

APPENDIX B: MODEL LOCAL LAW FOR STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

Developed by the New York State Department of State and the New York State Department of Environmental Conservation to assist local municipalities in complying with Phase II Stormwater Regulations of the Clean Water Act

A local law to amend the (Zoning Law/Subdivision Law/Site Plan Review Law/Erosion and Sediment Control Law) of the ((City/Town/Village) of \_\_\_\_\_), Local law Number \_\_\_\_\_ of the Year \_\_\_\_\_.

*[Article 1 and Article 2 must be adopted for proper implementation. The municipality and its legal counsel, after reviewing their local codes and this model language, should pick additional provisions from Articles 3, 4, 5 and 6 to ensure review and enforcement of stormwater pollution prevention plans at the local level.]*

Be it enacted by the (City Council/Town Board/Village Board of Trustees) of the ((City/Town/Village) of \_\_\_\_\_) as follows:

**Article 1. General Provisions**

**Section 1. Findings of Fact**

It is hereby determined that:

- 1.1 Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- 1.2 This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- 1.3 Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- 1.4 Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- 1.5 Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- 1.6 Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- 1.7 Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- 1.8 The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- 1.9 Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

**Section 2. 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 Genesee/Finger Lakes Regional Planning Council

jurisdiction and to address the findings of fact in Section 1 hereof. This local law seeks to meet those purposes by achieving the following objectives:

- 2.1 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 or as amended or revised;
- 2.2 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 or as amended or revised;
- 2.3 Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- 2.4 Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- 2.5 Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- 2.6 Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

*[The above list is a general set of objectives to reduce the impact of stormwater on receiving waters. Section 2.1 applies to regulated MS4s; a municipality not currently under this program may wish to leave this objective out, although the community may become regulated in the future. The advantage to adopting a local law for all municipalities is that the local government then has control over review and approval of Stormwater Pollution Prevention Plans (SWPPPs) during subdivision and site plan review. The local government may also wish to set some more specific objectives, based on priority water quality (refer to New York State 303 (d) list of priority waters at [www.dec.state.ny.us/website/dow/303dcalm.html](http://www.dec.state.ny.us/website/dow/303dcalm.html) ) and habitat problems (e.g., to reduce phosphorus loads being delivered to recreational lakes, to sustain a Class TS trout fishery).]*

### **Section 3. Statutory Authority**

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

### **Section 4. Applicability**

- 4.1 This local law shall be applicable to all land development activities as defined in this local law.
- 4.2 The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may (1) review the plans, (2) upon approval by the ((City Council/Town Board/Village Board of Trustees) of the (Town/Village/City) of \_\_\_\_\_), engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or (3) accept the certification of a licensed professional that the plans conform to the requirements of this law.

4.3 All land development activities subject to review and approval by the (applicable board of the (City/Town Village) of \_\_\_\_\_) under (subdivision, site plan, and/or special permit) regulations shall be reviewed subject to the standards contained in this local law

4.4 All land development activities not subject to review as stated in section 4.3 shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this law.

## **Section 5. Exemptions**

The following activities may be exempt from review under this law.

*[The municipality may elect to include some or all of the exemptions in Section 5]*

5.1 Agricultural activity as defined in this local law.

5.2 Logging activity undertaken pursuant to an approved timber management plan prepared or approved by the County Soil & Water Conservation District or the New York State Department of Environmental Conservation, except that landing areas and log haul roads are subject to this law.

5.3 Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.

5.4 Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.

5.5 Any part of a subdivision if a plat for the subdivision has been approved by the ((City/Town/Village) of \_\_\_\_\_) on or before the effective date of this law.

5.6 Land development activities for which a building permit has been approved on or before the effective date of this law.

5.7 Cemetery graves.

5.8 Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.

5.9 Emergency activity immediately necessary to protect life, property or natural resources.

5.10 Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.

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

## **Article 2. Zoning Law Amendment**

*[Municipalities that do not have zoning should add the language in Article 2 to Article 3 (Site Plan Review Law Amendment) or Article 4 (Subdivision Regulation Amendment) as applicable for their municipality.]*

The Zoning Law is hereby amended to include Article \_\_\_\_, a new supplemental regulation titled Stormwater Control.

