

## **Chapter 165 – STORM SEWERS & STORM WATER MANAGEMENT**

### **ARTICLE I – GENERAL PROVISIONS**

**§ 165-1. Title: Storm Sewers - Water Quality Standards, Stormwater Management, Access, & Operations.**

**§ 165-2. Statutory Authority.**

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Village Board of Trustees of the Village of New Paltz (referenced interchangeably as Village Board and/or Village Trustees) 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 Village of New Paltz and for the protection and enhancement of its physical environment. The Village Board of Trustees of the Village of New Paltz may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor(s) to effectuate, administer and enforce such local law.

**§ 165-3. Definitions.** When used in this Chapter, unless otherwise expressly stated, or unless the context or subject matter otherwise requires, the following terms shall have the specific meaning indicated, with intent at the point of law construction for there to be interchangeability of terminology across different Articles.

**303(d) LIST** - A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

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

**APPLICANT** - See the Definition within the Zoning Chapter.

**BEST MANAGEMENT PRACTICES (BMPS).** Schedules of activities, prohibitions of practices, general good housekeeping measures, pollution prevention, and educational practices, maintenance procedures, and other physical, or behavioral management procedures intended and established through evidence and standards to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

**BETTER SITE DESIGN (BSD)** - A term used by NYSDEC representing site planning that incorporates non-structural, open space conservation, and naturalistic techniques within new and redevelopment projects in order to reduce impacts on

watersheds by conserving/ enhancing natural areas, reducing impervious cover and better integrating stormwater treatment with a setting and its resource base. BSD relates to Green Infrastructure and Low Impact Development (LID) planning.

**BUILDING** - See the Definition within the Zoning Chapter.

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

**CLEAN WATER ACT.** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

**CLEARING** - Any activity that removes the vegetative surface cover.

**CONSTRUCTION ACTIVITY, STATE REGULATED** - Actions requiring State and local authorization under the NYDEC's SPDES permit for stormwater discharges from construction activity, General Permits GP-02-01 and GP-02-02, as amended or revised. Generally, in 2017, these activities include construction projects resulting in land disturbance of one or more acres unless otherwise excluded from regulation under GP-02-01 and/or GP-02-02. Such activities include but are not limited to clearing, grubbing grading excavating and demolition.

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

**DEPARTMENT OF PUBLIC WORKS** – The Village of New Paltz Department of Public Works (DPW), which is headed by the Superintendent of Public Works

**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.

**DISCHARGE** - Any addition or introduction of any pollutant, stormwater, or any other regulated substance whatsoever into the municipal separate storm sewer system (MS4) or into waters of the United States.

**DISCHARGER** - Any person, as defined herein, who causes, allows, permits, or is otherwise responsible for a discharge into a municipal storm sewer.

**EPA** - The Environmental Protection Agency of the United States of America.

**FACILITY** - Any lands and appurtenances, including but not limited to construction sites, required by the Federal Clean Water Act, or other jurisdiction, to have a permit to discharge stormwater associated with industrial activity and/or any other regulated activity.

**EROSION CONTROL MANUAL** - The most recent effected version of the “New York Standards and Specifications for Erosion and Sediment Control” manual, commonly known as the “Blue Book”.

**EXEMPT LAND DEVELOPMENT ACTIVITY** - The following activities are

exempt from review under Land Development (Article III) thresholds of this law: defined agricultural activities; routine maintenance activities that disturb less than one acre of land and which are performed to maintain the original line and grade, hydraulic capacity, or the original purpose of a legally conforming or legally nonconforming existing facility; routine repairs to an established stormwater management facility expressly authorized in writing by the Stormwater Management Officer; any parcel of land within a subdivision plat indicated on a subdivision plat which received final approval and on which construction commenced on or before the effective date of this law; Land Development Activities on land not incorporated within an approved subdivision, but for which a currently valid building permit was approved on or before the effective date of this law; cemetery graves; installation of fence, sign, telephone, and electric poles and other kinds of posts or poles, where there is not a requirement for site plan approval per zoning; emergency activities deemed immediately necessary by the Village Trustees, or when more timely action is needed as deemed necessary by the Mayor, or their assigns, to protect life, property or natural resources; limited landscaping and horticultural activities in connection with an existing legally conforming or legally nonconforming structure and/or existing site; activities of an individual engaging in home gardening intended primarily for the benefit and use by that person and his or her household.

**GRADING** - See the Definition within the Zoning Chapter. Generally movement, excavation, or fill of material, including the resulting conditions thereof.

**HAZARDOUS MATERIAL** - Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, exposed, or otherwise managed.

**HOTSPOT, STORMWATER** – A land use or activity that generates higher concentrations of hydrocarbons, trace metals, or other toxicants than are found in typical stormwater runoff, based on monitoring activity.

**ILLICIT CONNECTION** - Any drain or conveyance, on the surface or subsurface, which allows an unlawful discharge to enter the Village-owned municipal separate storm sewer system, including but not limited to (see also 165-8):

- (1) Any conveyances regulated under Article II which allow any non-stormwater discharge, including treated or untreated sewage, process wastewater, and wash water, to enter the Village-owned municipal separate storm sewer system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the Village-owned municipal separate storm sewer system that has not been documented in plans, maps, or equivalent records and applications lawfully approved by an authorized enforcement agency.

**ILLICIT DISCHARGE** - Any direct or indirect regulated non-stormwater discharge to the Village-owned municipal separate storm sewer system, except as explicitly exempted within an Article within this Chapter.

**IMPERVIOUS SURFACE** – See the Definition within the Zoning Chapter. Permitted and properly operated/ maintained green infrastructure like but not exclusive of green roofs, porous pavers, or porous pavement should be considered pervious.

**INDUSTRIAL STORMWATER PERMIT** - A State Pollutant Discharge Elimination System (SPDES) permit issued to a commercial industry, or group of industries, which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies, such as per GP-98-03, as amended or revised.

**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, not including an ‘Exempt Land Development Activity’, including clearing, grading, excavating, soil disturbance, or other building and site programming activity, that involves land surface modification movement of fill that results in land disturbance of equal to or greater than 3,000 square feet, or an activity 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. Generally, in the Village of New Paltz there is a requirement that Land Development Activity must undergo Site Plan Review as per Zoning, Chapter 212.

**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.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM – MS4.**

**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.

**NYSDEC** - The New York State Department of Environmental Conservation, or its successor (also referred to as Department).

**PERSON** – Any individual, association, organization, partnership, firm, corporation, county or state government or any subdivision thereof, or any other entity recognized by law and activity as either the owner, or as the owner’s agent or vendee, such entity

which is operating a property, or conducting a practice or activity on it.

**PHASING** - Clearing a parcel of land in distinct pieces or parts, in a sequence, with the stabilization of each piece completed before the clearing of the next.

**POLLUTANT OF CONCERN** - Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation), and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

**PROJECT** - land development activity.

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

**SEDIMENT CONTROL** - measures that prevent eroded sediment from leaving the site and/or the location where it is intended to remain.

**SENSITIVE AREAS** - Cold water fisheries, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

**SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01**  
- A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land, or any applicable superseding permit.

**SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02** – The permit under the New York SPDES, or as subsequently amended or superseded, issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

**STABILIZATION** - the use of practices that prevent exposed soil from eroding.

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

**STORMWATER** - rainwater, surface runoff, snowmelt and drainage.

**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 COMMITTEE** – A group of designated municipal officials that provides administrative review and in certain defined instances makes determinations concerning this law. At the point of establishing this law the Committee consists of: Stormwater Management Officer, DPW Superintendent, and Village Planner. Membership of this body is appointed annually by the Trustees. The Committee should meet at least every six months and maintain a record of its proceedings with copies provided to the Village Clerk.

**STORMWATER MANAGEMENT FACILITY** - one or a series of stormwater management practices, including structures, landscaping, and grading, installed,

stabilized and operating for the purpose of controlling stormwater runoff, including its quality.

**STORMWATER MANAGEMENT OFFICER** The head of the Building Department, or the Building Inspector expressly authorized by the Village Trustees, responsible for the inspection of stormwater management practices, enforcement of this local law and corresponding municipal code compliance, including the administration and enforcement of approved SWPPPs, who also has the power to accept and review or administer review of storm water pollution prevention plans, forward such materials to an applicable municipal review board, or provide approval of certain actions as defined herein.

**STORMWATER MANAGEMENT PRACTICES (SMPs)** - measures, either structural or nonstructural, that are determined through evidence to be the most effective or 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, program and specifications for controlling stormwater runoff and pollutants from a site during and after construction activities.

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

**SURFACE WATERS OF STATE OF NEW YORK** - Lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals 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 in 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.

**VILLAGE** – The incorporated Village of New Paltz.

**TDML** – Total Maximum Daily Load. The maximum amount of a pollutant allowed to be released into a waterbody so as not to impair uses of the water, allocated amount the sources of that pollutant.

**WASTEWATER** - Water that is not stormwater, is contaminated with pollutants, and is or will be discarded.

**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 directing surface runoff to a watercourse or public storm drain.

## **ARTICLE II – ILLICIT DISCHARGES, ACTIVITIES & CONNECTIONS**

### **§ 165-4. Purpose, intent & findings.**

The purpose of this article is to provide for the health, safety and general welfare of the citizens of the Village of New Paltz (Village) through the regulation of stormwater and non-stormwater discharges, as regulated hereunder, to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the MS4 in order for the Village to comply with requirements of the SPDES general permit for municipal separate storm sewer systems.

#### **A. Among several purposes of this article are the following:**

- (1) To meet the requirements of the SPDES general permit for stormwater discharges from MS4s, Permit No. GP-02-02, or as amended or revised;
- (2) To regulate the contribution of pollutants to the MS4;
- (3) To prohibit illicit connections, activities and discharges to the MS4;
- (4) To conserve the capacity of the MS4 and provide for its optimal operation
- (5) To prohibit illicit connections, activities and discharges to the MS4;
- (6) To establish legal authority to carry out all inspection, monitoring and enforcement procedures necessary to ensure compliance; and
- (7) To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemical pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment, other pollutants, and flows into the MS4.

#### **B. The Village Board makes the following findings in consideration of this article:**

- (1) That the regulation of non-stormwater discharges to the Village-owned municipal separate storm sewer system, to the maximum extent practicable, is essential to protect the health, safety and general welfare of the citizens of the Village.
- (2) The Village Trustees further determines that controlling the introduction of polluted stormwater and non-stormwater pollutants into the Village-owned municipal separate storm sewer system is critical in order to comply with requirements of the state Pollution Discharge Elimination System General Permit No. GP-02-02 for municipal separate storm sewer systems.
- (3) In addition to the enforcement processes, penalties, and fees, provided herein, any condition caused or permitted to exist in violation of any of the provisions of this article which is deemed to be an imminent threat to public health, safety, and/or welfare may further be declared and deemed a nuisance and may be summarily abated or restored at the violator's expense, and/or a civil action may be taken to abate, enjoin, or otherwise compel the cessation of such violation and or nuisance may be taken in accordance with the procedures set forth within this article.
- (4) This article shall apply to all MS4 designated areas situate within the Village that are Village-controlled. The Village is a Traditional Land Use Control MS4. At point of enactment, this policy covers the full area of Village government land use control encompassing US Census defined urbanized and non-urbanized areas,

including around Huguenot Street and west of the Wallkill River. It does not cover areas owned or managed by government jurisdictions such as public schools, university, facilities of Ulster County and NY State Department of Transportation, although it does cover emissions from them entering into the Village's control.

**§165-5. Applicability.**

This article shall apply to all water entering the Village-owned municipal separate storm sewer system within the Village's jurisdictional MS4 designated areas as generated on any developed and undeveloped lands unless explicitly exempted hereunder, or unless explicitly exempted as authorized by an enforcement agency.

**§165-6. Administration.**

The Stormwater Management Officer (SMO) shall administer, implement, and enforce the provisions of this law and article. Such powers granted or duties imposed upon and granted to the authorized enforcement official may be delegated in writing by the SMO. Such written delegation shall be kept and maintained within the Stormwater Management Officer's files, and copies shall further be provided to Village Clerk, Treasurer, DPW Superintendent, Village Planner, Village Engineer, and Attorney. The SMO, shall possess the authority, as documented in records of the Stormwater Management Committee placed on-file with Village Clerk, with a majority Committee vote, to promulgate rules and regulations necessary to administer, enforce and forward this article and this law and its purposes, including but not limited to the institution and use of permits, forms, procedures, fee, and other regulatory mechanisms, in order to advance the purposes of this article and law, provided that any matter requiring Trustees action shall be also ratified by them.

**§165-7. Illegal discharges.**

No person shall discharge or cause to be discharged into the Village-owned MS4 any materials other than lawful discharges of stormwater, except as provided in §165-8 'Exemptions'. The commencement, conduct or continuance of any illegal discharge to the Village-owned MS4 is prohibited except as described in §165-8.

**§165-8. Exemptions.**

A. Consistent with definitions, the following discharges are exempt from discharge prohibitions established by this article, unless the Village or Department has, pursuant to law, officially determined such discharges to be substantial contributors of pollutants:

- (1) Waterline flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising groundwater, uncontaminated groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire-fighting



activities, agricultural stormwater runoff from lawful agricultural practices, and any other water source not containing pollutants. In no event shall this article be read to create, permit or authorize agriculture discharge exemptions beyond those which are in effect pursuant to the Clean Water Act.

- (2) Discharges approved in writing by the Stormwater Management Officer to protect life or property from imminent harm or damage, provided that such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the Stormwater Management Officer may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this article.
- (3) Dye testing in compliance with applicable state, regional and local laws.
- (4) Activities and uses essential to ensure acute emergency police, fire, and rescue functions and emergency response undertaken by either the Village, Town, County, by New York State or any subdivision of it, or by a nonprofit organization authorized by the Village to provide related public services; essential activities to promote public health, safety, and well-being of persons and property therein and to implement emergency orders and regulations, upon appropriate jurisdiction, of Ulster County Dept. of Health, Ulster Co. Emergency Management Agency and/or NY State, including the State Department of Health, with written notification to the Stormwater Management Officer, Chief Elected Official (Mayor), and DPW Director; and any actual and ongoing emergency activity which directly addresses an imminent threat to life, property or structures of any kind. Such emergency activities may include, but are not limited to: fire suppression operations, preventative or remedial activities related to mitigation, cleanup, or control of stormwater and/or contamination or threatened contamination of groundwater and/or surface water, response to imminent floods, hurricanes and other hazard events that follow established emergency response plans, firefighting and public health emergencies.

