

**ADOPTED-December 26, 2007**  
**TOWN OF NORTH SALEM**  
**Local Law No. 8 of the year 2007 (Amending LL #3-07)**

**A Local Law to amend the Code of the Town of North Salem to add a new Code Chapter,  
Chapter 193, entitled Stormwater Management and Erosion and Sediment Control  
And  
To amend Chapter 85, Fees; Chapter 107, Freshwater Wetlands;  
Chapter 189, Sand and Gravel, Tree Removal; Chapter 195, Streets and Sidewalks;  
Chapter 200, Subdivision of Land; Chapter 250, Zoning; and Chapter A267, Site Development Plan**

BE IT ENACTED by the Town of North Salem as follows:

**Chapter 193**  
**Stormwater Management and Erosion and Sediment Control**

#1. This local law shall amend the Code of the Town of North Salem to add a new Code Chapter, Chapter 193, entitled Stormwater Management and Erosion and Sediment Control as follows:

**193-1. Title.**

This chapter shall be known as the “Stormwater Law” of the Town of North Salem.

**193-2. Findings of fact.**

It is hereby determined that:

- A. 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, and sediment transport and deposition.
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species.
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat.
- D. Improper design and construction of Stormwater Management Practices (SMPs) can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation.
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow.

- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality.
- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities.
- H. 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.
- I. 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.

### **193-3. 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 this jurisdiction and to address the findings of fact in Section 193-2 hereof. This local law seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of minimum measures 4 and 5 of the New York State Department of Environmental Conservation (NYSDEC) State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit GP-02-02 or as amended or revised.
- B. Require land development activities to conform to the substantive requirements of the NYSDEC SPDES General Permit for Construction Activities Permit GP-02-01 or as amended or revised.
- C. 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.
- D. Minimize increases in pollution caused by stormwater runoff from land development activities, which would otherwise degrade local water quality.
- E. Minimize the total annual volume of Stormwater runoff, which flows from any specific site during and following development to the maximum extent practicable.
- F. 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.

#### **193-4. Definitions.**

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

**AGRICULTURAL OPERATION** - See "farming operation."

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

**BUILDING** - any structure, either temporary or permanent, or extension thereof or addition thereto, having a roof supported by such things as columns, posts, piers or walls and intended for the shelter, business, housing or enclosing of any persons, animals or property.

**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.

**CONTROLLED AREA** – Areas regulated in accordance with the Code of the Town of North Salem, Chapter 107, or the most current version of the Town’s freshwater wetlands regulations, including wetlands and their adjacent land areas, as defined in the regulations.

**DEDICATION** - the deliberate appropriation of property by its owner for general public use.

**DESIGN MANUAL** – the most recent version of 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.

**DEVELOPER** - a person who undertakes land development activities.

**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”.

**FARMING OPERATION** - Any operation on a parcel of land, not less than four acres, that is used for soil-dependent cultivation of agricultural crop production and/or the raising of livestock, poultry or dairy products, raising of fur-bearing animals, the keeping of horses and livery or boarding stables. It excludes riding academies and dog kennels.

**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, including gravel surfaces (e.g., building rooftops, pavement, sidewalks, driveways, etc).

**INDUSTRIAL STORMWATER PERMIT** - a State Pollutant Discharge Elimination System permit issued to a

commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**INFILTRATION** - the process of percolating stormwater into the subsoil.

**JURISDICTIONAL WETLAND** - an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. This includes any area that meets the definition of wetlands according to the Town's freshwater wetlands regulations.

**LAND DEVELOPMENT ACTIVITY** - construction activity including clearing, grubbing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre (1 Ac.). Land disturbance activity may also include activities disturbing less than one acre of total land area that are part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules that are equal to or greater than one acre. Any activity that requires review, approval and/or permitting under the Town's requirements and regulations for fill, wetlands, sand and gravel and tree removal, streets and sidewalks, subdivision and site development plan, regardless of the size in area of the activity, is also considered a land development activity.

