

A local law to amend the Zoning Ordinance of the Town of Schuyler, NY.

Be it enacted by the Town Board of the Town of Schuyler, NY as follows:

Section 1. Legislative Intent

The purpose of this law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in Section 2 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 SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no. GP-02-02 or as amended or revised;
- B. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, streambank erosion and maintain the integrity of stream channels;
- C. Minimize increases in pollution caused by storm water runoff from land development activities which would otherwise degrade local water quality;
- D. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- E. 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.

Section 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, or 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 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.

Section 3. Statutory Authority

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Schuyler has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the Town of Schuyler and for the protection and enhancement of its physical environment. The Town Board of the Town of Schuyler 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: Definitions

Article 2 of the Zoning Ordinance of the Town of Schuyler is hereby amended to include the following definitions:

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

Certified Professional In Erosion & Sediment Control (CPESC) - A person who has received training and is certified by CPESC Inc, to review, inspect, and/or maintain erosion and sediment control practices.

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

Clearing - any activity that removes the vegetative surface cover.

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

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

Developer - a person who undertakes land development activities.

Drainage Way - any channel that conveys surface runoff throughout the site.

Erosion Control - a measure that prevents erosion.

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”.

Erosion and Sediment Control Plan - a set of plans indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

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

Impervious Cover - those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

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

Infiltration - the process of percolating stormwater into the subsoil.

Jurisdictional Wetland - an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Land Development Activity - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

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.

Nonpoint Source Pollution - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Perimeter Control - a barrier that prevents sediment from leaving a site by either filtering sediment-laden runoff or diverting the runoff to a sediment trap or basin.

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 waterbody 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, habitats for threatened, endangered or special concern species.

Silviculture - the controlling of the establishment, growth, composition, health, and quality of forests.

Site - a parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation (would include all phases of a single development).

Site Development Permit - a permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

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.

Start of Construction - the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Stop Work Order - an order issued which requires that all construction activity on a site be stopped.

Stormwater - rainwater, surface runoff, snowmelt and drainage

Stormwater Hotspot - a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

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 - an employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

Stormwater Management Practices (SM Ps) - 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.

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

Section 5: Local Law General Provisions

The Zoning Ordinance of the Town of Schuyler is hereby amended so as to include a new Article 21 entitled “Stormwater Management Regulations” to read as follows:

ARTICLE 21

Stormwater Management Regulations

Section 21.01. Applicability

A. This Article shall be applicable to all land development activities as defined in this Ordinance.

B. 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 Town Board of the Town of Schuyler, 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.

C. All land development activities subject to review and approval by the Planning Board of the Town of Schuyler under subdivision, site plan, and/or special permit regulations shall be reviewed subject to the standards contained in this local law.

D. All land development activities not subject to review as stated in Section 21.01 (C) above 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 21.02. Exemptions

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

- A.** Agricultural activity as defined in this local law.
- B.** Silvicultural activity except that landing areas and log haul roads are subject to this law.
- C.** Routine maintenance activities that disturb less than five acres and are performed

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

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

E. Any part of a subdivision if a plat for the subdivision has been approved by the Town of Schuyler on or before the effective date of this law.

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

G. Cemetery graves.

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

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

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

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

Section 21.03. Stormwater Pollution Prevention Plans

A. 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 Article.

B. Contents of Stormwater Pollution Prevention Plans

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);

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;

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.

C. Land development activities as defined in this Ordinance and 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 21.03(D) below as applicable:

Condition A - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department of Environmental Conservation’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.

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

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

D. SWPPP Requirements for Condition A, B and C:

1. All information in Section 21.03(B) of this Article
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.
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.

9. Inspection and maintenance agreement binding on all subsequent landowners served by the onsite stormwater management measures in accordance with Section 21.06 of this Ordinance.

Section 21.04 Plan Certification

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

A. 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.

B. Contractor Certification

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. The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

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

C. 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 21.05. 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. Technical Standards

For the purpose of this local law, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the

standards imposed by this law:

1. The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)

2. New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

B. Water Quality Standards

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.

Section 21.06 Maintenance and Repair of Stormwater Facilities

A. Maintenance During Construction

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 Article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

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.

B. Maintenance Easement(s)

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Schuyler to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Article. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Schuyler.

C. 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:

1. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.

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

3. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section 21.05(B)

D. Maintenance Agreements

The Town of Schuyler 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 Article entitled Sample Stormwater Control Facility Maintenance Agreement. The Town of Schuyler, 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 21.07. Administration and Enforcement

A. Construction Inspection

1. Erosion and Sediment Control Inspection

The Town of Schuyler 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 Town of Schuyler enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

- a. Start of construction
- b. Installation of sediment and erosion control measures
- c. Completion of site clearing
- d. Completion of rough grading
- e. Completion of final grading
- f. Close of the construction season
- g. Completion of final landscaping
- h. 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.