B. Despite the general exemption in 165-8.A., a sump(s) on a property can be prevented from discharging to the municipal separate storm sewer system if it is reasonably believed to be a source of hazardous pollutants, substantial turbidity, or flows. Nothing hereunder shall prevent the Stormwater Management Officer from preventing access to the MS4, or rescinding a prior discharge allowance for a sump based on probable cause.

C. The prohibition shall not apply to any discharge permitted under an authorized SPDES permit waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the Village-owned municipal separate storm sewer system. A lawfully issued SPDES permit shall constitute compliance with this subsection in all manner and respects, provided that the

person and/or discharger to which the permit is issued is fully compliant therewith.

**§165-9. Illicit connections prohibited.**

The construction, use, maintenance or continued existence of illicit connections to the Village-owned municipal separate storm sewer system is prohibited. This prohibition expressly includes without limitation, connections made in the past, regardless of whether the connection was permissible under law and whether all lawful approvals were granted and/or regardless of whether the connection was previously unregulated pursuant to practices applicable or prevailing at the time of connection. A person is considered to be in violation of this article if they illegally connect a line conveying sewage or other wasterwaters to the Village-owned MS4, or allows such an illegal connection to continue.

**§165-10. Activities contaminating stormwater prohibited.**

A. Activities are prohibited that cause or contribute to a violation of the Village-owned municipal separate storm sewer system SPDES permit or cause or contribute to the Village being subject to the Special Conditions.

B. Upon written notification to a person that s/he is engaged in activities that cause or contribute to violations of the Village-owned municipal separate storm sewer system SPDES permit authorization, that person shall, upon receipt of such notice, immediately take all reasonable actions to correct such actives such that he no longer causes or contributes to violations of the Village's MS4 SPDES permit authorization.

C. Discovery. If at any time SMO believes there may be an illegal connection to the MS4, the property owner/ applicant may be compelled to perform tests or generate acceptable documentation to confirm that there is not an illicit connection / contamination of stormwaters. Such investigation, as defined by SMO, may be either directly performed by the owner/ applicant or, Village-led either directly or by its assigned contractors. While not necessary, discovery can be triggered by an application for a building permit or certificate of occupancy and fees and policy may be established to aid this purpose.

**§165-11. Use of best management practices.**

A. Where Stormwater Management Officer has identified illicit discharges, including as defined in §165-3 or by way of activities in §165-10 ‘Activities contaminating stormwater prohibited’, the Village may, among other remedies as set forth within this article, require the implementation of best management practices (BMPs) to control those illicit discharges and activities.

B. The owner or operator of a commercial or industrial establishment shall provide, at her/his own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the Village-owned municipal separate storm sewer system through the use of structural and nonstructural BMPs.

C. Any owner, discharger or operator or other person responsible for a property or premises which is or may, be the source of an illicit discharge as defined in §165-3 or an activity contaminating stormwater as defined in this article may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate the source of pollutant(s) to the Village-owned MS4.

D. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial and/or other regulated activities shall be deemed compliance with the provisions of this section.

#### **§165-12. Suspension of access to system.**

A. Imminent danger. The Stormwater Management Officer may, without prior notice, suspend Village-owned municipal separate storm sewer system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and/or substantial danger to the environment, to the health or welfare of persons, or to the Village-owned MS4. The SMO shall follow-up such suspension within a reasonable time thereafter by providing in writing the reasons for the suspension. If the violator fails to comply with a suspension order issued in such emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the Village-owned municipal separate storm sewer system or to minimize and abate any and all danger to persons.

B. Suspension due to the detection of illicit discharge. Any person discharging to the Village-owned MS4 in violation of this law may have its MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify an alleged violator in writing of the proposed termination of its Village-owned municipal separate storm sewer system access and the reasons therefor.

- (1) Within 15 days of the issuance of such notice, the alleged violator may petition the Stormwater Management Officer for a reconsideration and hearing. Access to the MS4 may be granted by the SMO if s/he finds in writing that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. A fee may be charged for renewed access to the MS4.
- (2) Access to the MS4 may continue to be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur.
- (3) A person commits an offense if there is reinstatement of access of the premises to the Village-owned municipal separate storm sewer system terminated pursuant to this section without the prior approval of the Stormwater Management Officer or a court of competent jurisdiction.

#### **§165-13. Industrial or construction activity discharges.**

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Stormwater Management Officer prior to allowing discharges to the Village-owned municipal separate storm sewer system. Upon such proof being provided, the SMO shall render his/her determination as to

acceptability and shall provide the person with such written determination.

**§165-14. Access to facilities and monitoring of discharges.**

A. Applicability. This section applies to all facilities that the Stormwater Management Officer must inspect to enforce any provision of this law or whenever the authorized enforcement agency has probable cause to believe that there exists, or potentially exists, in or upon any premises, any condition that constitutes a violation of this law.

B. Access to facilities. Upon compliance with the requirements of this law, the Stormwater Management Officer shall be permitted to enter and inspect facilities subject to regulation under this law as often as may be necessary to determine compliance with this law. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the reasonable and necessary arrangements to allow access to the SMO.

- (1) Facility operators shall allow the ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this law.
- (2) Unreasonable delay in allowing the Village access to a facility subject to this law is a violation of this law. A person who is the operator or owner or discharger of a facility subject to this law commits an offense if the person denies the SMO reasonable access to the facility for the purpose of conducting any compliance activity authorized or required by this law.
- (3) If the SMO has been refused access to any part of the premises from which stormwater is discharged and he/she is able to demonstrate probable cause to believe there may be a violation of this law or that there is a need to inspect and/or sample as part of such inspection and sampling program designed to verify compliance with this law or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

C. Monitoring. Following any adjudicated violation of this law, or as part of an enforcement proceeding, the Village shall have the right to set up, on any facility subject to this law such devices as are necessary in the reasonable determination of the Stormwater Management Officer to conduct monitoring and/or sampling of the facility's stormwater discharge. In connection therewith, the Village has the right to require the facilities subject to this law to install monitoring equipment as is reasonably necessary to determine compliance with this law. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger or the owner at its own expense. All devices used to measure stormwater flow and quality shall be properly calibrated to ensure their accuracy, and proof of such calibration shall be furnished to the SMO following request therefor.

**§165-15. Notification of spills.**

Notwithstanding any other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response or environmental compliance

for a facility or operation, or any contract or vendee working at or on a premises, has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into the Village-owned municipal separate storm sewer system, said person shall take such necessary, steps to ensure the discovery, containment, and cleanup, of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services along with additional notification provided to the Village Stormwater Management Officer, and DPW. Following on from the initial event, for a release of hazardous materials, said person shall notify the Village SMO in-person or by telephone no later than the next business day, and for a release of non-hazardous materials within two business days. Notifications in-person or by telephone shall be confirmed by written notice addressed and mailed to the Village care of the Village Clerk within five business days of original notice with copies directed to the SMO and DPW. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be promptly provided to the SMO and such records shall be retained on-site for at least five years.