**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.

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

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

**NYSDEC** - the New York State Department of Environmental Conservation.

**PHASING** - clearing a parcel of land in distinct pieces or 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 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.

**RECHARGE** - the replenishment of underground water reserves.

**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, and habitats for threatened, endangered or special concern species.

**SILVICULTURAL ACTIVITY** – The cultivation of forest trees and forestry, including timber harvesting, logging and forest management.

**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.

**STOP WORK ORDER** - an order issued which requires that all land development activity and/or 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.

**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, and 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.

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

**STORMWATER RUNOFF** - flow on the surface of the ground, resulting from precipitation.

**SURFACE WATERS OF THE STATE OF NEW YORK** - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

Storm sewers and waste treatment systems, including treatment ponds or lagoons, 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.

**WATERCOURSE** - a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water. This includes any area that meets the definition of a watercourse according to the Town's freshwater wetlands regulations.

**WATERWAY** - a channel that directs surface runoff to a watercourse or to the public storm drain. This includes any area that meets the definition of a waterway according to the Town's freshwater wetlands regulations.

**WETLAND** – Part of the controlled areas regulated in accordance with the Code of the Town of North Salem, Chapter 107, or the most current version of the Town's freshwater wetlands regulations, including wetlands and watercourses, as defined in the regulations.

#### **193-5. Applicability.**

- A. This local law shall be applicable to all land development activities as defined in this local law, Section 193-4, which include:
- (1) Construction activity including clearing, grubbing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre (1 Ac.);
  - (2) Activities disturbing less than one acre of total land area that are part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules that are equal to or greater than one acre; and
  - (3) Any activity that requires review, approval and/or permitting under the Town's requirements and regulations for fill, wetlands, sand and gravel and tree removal, streets and sidewalks, subdivision and site development plan, regardless of the size in area of the activity, is also considered a land development activity.
- B. The municipality shall engage the services of the Town's Consulting Engineer, Wetlands Inspector and/or other consultants, as necessary, to review all stormwater pollution prevention plans.
- C. All land development activities subject to review and approval by the applicable officer or board of the Town of North Salem under subdivision, site development plan, and/or zoning or other requirements or regulations noted herein shall be reviewed subject to the standards contained in this local 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 193-5, C., above, shall be

required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer (SMO) who shall review the SWPPP in consultation with the Town's Consulting Engineer and/or other consultant and in accordance with the requirements of this law.

#### **193-6. Exemptions.**

The following activities shall be exempt from review under this law. Notification shall be submitted to and officially received by the SMO ten (10) days in advance of these activities.

- A. Tilling soil for planting, or clearing to create cropland or pasture, as part of a farming or agricultural operation. All other aspects of farming operations are regulated under this chapter.
- B. Timber harvesting, logging, forest management and other silvicultural activities, conducted under the NYSDEC Cooperating Forester Program or under a forest management plan prepared in consultation with a Watershed Forester from the Watershed Agricultural Council (WAC [<http://www.nycwatershed.org/>]), except that landing areas and log haul roads are subject to the performance and design criteria in section 193-11 herein, but not the permitting procedures in this law.
- C. Routine maintenance activities that disturb less than five (5) 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 Town Engineer.
- E. Land development activities for which a building permit has been approved on or before the effective date of this law.
- F. Emergency activity immediately necessary to protect life, property or natural resources.

#### **193-7. Stormwater pollution prevention plan requirement and contents.**

- A. No application for approval of a land development activity shall be reviewed until the appropriate officer or board of the Town has received a Stormwater Pollution Prevention Plan (SWPPP or SW3P) prepared in accordance with the specifications in this local law. The submittal shall include: - the appropriate application forms; - fees in accordance with the Code of the Town of North Salem, Chapter 85 (or the most current fee schedule); and - the plans and materials described below. The submittal shall address the SWPPP requirements and contents, below, and the performance and design criteria set forth elsewhere herein.