B. Stormwater Management Practice Inspections

The Town of Schuyler 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.

C. Inspection of Stormwater Facilities After Project Completion

Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws . Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water , groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

D. Submission of Reports

The Town of Schuyler Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

E. Right-of-Entry for Inspection

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town of Schuyler the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph 21.07(C).

Section 21.08. Performance Guarantee

A. Construction Completion Guarantee

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Schuyler in its approval of the

Stormwater Pollution Prevention Plan, the Town of Schuyler 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 of Schuyler as the beneficiary. The security shall be in an amount to be determined by the Town of Schuyler 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 of Schuyler, 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 of Schuyler. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

B. Maintenance Guarantee

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Schuyler 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 Town of Schuyler may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

C. Record keeping

The Town of Schuyler may require entities subject to this law to maintain records demonstrating compliance with this law.

Section 21.09. Enforcement and Penalties

A. Notice of Violation.

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

1. the name and address of the landowner, developer or applicant;
2. the address when available or a description of the building, structure or land upon which the violation is occurring;
3. a statement specifying the nature of the violation;
4. a description of the remedial measures necessary to bring the land development activity into compliance with this Article and a time schedule for the completion of such remedial action;

5. a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

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

B. Stop Work Orders

The Town of Schuyler 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 of Schuyler 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 Article.

C. Violations

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

D. Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Article shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350.00) 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 (\$700.00) 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 (\$1,000.00) 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 Article 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. Withholding of Certificate of Occupancy

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

F. Restoration of lands

Any violator may be required to restore land to its undisturbed condition. In the event

that restoration is not undertaken within a reasonable time after notice, the Town of Schuyler may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

Section 21.10. Fees for Services

The Town of Schuyler may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Schuyler or performed by a third party for the Town of Schuyler .

Section 6. Site Plan Review Amendment

Article 13 of the Zoning Ordinance of the Town of Schuyler is hereby amended by adding the following to the information requirements:

A. For Preliminary Site Plan Review add: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Article 21 of this Ordinance shall be required for Preliminary Site Plan approval. The SWPPP shall meet the performance and design criteria and standards in Article 21 of this Ordinance. The approved Preliminary Site Plan shall be consistent with the provisions of this Ordinance.

B. For Final Site Plan Review approval add: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 21 of this Ordinance and with the terms of preliminary plan approval shall be required for Final Site Plan approval. The SWPPP shall meet the performance and design criteria and standards in Article 21 of this Ordinance. The approved Final Site Plan shall be consistent with the provisions of this Ordinance

Section 7. Erosion & Sediment Control Law

The Zoning Ordinance of the Town of Schuyler is hereby amended so as to include a new Article 22 entitled “Erosion and Sediment Control Law” to read as follows:

ARTICLE 22

EROSION AND SEDIMENT CONTROL ORDINANCE

Section 22.01. Introduction/ Purpose

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Clearing and grading during construction add to the loss of native vegetation necessary for terrestrial and aquatic habitat. In addition, eroded soil necessitates repair of sewers and ditches and dredging of lakes. The purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment

from erosion and sedimentation in the Town of Schuyler. Compliance with this ordinance will also meet the requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development, or other activity, that disturbs or breaks the topsoil or results in the movement of earth on land in the Town of Schuyler.

Section 22.02. Permits

A. No person shall be granted a site development permit for land-disturbing activity that would require the uncovering of one acre of land without the approval of an Erosion and Sediment Control Plan by the Town of Schuyler.

B. No site development permit is required for the following activities:

1. Agricultural activity as defined in this ordinance.
2. Cemetery graves.
3. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
4. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

C. Each permit application shall bear the name(s) and address(es) of the owner or developer of the site and of any consulting firm retained by the applicant, including the name of the applicant's principal contact at such firm. The application shall be accompanied by a filing fee. The applicant will be required to file with the Town of Schuyler a faithful performance bond, letter of credit, or other improvement security in an amount deemed sufficient by the Town of Schuyler to cover all costs of improvements, landscaping, maintenance of improvements for such period as specified by Town of Schuyler, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

Section 22.03. Review and approval

The Town of Schuyler will review each application for a site development permit to determine its conformance with the provisions of this regulation. Within 30 days after receiving an application, Town of Schuyler shall, in writing:

1. Approve the permit application;
2. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
3. Disapprove the permit application, indicating the reason(s) and/or procedure for submitting a revised application and/or submission.

Failure of the Town of Schuyler to act on an original or revised application within 30 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed, unless such time is extended by agreement between the applicant and the Town of Schuyler.

Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the Town of Schuyler.

