated by the New York State Freshwater Wetlands Map, produced by the NYS Department of Environmental Conservation, as amended and updated. According to Section 24-0301, Environmental Conservation Law, these boundaries are “approximate”, but as “accurate as practicable”. A landowner or “another person or persons or an official body whose interests are shown to be affected” may send a written request to the Commissioner of the Department for a more precise delineation.
- ii. The National Wetlands Inventory Maps, produced by the US Fish and Wildlife Service, 1979, or as amended or updated. Note that the metadata for these maps states: “Due to the scale, the primary intended use is for regional and watershed data display and analysis, rather than specific project data analysis.”
- iii. The Tompkins County Soil Survey, 1965, or as updated, and the Tompkins County Hydric Soils List, which together identify the approximate location of hydric soils, which are indicative of the presence of wetlands.
- iv. The absence of a mapped wetland indicator does not rule out the potential presence of a wetland if field indicators are present. On the other hand, in the absence of any field indicators, a mapped indicator may be inaccurate.

b) **Field Indicators**

- i. The presence of wetland vegetation, according to the "National List of Vascular Plant Species that Occur in Wetlands" USFWS, 1988 or as updated or amended. Note that the New York State Wetland Definition, ECL 24-0107.1 provides a helpful list of wetland plants commonly encountered in various wetland types across New York State;
- ii. Indicators of occasional inundation or saturation, such as presence or signs of shallow standing water, a high water table, or frequent flooding.
- iii. Field indicators of hydric soil conditions.
- iv. Proximity in location and elevation to areas of confirmed wetland or floodplain.

11. **Nonstructural Stormwater Management Practices.** To the maximum extent practicable, stormwater management objectives must be met by incorporating nonstructural stormwater management strategies into the project design. Non-structural practices reduce the need for expensive and high maintenance stormwater management facilities, and thereby are a benefit to the applicant and to the Town. The following non-structural strategies shall be applied wherever possible:

- a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss.
- b) Maximize the protection of natural drainage features and vegetation.
- c) Minimize land disturbance including clearing and grading.
- d) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces.

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- e) Maximize the time of concentration from pre-construction to post construction. "Time of concentration" is defined as the time required for water to flow from the most remote point of the site area (in time of flow) to the outlet.
  - f) Favor movement of water through the site as sheet flow through vegetated areas, rather than concentrated flows.
  - g) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas.
  - h) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of fertilizers and pesticides.
  - i) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff.
12. **Better Site Design:** DEC has identified a set of 18 "Better Site Design Practices" which can reduce the impacts of a project, and also often reduce costs. Many of these practices will result in smaller required stormwater treatment and storage volumes. These are generally non-structural or smaller scale practices than those described in the Stormwater Design Manual. Recommended Better Site Design practices are described in the DEC document called Better Site Design.
- a) The Town requires that projects disturbing one (1) acre or more must apply at least two (2) of these practices.
  - b) If the applicant contends that the minimum number of practices cannot be incorporated into project design due to site limitations, the applicant must explain such limitations.
13. **Stormwater Credits:** The DEC has also identified a set of 6 practices, (several of which overlap with the "Better Site Design Practices" above), which qualify for Stormwater Credits. If these practices are implemented as described in the document called "The Use and Implementation of Stormwater Credits", they can result in a calculated reduction in the water quality treatment volume, and occasionally in the water quantity storage volumes, required for projects subject to a Full SWPPP.
- a) The six credits are as follows:
    - i. Natural Area Conservation
    - ii. Stream and Wetland Buffers
    - iii. Vegetated Open Channels
    - iv. Overland Flow Filtration to Groundwater Recharge Zones
    - v. Environmentally Sensitive Rural Development
    - vi. Riparian Reforestation
  - b) If used as credits, these practices must be implemented as described in "The Use and Implementation of Stormwater Credits".
  - c) These practices must be reviewed and approved by the Town before the credit can be taken.
  - d) DEC's procedure for application of these credits is currently evolving. Projects making use of credits may require a 60 day review by DEC and / or a letter from the Town certifying that the credit has been applied correctly.
  - e) The Town encourages applicants to make use of site appropriate credit(s).
14. Any non-structural strategy applied that requires continued protection or maintenance in order to function over the long term must include an appropriate written agreement to ensure such protection or maintenance—either by means of an easement, maintenance agreement, deed restriction, or dedication to an appropriate government agency or land trust, as approved by the reviewing board.

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15. **Infiltration Requirement (applicable to projects requiring a Full SWPPP).** In order to maximize groundwater recharge and reduce runoff, the Town has an Infiltration Volume requirement that is determined based on the drainage properties of the soils on site. The Infiltration Volume is calculated by multiplying the Water Quality Volume for the project (prior to the application of any Stormwater Credits) by a factor according to the Hydrologic Soil Groups (HSG) at the project site. The project site includes the expected areas of disturbance surrounded by a 100 foot buffer (or to the edge of the parcel - whichever is less). The multiplication factors are shown below, and an area weighted average should be used if more than one HSG is present.

<b>Soil Type</b>	<b>Infiltration (% of WQv)</b>
A	38%
B	25%
C	13%
D	0% (no requirement)

The infiltration volume can either be treated by using an infiltration practice as described in the Stormwater Design Manual (required site criteria must be met), or by applying one or more site-appropriate Stormwater Credits such that the calculated reduction in the Water Quality Volume is greater than or equal to the required Infiltration Volume. If neither approach is feasible due to site limitations, the applicant must explain the limitations in writing, and the SMO may reduce or waive the infiltration requirement.

However, the following types of stormwater shall not be infiltrated:

1. Stormwater from high pollutant loading areas, or stormwater hotspots.
2. Industrial stormwater exposed to source material.