## **Section 1. 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 Schedule A of this Local Law.

*[Definitions should be incorporated into the appropriate section of the municipality's zoning law which contains definitions.]*

## **Section 2. Stormwater Pollution Prevention Plans**

# Gap Analysis of Local and State Stormwater Management Requirements

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## *Wyoming County, New York State*

### 2.1. Stormwater Pollution Prevention Plan Requirement

No application for approval of a land development activity shall be reviewed until the appropriate board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this local law.

### 2.2 Contents of Stormwater Pollution Prevention Plans

2.2.1 All SWPPPs shall provide the following background information and erosion and sediment controls:

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);

[Site map should be at a scale no smaller than 1"=100' (e.g. 1"=500" is smaller than 1"=100")]

3. Description of the soil(s) present at the site;

4. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. 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.

*[A municipality may choose to reduce the amount of land that may be exposed at any one time.]*

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 degree attainable; and

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

2.2.2 Land development activities meeting Condition “A”, “B” or “C” below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Section 2.2.3 below as applicable:

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

2. Condition B - Stormwater runoff from land development activities disturbing five (5) or more acres.

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

2.2.3 SWPPP Requirements for Condition A, B and C:

1. All information in Section 2.2 .1 of this local law

2. Description of each post-construction stormwater management practice;

3. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;

4. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms

5. Comparison of post-development stormwater runoff conditions with pre-development conditions

6. Dimensions, material specifications and installation details for each post-construction stormwater management practice;

7. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.

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.

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.

## 2.3 Plan Certification

The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by a the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.

## 2.4 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.

## 2.5 Contractor Certification

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

2.5.2 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.

2.5.3 The certification statement(s) shall become part of the SWPPP for the land development activity.

2.6 A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

## **Section 3. 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:

### 3.1 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:

3.1.1 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)

3.1.2 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).

### 3.2 Water Quality Standards

3.2.1 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.

*[The New York State technical guidance documents may be ordered from The Department. An order form as well as downloadable versions of the Manuals are available on the Internet at; <http://www.dec.state.ny.us/website/dow/toolbox/escstandards/index.html> <http://www.dos.state.ny.us/lgss/stormwaterpub/index.html>]*

## Section 4. Maintenance and Repair of Stormwater Facilities

### 4.1 Maintenance During Construction

4.1.1 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.

4.1.2 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 Stormwater Management Officer and also copied to the site log book.

### 4.2 Maintenance Easement(s)

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the ((City/Town/Village) of \_\_\_\_\_) 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 ((City/Town/Village) of \_\_\_\_\_).

### 4.3 Maintenance after Construction

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

4.3.1 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.

4.3.2 Written procedures for operation and maintenance and training new maintenance personnel.

# Gap Analysis of Local and State Stormwater Management Requirements

*Wyoming County, New York State*

4.3.3 Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Article 2, section 3.2.

## 4.4 Maintenance Agreements

The ((City/Town/Village) of \_\_\_\_\_) 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 C of this local law entitled Sample Stormwater Control Facility Maintenance Agreement. The ((City/Town/Village) of \_\_\_\_\_), in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

## Section 5. Severability and Effective Date

### 5.1 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.

### 5.2 Effective Date

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

Approved by: \_\_\_\_\_ Date \_\_\_\_\_

## Article 3. Subdivision Regulation Amendment

Sections \_\_\_ and \_\_\_ of the Subdivision Regulations of the ((City/Town/Village) of \_\_\_\_\_) are hereby amended by adding the following to the information requirements:

A. For Preliminary Subdivision Plat add: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Article 1 and 2 of this local law shall be required for Preliminary Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Preliminary Subdivision Plat shall be consistent with the provisions of this local law.

B. For Final Subdivision Plat approval add: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law and with the terms of preliminary plan approval shall be required for Final Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Final Subdivision Plat shall be consistent with the provisions of this local law.

[If the municipality has only one requirement for a final plan (no preliminary) then use Paragraph A language only.]

## Article 4. Site Plan Review Regulation Amendment

Sections \_\_\_ and \_\_\_ of the Site Plan Review regulations of the ((City/Town/Village) of \_\_\_\_\_) are hereby amended by adding the following to the information requirements:

Genesee/Finger Lakes Regional Planning Council

For Site Plan Approval add: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Site Plan shall be consistent with the provisions of this local law.

#### Article 5. Erosion & Sediment Control Law Amendment

The Erosion & Sediment Control Law of the ((City/Town/Village) of \_\_\_\_\_) is hereby repealed and replaced with the New York State Model Erosion and Sediment Control Ordinance, March 2003.