Stormwater runoff from land development activities in North Salem may result in the discharge of a pollutant of concern (phosphorus) to either an impaired water identified on the NYSDEC's 303(d) list of impaired waters (Peach Lake) or a Total Maximum Daily Load (TMDL) designated watershed (the Croton Watershed) for which pollutants in stormwater have been identified as a source of the impairment. Therefore, erosion and sediment controls and water quantity and water quality controls (post-construction stormwater runoff controls) must be addressed in all SWPPP's for land development activities.

- B. 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 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 (SMPs) meets the requirements in this local law. The following information and plans shall be provided:
- (1) Background information about the scope of the project, including location, type and size of project.
  - (2) 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);
  - (3) Description of the soil(s) present at the site;
  - (4) 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 unless pursuant to an approved SWPPP.
  - (5) 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;
  - (6) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill -prevention and response;
  - (7) 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;
  - (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
  - (9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
  - (10) Temporary practices that will be converted to permanent control measures;
  - (11) 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;
  - (12) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
  - (13) Name(s) of the receiving water(s);
  - (14) Delineation of SWPPP implementation responsibilities for each part of the site;
  - (15) 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



maximum degree attainable; and

(16) Any existing data that describes the stormwater runoff at the site.

C. All SWPPPs shall provide the following water quantity and water quality controls (post-construction stormwater runoff controls) in accordance with the same standards for plan scale and preparation required for erosion and sedimentation controls, as set forth in the section above:

- (1) Description of each post-construction stormwater management practice;
- (2) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
- (3) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms. The analysis shall include tributary area maps with two-foot (2') contours for the pre- and post-development conditions;
- (4) Comparison of post-development stormwater runoff conditions and peak flows for all storm events with pre-development conditions and peak flows for all storm events;
- (5) Dimensions, material specifications and installation details for each post-construction stormwater management practice;
- (6) Site maps must include existing topography with two-foot (2') contours, a proposed grading plan with a limit of disturbance line and the calculated area of disturbance in acres;
- (7) 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 remain in effect with transfer of title to the property; and
- (9) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article 2, Section 4 of this local law.

D. The appropriate officer or board of the Town responsible for the review of the SWPPP, upon written request by the applicant, may consider a waiver of specific provisions of these regulations. The written request from the applicant must include valid, practical reasoning that is substantiated for each of the provisions to be waived. The appropriate officer or board of the Town may waive specific provisions if requested provided that: in its judgement of the particular circumstances of the proposed land development activity, those provisions are not requisite in the interest of the public health, safety and general welfare; and the waiver of same will still result in an SWPPP that is consistent with the Findings and Purpose of this Chapter as stated herein. No waiver shall be granted which would limit, reduce or impair the effectiveness of any other law applicable to the land development activity.

### **193-8. Stormwater pollution prevention plan review procedure.**

- A. Any applicant proposing to conduct a land development activity that requires review under this chapter shall file a complete application, plans and materials for a permit with the Stormwater Management Officer (SMO) in accordance with the SWPPP requirements, contents and performance and design criteria set forth herein.
- B. The submittal shall include the original application and the number of copies of all forms, plans and materials necessary as determined by the SMO's office to distribute to all reviewers, including the appropriate officer(s) or board of the Town responsible for the review of the SWPPP and any related land

development or environmental approval or permit; the Town's Consulting Engineer; and any related consultant or agency. The submittal shall be organized by the applicant into identical packets containing all forms, plans and materials for each reviewer. Upon receipt of all required plans and materials and fees, the building department shall distribute to the Town Engineer and all reviewers and may send multiple packets to a reviewing board to distribute to their members.