#### **§165-16. Enforcement.**

A. When the Village's Stormwater Management Officer determines that a person has violated a prohibition or failed to meet a requirement of this Article or this Law, s/he may order compliance by written notice of violation to the owner and the discharger, if different than the owner, as the alleged responsible person. A stop work order or withholding or withdrawal of a building permit or a certificate of occupancy or application therefor may also occur per 165-40. Such notice and/or subsequent enforcement remedies may require, without limitation:

- (1) The elimination of illicit connections or discharges;
- (2) That violating discharges, practices or operations shall cease and desist;
- (3) The abatement and/or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (4) The performance of monitoring, analyses and reporting;
- (5) Payment of a fee, a fine, and/or recoupment of all quantified Village expenditures as necessary to abate the violation;
- (6) The implementation of source control or treatment BMPs; and
- (7) Order that all permits, approvals and/or authorizations be obtained, if lawfully permitted by statute, for any continuing discharges, practices and/or operations.

B. If abatement of a violation and/or restoration of affected property is ultimately required, written confirmation shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be undertaken and completed by a designated Village governmental agency or a Village-retained contractor and all expenses thereof shall be charged to the discharger and/or the owner as the violator, in addition to any fees, fines or penalties which may be assessed, including

stop work orders, or withholding or withdrawal of building permit or certificate of occupancy.

C. Prior notice shall not be required in the event that the Stormwater Management Officer reasonably determines that an imminent threat to life may exist as a result of the violation of this article.

**§165-17. Appeal of notice of violation.**

A. Procedure. Any person receiving a notice of violation may appeal the determination of the Stormwater Management Officer within 15 days of its issuance. Said appeal shall be filed with the Stormwater Management Officer, who shall transmit her/his original findings and the appeal to the Village Trustees (and Village Clerk), unless there is a cited violation of Zoning Performance Standards, or other Zoning regulations (Article 212), in which case the Zoning Board of Appeals has statutory standing and shall serve as the appeal body. Copies of the appeal package shall also be provided to: Department of Public Works Superintendent; Village Clerk; Village Planner, Village Attorney and Engineer. When the Village Trustees has standing, they shall hear the appeal within 30 days after the filing of the appeal and, within five business days of making its written decision, file its final written decision with Village Clerk and mail a copy of its decision by certified mail to the discharger, and provide a copy to SMO, DPW Superintendent, Village Engineer and Attorney; otherwise, the ZBA shall follow protocols within Zoning.

B. Relief. Persons who may be individually, jointly or severally aggrieved by, any determination made by the Village Trustees, or the Zoning Board of Appeals, as the case may be, may apply to the Supreme Court of the State of New York for review of such decision under Article 78 of the Civil Practice Laws and Rules of the State of New York.

**§165-18. Corrective measures after appeal.**

A. Absent other controlling procedure, if an appeal under this Law has been pursued and the violation has not been corrected pursuant to the requirements set forth in the notice of violation which has been adjudicated, then within 21 business days of the written issuance of the decision upholding the Stormwater Management Officer's action, the SMO shall request the owner's permission for access to the subject property to take any and all measures reasonably necessary to abate the violation and/or restore the property.

B. If refused access to the subject property, the Stormwater Management Officer may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property and make any and all determinations which are authorized. Upon determination that a violation has occurred and/or is continuing, SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/ or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger as set forth in §165-16 'Enforcement', and besides the cost of any needed remediation and fees, the Village can pursue up to double the damages otherwise provided in Penalties and Offenses.

C. Nothing in this section shall be read to limit, abrogate or otherwise affect the authority possessed by the Stormwater Management Officer pursuant to §165-12A of this article.

**§ 165-19. Penalties for offenses.**

A. Administrative sanctions.

- (1) Any person who violates the provisions of this Chapter, including any provision of any authorization issued, any condition set, or any fees required, shall be liable to the Village for a civil penalty of not more than \$3,000 for every such violation. Each week of the violation may be considered a separate offense. Such civil penalty may be recovered in any action brought by the Village at the request and in the name of the Village in any court of competent jurisdiction. Such penalty shall be in addition to any separate required fees or remediation/ corrective action/ compliance expenses.
- (2) Such civil penalty may be released or compromised by written action of the Village, and any action commenced to recover the same may be settled and discontinued by the Village. Any such penalty of the Village shall be enforceable in an action brought in any court of competent jurisdiction. Any civil penalty or order issued by the Village pursuant to the criteria set forth herein shall be reviewable in a proceeding pursuant to Article 78 of the State Civil Practice Law and Rules.

B. Criminal sanctions. Any person who violates the provisions of this law, including any provision of any authorization issued, any condition set, or fees required pursuant to this article, may in addition, for the first offense, be guilty of a violation punishable by, a fine of not less than \$500 and not more than \$1,000. For a second and each subsequent offense he/she shall be guilty of a misdemeanor punishable by a fine of not less than \$1,000 nor more than \$2,000, or a term of imprisonment of not less than 30 days nor more than six months, or both. Each violation may be deemed a separate and distinct offense, and in the case of continuing violation, each week in continuance thereof may be deemed a separate and distinct offense.

C. Final determination; costs. In addition to the foregoing remedies, any person who violates the provisions of this law and is found guilty by a final administrative determination and/or a final adjudicated determination by a court of competent jurisdiction shall be responsible for paying over to and reimbursing the Village for all quantified costs, penalties and/or fines as may result from, or be imposed by, the Department, the EPA, and/or any other enforcement agency pursuant to the Clean Water Act, the State Pollutant Discharge Elimination System (SPDES) requirements, and/or any other applicable statutory authority for such violation.

**§165-20. Injunctive relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this law. If a person has violated or continues to violate the provisions of this law, the Stormwater Management Officer may petition for a preliminary or

permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement and/or remediation of the violation and/or for such other further relief as any court of competent jurisdiction may order.

**§165-21. Alternative remedies.**

A. Where a person has been charged with violations of this law and/or when a person has been determined to have violated a provision of this law, s/he may be eligible for alternative remedies in lieu of a civil and/or criminal penalty, upon written recommendation of the Building Department Chief, Village Attorney, and the Village Trustees where a written determination is made that:

- (1) The violation was unintentional;
- (2) The violator has no history of previous violations of this article;
- (3) Any environmental damage was minimal;
- (4) The violator acted quickly to remedy violation; and/ or
- (5) The violator cooperated in investigation and resolution.

B. Alternative remedies may consist of one or more of the following:

- (1) Attendance at stormwater management compliance workshops.
- (2) Storm drain stenciling and/or storm drain marking.
- (3) Tree planting, other planned vegetative plantings, or other pre-determined and pre-arranged environmental or ecological enhancements.
- (4) Participation in community outreach programs concerning stormwater management.
- (5) Other desirable reasonably related mitigation set forth in a local or regional plan or program or policy.

C. In the event of noncompliance with the foregoing alternative remedies, the Village reserves the right to enforce any and all provisions of this article.

**§165-22. Remedies not exclusive.**

The remedies listed in this article and this law are not exclusive of any other remedies available under any applicable federal, state or local law. It is within the discretion of the Stormwater Management Officer to make such recommendations on alternative remedies and the Village Trustees to make such determinations. Nothing in this article shall be read to preclude the enforcement: by the Village of any other laws as may be applicable to illicit discharges, including but not limited to statutory authorizations as set forth within the New York State Highway Law, the New York State Village or General Municipal Law, and the New York State Public Health Law.

**§165-23. Annual review.** The Stormwater Management Officer shall submit an annual report to the Village Trustees not later than the first day of February of each year concerning the administration, efficacy and enforcement of this law. Such reports and recommendations shall assist the Village to monitor and evaluate the extent to which the intent and purpose of this article have been served.