*[The New York State Model Erosion and Sediment Control Law should be tailored to the municipality by inserting municipality name where appropriate and removing comment lines.]*

OR

Section \_\_\_\_\_ of the Erosion & Sediment Control Law of the ((City/Town/Village) of \_\_\_\_\_) is hereby amended by adding the following clause: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law shall be required. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved erosion control permit shall be consistent with the provisions of this local law.

*[For both options in Article 5, the municipality must also adopt Articles 1, 2, 3 and 4 (as applicable for their municipality) in order to address post-construction stormwater runoff control in stormwater pollution prevention plans.]*

#### Article 6. Administration and Enforcement

*[The following provisions for construction inspection, performance guarantees and bonds, and enforcement are important to include in a stormwater control program, but may already exist in local law. Therefore the municipality and its counsel should review their existing provisions for these activities, compare them with the following provisions, and consider whether revisions or amendments are necessary to achieve the purposes of this local law. ]*

#### Section 1. Construction Inspection

##### 1.1 Erosion and Sediment Control Inspection

The ((City/Town/Village) of \_\_\_\_\_) Stormwater Management Officer may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the ((City/Town/Village) of \_\_\_\_\_) enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

- 1.1.1 Start of construction
- 1.1.2 Installation of sediment and erosion control measures
- 1.1.3 Completion of site clearing
- 1.1.4 Completion of rough grading
- 1.1.5 Completion of final grading
- 1.1.6 Close of the construction season
- 1.1.7 Completion of final landscaping

# Gap Analysis of Local and State Stormwater Management Requirements

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Wyoming County, New York State

## 1.1.8 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 Stormwater Management Officer.

## 1.2 Stormwater Management Practice Inspections

The ((City/Town/Village) of \_\_\_\_\_) Stormwater Management Officer, is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit “as built” plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

## 1.3 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.

*[Inspections may be performed by local government staff or the local government may designate an inspector required to have a Professional Engineer’s (PE) license or Certified Professional in Erosion and Sediment Control (CPESC) certificate, as long as the designated inspector is required to submit a report.]*

## 1.4 Submission of Reports

The ((City/Town/Village) of \_\_\_\_\_) Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

## 1.5 Right-of-Entry for Inspection

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the ((City/Town/Village) of \_\_\_\_\_) the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph 1.3.

## **Section 2. Performance Guarantee**

### 2.1 Construction Completion Guarantee

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the ((City/Town/Village) of \_\_\_\_\_) in its approval of the Stormwater Pollution Prevention Plan, the ((City/Town/Village) of \_\_\_\_\_) 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 ((City/Town/Village) of \_\_\_\_\_) as the beneficiary. The security

Genesee/Finger Lakes Regional Planning Council

shall be in an amount to be determined by the ((City/Town/Village) of \_\_\_\_\_) 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 ((City/Town/Village) of \_\_\_\_\_), 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 ((City/Town/Village) of \_\_\_\_\_). Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

## 2.2 Maintenance Guarantee

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the ((City/Town/Village) of \_\_\_\_\_) with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the ((City/Town/Village) of \_\_\_\_\_) may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

## 2.3 Recordkeeping

The ((City/Town/Village) of \_\_\_\_\_) may require entities subject to this law to maintain records demonstrating compliance with this law.

# Section 3. Enforcement and Penalties

## 3.1 Notice of Violation.

When the ((City/Town/Village) of \_\_\_\_\_) 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 :

- 3.1.1 the name and address of the landowner, developer or applicant;
- 3.1.2 the address when available or a description of the building, structure or land upon which the violation is occurring;
- 3.1.3 a statement specifying the nature of the violation;
- 3.1.4 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;
- 3.1.5 a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- 3.1.6 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.

## 3.2 Stop Work Orders

The ((City/Town/Village) of \_\_\_\_\_) 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 ((City/Town/Village) of \_\_\_\_\_) 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.

# Gap Analysis of Local and State Stormwater Management Requirements

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*Wyoming County, New York State*

### 3.3 Violations

Any land development 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.

### 3.4 Penalties

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 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.

### 3.5 Withholding of Certificate of Occupancy

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.

### 3.6 Restoration of lands

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

## **Section 4. Fees for Services**

The ((City/Town/Village) of \_\_\_\_\_) may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the ((City/Town/Village) of \_\_\_\_\_) or performed by a third party for the ((City/Town/Village) of \_\_\_\_\_)