- C. The Town's Consulting Engineer shall review the plans and materials and provide a written report to the SMO, the appropriate officer(s) or board of the Town responsible for the review of the SWPPP, which shall be distributed to all reviewers. The Engineer's report shall indicate whether the application, plans and materials are complete for the purpose of granting approval, including performance and design criteria, and indicating what must be provided to make the application complete and properly designed. The applicant must revise and resubmit the application, plans and materials to fully address the SWPPP requirements set forth herein and the Engineer's comments. The steps of engineering review, report and application revision and resubmittal shall be repeated until the application, plans and related materials are complete and properly address the SWPPP performance and design criteria set forth herein.
- D. Any land development activity subject to review and approval and/or permitting under the Town's requirements and regulations for fill, wetlands, sand and gravel and tree removal, streets and sidewalks, subdivision and site development plan and/or zoning requirements shall be reviewed subject to the requirements and standards contained in this local 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.
- E. An application for a SWPPP for a land development activity that involves land disturbance of five (5) or more acres shall be referred to the Planning Board by the Town's Consulting Engineer in consultation with the SMO. The Engineer shall notify the applicant that the application has been referred to the Planning Board.
- F. At the conclusion of the review of any land development activity subject to Planning Board review or review and approval and/or permitting under the Town's other requirements and regulations, the reviewing Town official or agency shall make a recommendation to the SMO and the Town's Consulting Engineer indicating whether the SWPPP should be: approved; approved with conditions and/or modifications; or denied. Any recommendation for denial shall provide specific reasoning for denial.
- G. In the event that there is no other review, approval or permitting process involving the Planning Board or another reviewing Town official or agency, the Town's Consulting Engineer shall provide a written recommendation to the SMO indicating that a complete permit be: granted; granted with conditions and/or modifications; or denied. Any recommendation for denial shall provide specific reasoning for the decision.
- H. Upon receipt of a recommendation from the Planning Board; or other appropriate officer(s) or board of the Town responsible for the review of the SWPPP; or the Town's Consulting Engineer, the SMO shall then issue a permit with or without conditions and/or modifications or issue a denial. The issuance of any denial shall include specific reasoning for the decision.

**193-9. Other environmental permits.**

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

**193-10. 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, including the above certifications, 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.

**193-11. Performance and design criteria for stormwater management and erosion and sediment control.**

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

- A. For the purpose of this local law, the following documents shall serve as the official guides and specifications for stormwater management and erosion and sedimentation control. 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 (The New York State technical guidance documents may be ordered from the NYSDEC and may be available on the NYSDEC website):
  - (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).
- B. Where stormwater management practices are not in accordance with the technical documents, described in Section A above, the applicant or developer must demonstrate equivalence to the technical standards contained in these documents, and the SWPPP shall be prepared by a licensed professional.

- C. 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.

**193-12. Maintenance, inspection and repair of stormwater facilities.**

- A. The applicant or developer of the land development activity 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 local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- B. 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. Inspection reports shall be completed every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to the SMO on a weekly basis and also copied to the site log book.

**193-13. Maintenance easement(s).**

Prior to the issuance of any approval that has a stormwater management facility, 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 be in a form acceptable to the Town Attorney and shall provide for access to the facility at reasonable times for periodic inspection by the Town of North Salem to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town.

**193-14. Maintenance after construction.**

The owner or operator of permanent Stormwater Management Practices (SMPs) installed in accordance with this law shall operate and maintain the stormwater management practices to achieve the goals of this law. Proper operation and maintenance also includes as a minimum, the following:

- A. 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, as stated in section 193-3, Purpose.
- 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 193-11.

### **193-15. Maintenance agreement.**

The Town of North Salem shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this local law entitled Sample Stormwater Control Facility Maintenance Agreement.

### **193-16. Administration and inspection.**

A. The Town of North Salem SMO may require such inspections as necessary to determine compliance with this law at various stages in construction to examine erosion and sediment controls and SMPs. Inspections may be conducted by the Building Department or the Town's Consulting Engineer. The person conducting inspections 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 notify the Town of North Salem enforcement official in writing at least 48 hours before any of the following as required by the SMO:

- (1) Start of construction;
- (2) Installation of sediment and erosion control measures;
- (3) Completion of site clearing;
- (4) Completion of rough grading;
- (5) Installation of SMPs;
- (6) Completion of final grading and stabilization of disturbed areas;
- (7) Closure of construction;
- (8) Completion of final landscaping; and
- (9) Successful establishment of landscaping in public areas.