**§165-24. Conflict with other regulations.**

Where the standards and legal requirements of this article are in conflict with other environmental and/or land use regulations and/or other environmental protective measures, the Village shall decide which standards and legal requirements shall apply, and it may choose to those that are more restrictive.

**§165-25. Interpretation.**

This article shall be interpreted under, construed by and governed pursuant to the laws of the State of New York.

**ARTICLE III – STORMWATER MANAGEMENT AND EROSION & SEDIMENT CONTROL IN CONJUNCTION WITH LAND DEVELOPMNET**

**§165-26. Findings Regarding Need for Stormwater Management During and Following-on From Land Development to Protect Water Quality and Reduce Rapid Runoff.** 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. Stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat and increases in water temperature which are detrimental to fish and other desirable species.
- C. Clearing and grading during construction tends to increase soil erosion and impact 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 of stormwater runoff 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 which is more 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.

- J.** Climate change and the increased risk of severe storms, with the capacity to increase stormwater runoff and soil erosion, poses a significant threat to a community's sustainability and the health and safety of its citizens through potential increases in pollution of its waterways and damage to infrastructure, economic assets, and natural resources;
- K.** Green infrastructure (GI) is shown to be an effective method for reducing impacts from stormwater runoff, it delivers many co-benefits, and considering sub-area context, GI should be implemented in order to restore natural hydrologic regimes, increase infiltration, slow runoff, and protect communities from the risks associated with stormwater runoff and soil erosion;
- L.** Stream buffers and vegetated floodplains treat stormwater, improve water quality, reduce floodwater velocity, and provide space to accommodate flood events; and
- M.** Fitting development design to terrain and avoiding and mitigating impacts on steep slopes, floodplains, and wetlands helps to preserve natural hydrology, drainage ways, and natural resources of sites; reduces the need for grading and land disturbance, and provides a framework for an integrated site design and layout.

**§165-27.** Purpose – This Article establishes 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 §165-26 hereof. The Article seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of Minimum Control Measures 4 and 5 of the most current applicable version of the New York SPDES) Department General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s);
- B. Require Land Development Activities to conform to the substantive requirements of the most current applicable version of the SPDES General Permit for Stormwater Discharges from Construction Activities;
- C. 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;
- D. Minimize increases in pollution caused by stormwater runoff from Land Development Activities which would otherwise degrade local water quality;
- E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices while ensuring that these management practices are properly maintained and sustained and eliminate threats to public safety.
- G. Advance the use of green infrastructure practices to control stormwater runoff such as

- protecting natural areas, reducing impervious cover, maintaining natural hydrology, and using GI-based runoff reduction techniques to the maximum extent practicable;
- H. Adapt to current and projected climate change impacts, decrease risk of storm-related flooding, and increase resilience to severe storm surges;
  - I. Reduce the impact on the environment, protect water quality, reduce the potential for erosion and protect sensitive habitats by locating development away from floodplains, more ecologically sensitive areas, by considering the relationship of development to permeable soils, and limiting the amount of clearing and grading; and
  - J. Ensure control of stormwater management and the altered potential for flooding on-site and on adjacent properties through a requirement that there express permission in order to conduct Land Development Activity.

### **§165-28. Applicability**

- A. This local law shall be applicable to all actions that are not Exempt Land Development Activities as defined in this local law, Article 1, 165-3. All Land Development Activities subject to review and approval by the Planning Board of the Village of New Paltz under zoning or subdivision policy (including site plan and/or special permit regulations) shall also be reviewed subject to the standards contained in this local law. Likewise, a Land Development Activity coming before the Zoning Board of Appeals of the Village shall also be covered by the standards within this law.
- B. The municipality shall designate the “Stormwater Management Officer”, as defined in Article 1, 165-3, as the official who shall accept and administer all required Storm Water Pollution Prevention Plans (SWPPPs). The SMO may:
  - (1.) Review a SWPPP, when applicable, including to define whether any initial submission is complete and may be referred to the Village Planning Board or Zoning Board, if applicable, for its review and approval (this is typically design-stage);
  - (2.) Engage the services of a registered professional engineer, or other qualified professional, to review SWPPPs, including all attendant specifications and related documents, at a cost not to exceed the rates established within a schedule and structure established by the SMO, such cost of review being fully funded by an Applicant and reimbursable to the Village using an applicant-funded escrow account (also known as a Trust and Agency Account) established and administered for that purpose. Funding placed within an escrow for the purpose of underwriting review is in addition to any associated fees established by the Village Trustees;
  - (3.) Accept the certification of a licensed or credentialed qualified professional on behalf of an applicant that a SWPPP conforms to the requirements of this law, including and case where an action is not subject to review per preceding item 1.
  - (4.) Approve a SWPPP. For cases where Planning Board and/or Zoning Board of Appeals were involved in granting a permit or approval, such as for a site plan, and there has already been submission and review of a Stormwater Pollution Prevention Plan (SWPPP) with a written determination or decision of such body, such as conditional approval, when the Stormwater Management Officer is delegated such responsibility, the SMO may administer and approve the SWPPP in its final form (Final SWPPP) in compliance with the requirements of this law and any project-specific conditions or stipulations.
  - (5.) Requests for waivers:

- (a) The Stormwater Management Officer may act on a written request for waiver from 165-29.A. by providing the rationale for granting such waiver and defining any stipulations associated with it by making a written determination.
- (b) Any other waiver requested by an applicant in writing may be granted by the Stormwater Management Officer based on a majority vote in favor of allowing such waiver by the Stormwater Management Committee.

**§165-29. Stormwater Pollution Prevention Plans (SWPPP).** Stormwater Pollution Prevention Plan (SWPPP) Requirement - No application for approval of a 'Land Development Activity' shall be reviewed until the appropriate board receives a substantially complete and intelligible Storm Water Pollution Prevention Plan prepared in accordance with the specifications in this local law.

**A. Contents of Stormwater Pollution Prevention Plans.** All SWPPPs shall be appropriately linked to a site plan, when a site plan is required under zoning, in that the SWPPP must be referenced on and relate to the main site plan presenting the overall development program.

- (1) Each SWPPP shall provide the following data, contextual descriptions, programming and specifications, including which details the construction phase erosion and sediment control plans and specifications:
  - (a) Background information about the project scope, including location, type, and size of project.
  - (b) A smaller- scale general location map at 1"=200'.
  - (c) Site map(s) / construction drawing(s) for the project, at a scale preferably 1"=50', but no smaller than 1"=100'. At a minimum, the site map should show total site area; existing stormwater management systems, including MS4, on or within 100 feet of the property; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s) and classifications, if available, as well as any regulated buffer area, as per Village, State, or Federal policy; 100-year floodplain and floodway boundaries; wetlands; drainage patterns that could be affected by the construction activity; existing and final contours; locations of different soil types with boundaries; locations of on- and off-site material, waste, borrow or equipment storage and construction staging areas; and location(s) of the stormwater discharges(s);
  - (d) Additional descriptions of soil(s) present at the site, including identification of the hydrologic soil group (HSG) and soil erosion factor(s);
  - (e) 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. Following methodology consistent with the protocols within the New York Standards and Specifications for

Erosion and Sediment Control (Erosion Control Manual), not more than one (1.0) acre shall be disturbed at any one time unless pursuant to an approved SWPPP.