Section 22.04. Erosion and Sediment Control Plan

The Erosion and Sediment Control Plan shall include the following:

1. A natural resources map identifying soils, forest cover, and resources protected under other chapters of this ordinance.

2. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

3. All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.

4. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

5. Provisions for maintenance of ESC practices, including easements and estimates of the cost of maintenance. Modifications to the plan shall be processed and approved or disapproved in the same manner as Section 22.03 of this Article, and may be authorized by the Town of Schuyler through written authorization to the permittee, and shall include major amendments of the erosion and sediment control plan submitted to the Town of Schuyler. Field modifications of a minor nature may be approved verbally by the Town of Schuyler and noted in the site log book.

Section 22.05. Design Requirements

A. Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the "NYS Erosion Control Standards and Specifications" manual. A copy of the manual is on file in the office of the Town Clerk of the Town of Schuyler.

B. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when approved by the Town of Schuyler. Clearing techniques that retain

natural vegetation and drainage patterns, as described in "NYS Erosion Control Standards and Specifications" manual, shall be used to the satisfaction of the Town of Schuyler.

C. Clearing, except that necessary to establish sediment control devices, shall not begin until all start up erosion and sediment control devices have been installed and have been stabilized.

D. Phasing shall be required on all sites disturbing greater than 5 acres, with the size of each phase to be established at plan review and approved by the Town of Schuyler.

E. Erosion control requirements shall include stabilization measures applied as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. This requirement does not apply in the following instances:

1. Where the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently ceased is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable;

2. Where construction activity on a portion of the site is temporarily ceased, and earth-disturbing activities will be resumed within twenty-one (21) days, temporary stabilization measures need not be initiated on that portion of the site.

F. If seeding or other vegetative erosion control method does not germinate within two weeks the Town of Schuyler may require the site to be reseeded, or a nonvegetative option employed.

G. Special techniques that meet the design criteria outlined in the "NYS Erosion Control Standards and Specifications" manual for steep slopes and/or drainage ways shall be used. Soil stockpiles must be stabilized. At the close of the construction season, the entire site must be stabilized using a heavy mulch layer or another method that does not require seed germination to control erosion (if seed germination will not occur due to climate limitations).

H. Techniques shall be employed to prevent the blowing of dust or sediment from the site.

I. Techniques that divert upland runoff past disturbed slopes shall be employed. Sediment control requirements shall include: settling basins, sediment traps or tanks, and perimeter controls.

J. Settling basins that are designed for adaptation to long term stormwater management require approval by the Town of Schuyler.

K. The permittee will protect adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.

L. If a wet watercourse will be crossed regularly during construction, a temporary stream

crossing practice approved by the Town of Schuyler will be installed. Stabilization of the watercourse channel and banks before, during, and after any in-channel work will be completed.

M. Stabilization adequate to prevent erosion located at the outlets of all pipes, paved channels and all on-site stormwater conveyance channels will be designed according to the criteria outlined in "NYS Erosion Control Standards and Specifications" manual.

N. Construction site access requirements shall include a temporary access road provided at all access points in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains or watercourses.

Section 22.06. Inspection

The Town of Schuyler, or designated agent, shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and filling, bearing the stamp of approval of the the Town of Schuyler, shall be maintained at the site in the site log book throughout the duration of construction. To obtain inspections, the permittee shall notify the Town of Schuyler at least two working days before the following:

- A. Start of construction
- B. Installation of sediment and erosion measures
- C. Completion of site clearing
- D. Completion of rough grading
- E. Completion of final grading
- F. Close of the construction season
- G. Completion of final landscaping
- H. Successful establishment of landscaping in public areas.

The permittee shall designate a "responsible party" employed by the contractor who shall be on site on all days when construction or grading activity takes place. This employee will inspect and document the effectiveness of all erosion and sediment control practices. The documentation will be kept in a site log book. Inspection reports will be completed every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports will be delivered to the Town of Schuyler and copied to the site log book. All contractors and subcontractors identified in the Erosion and Sediment Control Plan shall sign a copy of the following certification statement before undertaking any construction activity at the site:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Erosion and Sediment Control Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

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. Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan.

Section 22.07. Maintenance

The permittee 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 permittee to achieve compliance with the conditions of this permit. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

Section 22.08. Enforcement

A. Stop-Work Order; Revocation of Permit

In the event that any person holding a permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Town of Schuyler may suspend or revoke the site development permit.

B. Violation and Penalties

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than three hundred fifty dollars (\$350.00) for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

Section 8. Severability and Effective Date

A. Severability

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

B. Effective Date

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

Approved by: _____ Date _____

SCHEDULE A

SAMPLE STORMWATER CONTROL FACILITY MAINTENANCE AGREEMENT

Whereas, the Town of Schuyler ("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 except in accordance with written approval of the Municipality.
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 Herkimer 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 _____ .