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. The SMO is responsible for conducting inspections of stormwater management practices (SMPs) or delegating such inspections to the Town's Consulting Engineer. All applicants are required to submit "as built" plans for any stormwater management practices and associated improvements 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 professional engineer.

C. 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. The SMO may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.
- E. 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 193-13.
- F. 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, or its designated representative, may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town as the beneficiary. Said document shall be in a form determined to be sufficient and acceptable to the Town Attorney. 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 surety is released from liability by the Town, provided that such period shall not be less than one 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 one year inspection has been conducted and the facilities have been found to be acceptable to the Town. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.
- G. 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 or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. Said letter of credit or surety shall be in a form determined to be sufficient and acceptable to the Town Attorney. 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 engineering and inspection costs.
- H. The Town may require entities subject to this law to maintain records demonstrating compliance with this law.

#### **193-17. Enforcement and penalties.**

- A. When the Town determines that a land development activity is not being carried out in accordance with the requirements of this local 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 property's tax identification (sheet, block and lot), 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 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. 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 address 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 local law.
- C. Any land development activity that is commenced or is conducted contrary to this local law, may be restrained by injunction or otherwise abated in a manner provided by law.
- D. In addition to or as an alternative to any penalty 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) 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 (\$700) 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 local 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.
- E. If any building or land development activity is installed or conducted in violation of this local law the Stormwater Management Officer may prevent the occupancy of said building or land.
- F. 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.

#2. This local law shall amend the Code of the Town of North Salem to revise Code Chapter 85, Fees, Section 85-4, Fees Enumerated, to add two subsections; to delete two subsections; and to amend Sections 85-5,

Schedule B, as follows:

In Section 85-4, Fees Enumerated, two subsections shall be added:

**Chapter 189**

- A. Sand and gravel excavations: two hundred fifty dollars (\$250.), plus one-half cent (\$0.005) per cubic yard in excess of five thousand (5,000) cubic yards, plus the publication cost for the notice of public hearing (if held), plus the fees required in Section 85-5 herein.
- B. Tree removal with no excavations: twenty-five dollars (\$25.) for each acre of growth area affected, plus the publication cost for the notice of public hearing (if held), plus the fees required in Section 85-5 herein.

**Chapter 193, Stormwater Management and Erosion and Sediment Control**

- A. Stormwater pollution prevention plan: one hundred dollars (\$100.), plus the fees required in Section 85-5 herein.

In Section 85-4, Fees Enumerated, under the heading **Chapter 250, Zoning**, Section B. Applications to Planning Board, two subsections (3), (a) and (b) shall be deleted:

In Section 85-5, Reimbursement for professional consulting services, subsection B. shall be amended to read as follows:

- B. At the time of submission of a completed petition or application by an applicant for rezoning, special use permit, conditional use, subdivision approval, site plan approval, boundary adjustment, wetlands permit approval or sand and gravel excavation and tree removal approvals, stormwater pollution prevention plans, building permits or any application requiring reimbursement of review costs, the applicant shall establish an initial escrow account with the Town for reimbursement for professional consulting services in accordance with Schedule B attached hereto. In the event that the outstanding balance in any account, once established, is less than \$500, the applicant will be required to replenish the account with an amount reasonably required for the Town's consultants to complete the tasks assigned to them. Any unexpended funds in an applicant's escrow account after the payment of all professional consultants' fees shall be returned to the applicant upon application to the Town Board for the same. [Amended 5-14-1996 by L.L. No. 3-1996; 11-26-1996 by L.L. No. 8-1996]

In Schedule B, a new subsection G. shall be added to read as follows:

- G. Stormwater pollution prevention plan applications and post-construction inspections: \$1,000 for land disturbance or development activities under one acre (1 Ac.); and \$2,500 for land disturbance or development activities equal to or over one acre (1 Ac.).