- (f) 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;
- (g) Description of ground cover conditions on the property.
- (h) Description of construction and waste materials expected to be stored on-site, with updates as appropriate, and a description and specifications of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and for spill-prevention and response;
- (i) 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/ grubbing to project close-out;
- (j) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- (k) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
- (l) Temporary practices that will be converted to permanent control measures;
- (m) 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;
- (n) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
- (o) Name(s) of the receiving water(s);
- (p) Delineation of SWPPP implementation responsibilities for each part of the site;
- (q) 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
- (r) Any existing data that describes the stormwater runoff at the site.
- (s) Clear demarcations of the areas of impervious surface (cover) for pre-construction, construction and post-constructions conditions, with summary figures of the areas and percentages of impervious surface pre-and post-construction.
- (t) Identification if there is not equivalence to Technical Standards and documentation required per 165-33.B.
- (u) A written operation and maintenance program for any limited permanent structures or controls that will be instituted with the project along with any required easements, including descriptions of any permanent

structures that would be placed on public property, with indication whether DPW has provided its initial opinion on access to or augmentation of the Village's MS4.

- (v) This type SWPPP shall be prepared by a landscape architect (preferably registered or possessing at least an associate's degree in landscape architecture), a certified stormwater professional (possessing a credential from a national organization with a recognized standard), or professional engineer, and it must be signed by the qualified professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this local law.

- (2) Land Development Activities as defined in Section 165-3 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 165-29.B.(3) below as applicable:

**Condition A** - Stormwater runoff from Land Development Activities discharging a pollutant of concern to either an impaired water identified on the NYSDEC'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 where the amount of land disturbance is equal to or greater than 5,000 square feet and where the impervious cover created is 1,000 square feet or more, or when there is disturbance of one (1.0) or more acres, either at one point, or cumulatively per a plan of common development, exclusive of 'Exempt Land Development Activities'. One exception from Condition B is for new one- or two-family residential development creating less than 1,750 square feet of impervious cover (165-29.A. still applies).

**Condition C** - Stormwater runoff as required in any case so ordered by the Stormwater Management Officer, Planning Board, or the Zoning Board, despite Condition B above, as an allowable override for Condition B above, when it is determined there shall be definition of post-construction stormwater runoff controls in order to achieve orderly growth and protect public health, safety, and welfare.

- (3) SWPPP Requirements for Condition A, B, C:
  - (a) All information in 165-29.B.(1) of this local law.
  - (b) Documentation verifying that stormwater management planning process was conducted to assess the potential to use green infrastructure practices as per the Design Manual. Detailed descriptions as to why green

infrastructure practice cannot be utilized within the design must be provided with discussion on the top three techniques evaluated for feasibility and practicality.

- (c) Description of each post-construction stormwater management practice;
- (d) Site map/construction drawing(s) showing the specific location(s), size(s), and specification of each post-construction stormwater management practice;
- (e) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms.
- (f) Comparison of post-development stormwater runoff conditions with pre-development conditions.
- (g) Increases in stormwater runoff volume as a result of the Land Development Activity shall be presented. Potential downstream impacts due to increased volume and proposed methods to lessen the volume shall be discussed.
- (h) Locations, dimensions, material specifications and installation details for each post-construction stormwater management practice;
- (i) Infiltration Practices for water quality treatment are preferred, if practicable and fitting with area context, either in conjunction with or after the use of green infrastructure practices have been exhausted (per the Design Manual), if soils and other physical characteristics are suitable, including if the project does not involve a stormwater hot spot, or if when it does, the design of the applicable practice(s) is shown to be feasible as documented by a qualified professional. If Infiltration Practices are not used, a detailed description as to why this cannot be achieved must be provided.
- (j) Bioretention Practices for water quality treatment are preferred after the use of green infrastructure practices in the design have been exhausted (per the requirements of the Design Manual) if physical characteristics of the site are suitable. If Bioretention Practices are not used, a detailed description as to why this cannot be achieved must be provided.
- (k) The method of soil compaction should be discussed. During construction, compaction of landscaped or pervious areas should be avoided, or if it cannot be avoided minimized, to allow infiltration of stormwater into the subsoil.
- (l) Maintenance schedule to ensure continuous and effective operation of each post- construction stormwater management practice.
- (m) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be specified on site plans recorded on the plan and shall remain in effect with transfer of title to the property through requirements to record these easements, provide proof of their recording to SMO, and update and reference them on any subsequent site plan amendment.
- (n) Inspection and maintenance agreement binding on all subsequent

landowners served by the on-site stormwater management measures in accordance with the maintenance, inspection, and repair requirements of this local law, including but not limited to 165-31, and 165-35 through 165-38, with unique identification of any portions that are intended to be dedicated as part of an MS4.

- (o) Construction or post-construction ‘Performance Guarantees’, such as in accordance with requirements in Zoning, in conjunction with review of site plans, and construction pursuant to them, or as otherwise arranged by the Stormwater Management Officer.
- (p) For Condition A, B, or C, the SWPPP shall be prepared by a landscape architect or a certified stormwater professional with the supervision of professional engineer, or by professional engineer, and it must be signed by all qualified professionals involved with preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this local law.
- (q) Explicit written identification when there is departure from standard techniques and there is equivalence achieved to Technical Standards and associated documentation, as required per 165-33.B.
- (r) Description of permits and approvals necessary and anticipated sequence.

**§165-30. Other Permits -**

- A.** The applicant shall assure that all other applicable permits and environmental approvals have been, or will be, acquired for the Land Development Activity prior to approval of the final stormwater design plan.
- B.** Except for Exempt Land Development Activity, it is a requirement to obtain a Building Permit from the Village of New Paltz in order to conduct ground disturbing activity. The Stormwater Management Officer may be contacted in-person or in writing to ascertain whether a potential proposed activity requires a Building Permit.

**§165-31. Contractor Certification**

- A.** Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance, stormwater management practice installation, and future operation and maintenance of stormwater practices shall be registered with the Building Department and 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 Storm Water Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards.”
- B.** The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- C.** The certification statement(s) shall become part of the SWPPP for the Land Development Activity.



**§165-32. Document Retention.** A copy of the SWPPP and all documentation necessary to demonstrate compliance with this law 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.

**§165-33. Performance and Design.** 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 (NYSDEC, most current version, or its effected successor, hereafter Design Manual)
  - (a) Stormwater management practices must be selected, designed, installed, and maintained to meet the performance criteria in the Design Manual using sound engineering judgment.
  - (b) Within various submissions made to the Village, documentation should define, in writing, how stormwater management practices were designed to meet applicable sizing criteria.
- (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 effected successor, hereafter referred to as the Erosion Control Manual).

**B. Equivalence to Technical Standards -** Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the Technical Standards set forth in the preceding item A., the SWPPP shall be prepared and stamped by a licensed professional engineer, with detailed explanation provided of each specific departure from the applicable standards, the rationale, the alternative approach used, with discussion of the impacts.

**§165-34. Water Quality Standards -** Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

**§165-35. Maintenance, Inspection and Repair of Stormwater Facilities**

**A. Maintenance and Inspection During Construction**

- (1) The applicant or developer or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or

developer to achieve compliance with the conditions of this local law. 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 registered and appropriately trained and authorized 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.
- (3) For Land Development Activities meeting Condition A, B, or C in 169-29.B(2), the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site log book.

**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 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 Village of New Paltz 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 Village.