#3. This local law shall amend the Code of the Town of North Salem to revise Code Chapter 107, Freshwater Wetlands, Section 107-8, A. to add a new section (7) to read as follows:

- (7) The proposed activity complies with the permitting requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control.



#4. This local law shall amend the Code of the Town of North Salem to revise Code Chapter 189, Sand and Gravel Excavation and Tree Removal, Sections 189-4, A.(3) and 189-7, N., as follows:

In Section 189-4, A., Application for permit, subsection (3) shall be amended to read as follows:

- (3) Existing and proposed drainage on the premises. Proposed drainage shall comply with the permitting requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control.

In Section 189-7, Standards and conditions for approval, subsection N. shall be amended to read as follows:

- N. That approval for any excavation or filling of land shall comply with the permitting requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control.

#5. This local law shall amend the Code of the Town of North Salem to revise Code Chapter 195, Streets and Sidewalks, Sections 195-16, A.(11) and 195-21, A.(8), as follows:

In Section 195-16, A., subsection (11) shall be amended to read as follows:

- (11) The location, if any, of any tiles or drainage system or water mains or other public utility conduits which may be within the area of the proposed operation. The proposed activity shall comply with the permitting requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control.

In Section 195-21, A., subsection (8) shall be amended to read as follows:

- (8) The location, if any, of any tiles or drainage system or water mains or other public utility conduits which may be within the area of the proposed operation. The proposed activity shall comply with the permitting requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control.

#6. This local law shall amend the Code of the Town of North Salem to revise Code Chapter 200, Subdivision of Land, Sections 200-7, 200-26, 200-27, 200-28, 200-39, 200-40 and 200-41 shall be revised as follows:

Section 200-7, Submission of preliminary plat., shall include a new subsection G. to read as follows:

- G. Design computation. Ten copies of the design computation and data for any drainage systems, which shall comply with the permitting requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control.

In Section 200-26, Storm drainage planning and design, subsection A. shall be revised to read as follows:

- A. General. The storm drainage system shall provide for drainage from the entire area of the plat and shall take into account land outside the plat which normally drains across the area of the plat as well as the effects of the plat upon downstream drainage systems. The drainage system for the plat shall make use of and protect and improve, if needed, the natural drainage system. The drainage system shall comply

with the permitting requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control and shall provide for the following:

In Section 200-26, A., subsection (5) shall be revised to read as follows:

- (5) On-site stormwater detention as needed to maintain existing site peak flow runoff and provide for continuity of flow in watercourses.

In Section 200-26, subsection C. shall be revised to read as follows:

- C. Pipe design. The minimum size of stormwater pipe shall be 15 inches in diameter. Coefficients used in design for pipe shall be in accordance with the most recent, accepted engineering data available for the piping proposed. The minimum slopes of pipes shall be five-tenths percent (0.5%). Pipe size and slope shall be such that the head on the culvert will not exceed 1.5 diameters at design storm, and there is at least one foot underclearance from the bottom of the catch basin inlet grate. Pipes, except for underdrains, shall be laid on straight alignments, both horizontally and vertically, with manholes spaced not more than 400 feet apart, providing access at all deflection points or at the junction of two or more lines. The open end of any pipe shall be provided with a headwall and/or an end section. The minimum cover over the top of the pipe shall be 24 inches. Culverts under streets shall extend to the edge of the right-of-way.

Section 200-27, Drainage construction, shall be revised to read as follows:

Storm drainage shall be constructed in accordance with the Minimum Specifications for Road Improvements adopted by the Town Board. The drainage system shall comply with the permitting requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control.

Section 200-28, Erosion and sediment control, shall be revised to read as follows:

Provision shall be made for control of erosion and sedimentation, both during and after construction of streets, drainage, parks and other improvements. The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation) is an acceptable basis for design and construction.

Section 200-39, Information shown on preliminary plats and final plats, subsection A.(4), Proposals for development of the plat, paragraph (c) shall be revised to read as follows:

- (c) P Storm drains, catch basins, manholes, headwalls, detention basins and ditches and tentative invert elevations at key points on the proposed drainage system<sup>2</sup>. Plans must address the requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control.

Section 200-40, Information shown on construction plans, subsection H, shall be revised as follows:

- H. Provision for temporary or permanent stormwater detention, and provision for control of erosion and sedimentation during and upon completion of construction. The construction plans shall comply with the permitting requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control.

Section 200-41, Information shown on grading plan, subsection H, shall be revised as follows:

- H. Provision for temporary or permanent stormwater detention, and provision for control of erosion and sedimentation during and upon completion of construction. The grading plans shall comply with the permitting requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control.

#7. This local law shall amend the Code of the Town of North Salem to revise Code Chapter 250, Zoning, Article VIII, Section 250-30, Accessory Parking and Loading Requirements and Article X, Site Development Plan Review, Sections 250-46 and 250-48, as follows:

In Section 250-30, General requirements, subsection B. shall be revised to read as follows:

- B. Drainage and surfacing. All open parking areas shall be properly drained, and all such areas shall be provided with a dustless surface, except that grassed areas may be used at the discretion of the Planning Board. The parking area plans shall comply with the permitting requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control.

In Article X, Site Development Plan Review, Section 250-46. Objectives, shall be revised to read as follows:

- F. Development. The site development plan elements, including buildings, parking, drainage, circulation, signs and lighting, will not adversely affect the potential of adjacent properties or the property under review from its highest and best use. The site development plans shall comply with the permitting requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control.

Section 250-48. Site development plan review and approval, shall be revised to read as follows:

- B.(1) The Planning Board shall require that on- or off-site improvements be installed, including but not limited to on- or off-site drainage systems to ensure that all drainage, storm runoff and subsurface waters are properly managed and treated prior to entering existing watercourses and drainage systems. The site development plans shall comply with the permitting requirements, standards and specifications of the Town's regulations for stormwater management and erosion and sediment control.

#8. All other provisions of the Code of the Town of North Salem shall remain in full force and effect.

#9. This local law shall be effective immediately upon filing with the Secretary of State.

Schedule A

<b>Stormwater Management Practices Acceptable for Water Quality</b> <i>(From: New York State Stormwater Management Design Manual, Table 5.1)</i>		
<b>Group</b>	<b>Practice</b>	<b>Description</b>
<b>Pond</b>	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P-4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
<b>Wetland</b>	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.
	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.
<b>Infiltration</b>	Infiltration Trench (I-1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.
	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
<b>Filtering Practices</b>	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Underground Sand Filter (F-2)	A filtering practice that treats stormwater as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter (F-3)	A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter in place of sand.
	Bioretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
<b>Open Channels</b>	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.

**Schedule B**

**SAMPLE STORMWATER CONTROL FACILITY  
MAINTENANCE AGREEMENT**

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

Whereas, the Municipality and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the Municipality and the facility owner agree as follows:

1. This agreement binds the Municipality and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.
2. The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.
3. The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
4. The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Municipality within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.
5. The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures.
6. The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Municipality or in accordance with the recommendations of the inspecting engineer.
7. The facility owner shall provide to the Municipality within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of a bond, letter of credit or escrow account.
8. This agreement shall be recorded in the Office of the County Clerk, County of \_\_\_\_\_ together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to \_\_\_\_\_.
9. If ever the Municipality determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Municipality or by the inspecting engineer, the Municipality is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.
10. This agreement is effective \_\_\_\_\_ .

\_\_\_\_\_