**C. Maintenance after Construction** - The owner or operator of permanent stormwater management practices installed in accordance with this law shall ensure they are operated and maintained to achieve the goals of this law. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with 165-34. Proper operation and maintenance also includes as a minimum, the following, which must be submitted to the Village for its records for the property:

- (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 operations and maintenance personnel.

**D. Required Reports After Construction Completion** – See 165-37.

**§165-36. Maintenance Agreements** - The Village of New Paltz 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 Appendix B entitled Sample Stormwater Control Facility Maintenance Agreement. The Village, 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 and repair.

- A. All applicants are required to submit “as-built” plans for any stormwater management practices specified within the approved SWPPP after final construction is completed. As-built plans must show the final design specifications for all stormwater management facilities including the conveyance system and must be certified by a professional engineer. This shall include any stormwater management practices located on-site.

**§165-37.** Performance guarantee(s). The Village Board, based upon guidance of the Planning Board and/or Stormwater Management Officer, may require that prior to construction, on-site or public improvements, including landscaping and buffering requirements, site preparation and stabilization activities, and any necessary engineering, surveying, field work, legal, or other administrative or compliance expenses needed to construct and properly sustain stormwater management improvements, be secured by a performance guarantee put into effect in a mutually agreed upon manner.

- A. Construction Completion Guarantee - In order to ensure the full and faithful completion of all Land Development Activities relating to compliance with conditions in an approved Stormwater Pollution Prevention Plan and/or site plan, the applicant or developer may be required to provide, a bond, cash escrow, irrevocable letter of credit, or other acceptable performance guarantee, which shall provide, in the case of default or other circumstances, including which may not be foreseen, for satisfactory completion of the project, and which names the Village as beneficiary. Such security shall be in an amount determined by the Planning Board based on submitted final design plans, with written reference to itemized costs in a comprehensive schedule (In alternative instances this may determined by SMO). This shall remain in full force and effect until it, or part of it, is released from liability by the Village Trustees based on a voice vote recorded in adopted minutes (any subsequent amounts remaining shall, likewise, be in full effect unless formally released by liability by the Trustees). For a site plan with a SWPPP, the period that a performance guarantee shall typically remain in force for is not less than one year from the date of final acceptance, or such other certification that facility(ies) have been constructed in accordance with approved plans and specifications, and that a one year inspection has been conducted and facilities have been found by the Village to be acceptable in terms of their quality and durability of construction and demonstrated operation according to acceptable tolerances or ranges thereof.
- B. Maintenance Guarantee - Where stormwater management and erosion and sediment control facilities are to be operated and maintained by and at the responsibility of the applicant or developer, prior to construction, these entities may be required to provide the Village with a bond, cash escrow, irrevocable letter of credit from an approved financial institution, or other acceptable surety, to ensure there are resources available to support and sustain the 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 there is failure to properly operate

and maintain stormwater management and erosion and sediment control facilities, the Village may draw upon the account to cover costs of proper operation and maintenance, including legal, engineering and inspection costs. A contract should be executed in such instances.

- C. Recordkeeping – The Village should require entities subject to this section of law to maintain records demonstrating compliance with this law and any guarantees, including annual or other periodic written reports on progress and to confirm that the performance guarantee remains in good standing should the Village have to rely upon it. Recordkeeping on performance guarantees may be linked with any applicable Maintenance Agreement and any required maintenance, inspection and reporting during or after construction. Periodic reports must be submitted to the Stormwater Management Officer as well as Village Clerk, Treasurer and Attorney.

**§165-38. Construction & Post-Construction Inspections** – Stormwater Management Officer may conduct, cause or require such inspections as necessary to determine compliance with this law. SMO may in writing either approve that portion of the work completed, or notify the applicant wherein work fails to comply with requirements of this law, a valid site plan, and an approved SWPPP.

- A. **Stormwater Management Practice Inspections** – In conjunction with the ongoing administration and enforcement of any Storm Water Pollution Prevention Plan, the Stormwater Management Officer may conduct or cause inspections of stormwater management practices (SMPs), both during the building permit stages as well as in conjunction with administering certificates of occupancy.
  - (1) **Right-of-Entry for Inspection** - When any new stormwater management facility is installed on private property or any altered connection is made between private property and the public stormwater system, the landowner shall grant to the Village, and its assigns, the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.
  - (2) **Non-compliance** - Consistent with established Village procedure, if violations are found based on an inspection, the Stormwater Management Officer may require immediate corrective actions with no further work allowed to be conducted except for site stabilization until such violations are corrected and all work previously completed has received approval by the Stormwater Management Officer. An order for corrective actions shall be followed within a reasonable time with a written report detailing such violation and defining corrective actions.
  - (3) **Inspection Support** – Stormwater Management Officer may require any party to deposit into escrow the reasonable costs at prevailing rates for construction and post-construction inspections. The purpose may include for providing Stormwater Management Practice (SMP) maintenance and quality control, including as performed by a third party contracted in writing at the discretion of the Village who will report to the SMO. If any Escrow is not maintained with sufficient monies (reserves) by the developer/ responsible party, then this may be cause for a stop work order, a notice of violation, modification of site plan, revocation of building permit, revocation of certificate of occupancy,

assessment of additional fees, and/or penalty on violation.

- (4) **Record Keeping/ Submission of Reports** - Stormwater Management Officer may require monitoring and written reporting from entities (such as the developer) subject to this law as necessary to determine compliance both during and after construction. Given that Planning Board typically approves site plans (and attendant SWPPPs), it is reasonably expected that the Village's qualified consultants providing professional/ technical services during application review stage, including Engineer(s) and/or Certified Professional(s) in Erosion and Sediment Control, will remain involved with such administration, and will issue written reports of inspections as assigned in writing by the Stormwater Management Officer. This law provides for the same practices and procedures for funding (underwriting) such professional technical services as is provided for as described in 'Escrow Deposits' within Zoning. It shall be required practice for any service delivery by professional technical service providers to be backed-up by timely written reports submitted to the Stormwater Management Officer and for these technical service to be provided at the direction of the Stormwater Management Officer.
- (5) **Inspection of Stormwater Facilities After Project Completion** - Inspection programs, routine in nature or not, shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections based upon complaints or other notice of possible violations; inspection of drainage basins or other property or MS4 inspections; inspections of areas identified as having higher than typical sources or incidences of sediment or other contaminants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants 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.

**B. Inspection Schedule** – Each of the flowing inspections are encouraged to be requested in writing by a landowner/ responsible party. To obtain inspections, the applicant shall notify the Stormwater Management Officer at least five business days before, and preferably further in advance of, any of the following inspections as required in the applicable site plan, stormwater pollution prevention plan, or as required by the Stormwater Management Officer. It is required for the Applicant to obtain from the SMO permission in writing to proceed with any non-routine inspection called for in the SWPPP, or any other specifically required inspection wherein the SMO, or their designee, will not be in attendance for such scheduled inspection and the Applicant's qualified professional will thus conduct such inspection and/ or tests and must thereafter within a reasonable time submit the results in writing:

- (1) Start of construction

- (2) Installation of sediment and erosion control measures
- (3) Completion of site clearing
- (4) Completion of rough grading
- (5) Installation of key permanent components, including outfalls and infrastructure proposed to become part of the MS4
- (6) Completion of final grading
- (7) Close of the construction season
- (8) Completion of final landscaping
- (9) Successful establishment of landscaping.

**§165-39. Fees & Costs** – In addition to any other fees established in conjunction with receiving and processing application/ submission and administering this law, the Village of New Paltz may require any person undertaking any activities, including Land Development Activities, regulated by this law to pay reasonable costs at prevailing rates for the review of SWPPPs, inspections, or SMP maintenance either performed by the Village, or performed by a duly authorized third party for the Village.

**§165-40. Violations** - Consistent with 165-16, any regulated activity herein, including any Land Development Activity that is commenced or is conducted contrary to this local law, may be provided a written notice of violation, restrained by injunction, and/ or otherwise abated in a manner provided by law.

- A. **Stop Work Orders** - the Village of New Paltz 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 Village of New Paltz confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. In addition to any costs and fees imposed, 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.
- B. **Withholding or Withdrawal of Certificate of Occupancy** - If any building or Land Development Activity is installed or conducted in violation of this law the Stormwater Management Officer may prevent the occupancy of said building or land, or may withdraw a certificate of occupancy.
- C. **Restoration of lands** - Any violator may be required to repair land to its pre-development/ undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Village may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- D. **Notice of Violation** - When the Village determines that a Land Development Activity is not being carried out in accordance with requirements of this local law, the notice of violation shall contain:
  - (1) The name and address of the landowner;
  - (2) The address, SBL(s), and a description of the building, structure or land upon which the violation is occurring;

- (3) The name and address of the party identified whole conducted the non-compliant activity;
- (4) A statement specifying the nature of the violation;
- (5) A description of remedial measures necessary to bring the land development activity into compliance with this law and a time schedule for the completion of such remedial action, as well as any required monitoring or reporting;
- (6) A statement of fees, penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (7) 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.

**§165-41. Penalties Elaborated.**

- A. Consistent with 165-19, any person or corporation whether as owner, lessee, vendee, qualified professional, builder or contractor, operator, or any other agent or employee of any of the same, who violates or is accessory to the violation of any provision of this chapter, or any regulation made under the authority conferred by this Article or Chapter may be liable for an administrative sanction.
- B. An administrative sanction is reasonably applied against persons or corporations conducting ground disturbing activities and/or creating impervious surfaces, or changes the use of land, including from open, undeveloped or unused or forested area, including by denuding large areas of contiguous trees, or who shall erect, construct, alter, enlarge, convert or move any building or structure, including below ground, including by making changes in regulated landscaping and grading beyond the current line or grade, without an express approval hereunder, including a building permit, or in contradiction of any statement or plans submitted and approved under the provisions of this chapter.

**ARTICLE IV – SEVERABILITY & EFFECTIVE DATE**

**§165-42. 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.

**§165-43. Effective Date**

This Local Law shall be effective upon filing with the office of the Secretary of State. Approved by the Village of New Paltz Board of Trustees (**Date** ).

**Incorporate proposed Appendices A & B respectively:**

**Appendix A – Version: July 2017**

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



Appendix B  
Version: July 2017

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(Name of Owner of Premises)

**Stormwater Control Facility Maintenance Agreement**

**WHEREAS**, the **VILLAGE OF NEW PALTZ**, a municipal corporation of the State of New York, having offices at 25 Plattekill Avenue, New Paltz, New York 12561 (Village), and

-

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("Owner"), of  
(Name of Owner [natural person or business entity])

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(Street Address, P.O. Box, City, State, Zip Code)

are desirous of entering into an agreement to provide for long-term maintenance and continuation of stormwater control measures accepted and approved by the Village for the Project:

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(Name of Development & Street address)

---

(Planning Board Case Number)

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(Tax Map Parcel Number)

**WHEREAS**, the Village and Owner agree that all stormwater control measures shall be built in accordance with the full approved project site plan and its full attendant Storm Water Pollution Prevention Plan (SWPPP), and which full post-construction program thereafter shall be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components of the system,

**NOW and THEREFORE**, the Village and Owner agree as follows:

1. This agreement shall bind the Village and Owner, and their successors and assigns, to the maintenance provisions depicted in the approved project site plans and consistent with the approved stormwater pollution prevention plan on file with the Village and any additional documentation besides this instrument recorded with the Ulster County Clerk.
2. Owner shall maintain, clean, repair, replace and continue to operate and sustain the stormwater management flow and water quality control measures as necessary to ensure optimum performance of the measures according to the design

specifications. The stormwater control measures shall include, but shall not be limited to: drainage ditches; swales; dry wells; infiltrators; drop inlets; pipes; culverts; soil absorption devices; retention or detention ponds; green infrastructure; landscaping, and other mechanical storage, treatment or flow controls.

3. 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 amongst parties for any commonly owned facilities as originally designed/ established within the then intended project area intended by the SWPPP.
4. Owner shall provide for the major periodic inspection of the stormwater control measures not less than once in every three-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 Village within 30 days of the inspection a written report of findings including recommendations for those actions necessary for the continuation of the stormwater control measures in conformity with the specifications of the signed, accepted plans and originally issued SWPPP.
5. 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 Village.
6. Owner shall undertake all necessary repairs and replacement of the stormwater control measures at the direction of the Village in accordance with the recommendations of the inspecting engineer.
7. Within 30 days of the date of the execution and recording of this agreement, Owner shall provide the Village any security and/or performance guarantee that may have been required by the Village for the construction, maintenance, and continuation of the stormwater control measures in such form acceptable to the Village.
8. This agreement shall be recorded in the Office of the Ulster County Clerk by the Owner, and recited in or referred to in each deed constituting a conveyance of real property covered by the SWPPP; and shall be a part of any offering plan and/or prospectus pertaining to the subject premises. The obligations and duties imposed by the originally issued SWPPP and all approved amendments thereto shall constitute a burden upon the lands benefited by the SWPPP. Copies of the recording with the County shall be provided to the Village Clerk, Mayor, Stormwater Management Officer, DPW Superintendent, Village Attorney and Engineer.
9. At any time, should the Village determine that the Owner or the Owner's successors in interest have failed to construct or maintain the stormwater control measures in accordance with the project plan and issued SWPPP, or have failed to undertake corrective action specified by the Village or the inspecting engineer,

the Village is authorized to undertake such steps as may be reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the actual expenses thereof, including actual court costs, necessary disbursements and the Village's reasonable attorneys' fees and other environmental and construction compliance expenses, as a special tax assessment on each tax parcel covered by the SWPPP and as a lien against the real property benefited by the SWPPP.

10. With the exception of the Village's rights, the Owner may assign all rights and delegate all obligations hereunder to a duly organized and existing homeowners association as a successor in interest to the Owner. Such assignment and delegation shall be required to be in writing, signed and notarized by the assignor/Owner with the assignee/homeowners association and such assignment shall be promptly recorded in the Ulster County Clerk's Office with specific reference to this instrument. At the Village's discretion, a proposed change in assignment may trigger a requirement for Village review of such proposed written instrument effecting such delegation and such review shall be fully underwritten at the expense of the owners.
11. This agreement is effective immediately and shall be recorded at the Owner's expense in the Ulster County Clerk's Office within 30 days of execution. The Owner shall provide the Village of New Paltz with documentary proof of recording of this instrument within 10 days after recording.
12. The approved stormwater management facility is depicted in the following project plans prepared by \_\_\_\_\_ and are signed and dated by the Planning Board Chair:


Owner:

Village of New Paltz

\_\_\_\_\_  
Signature

Signature

\_\_\_\_\_  
Print Name

Print Name

\_\_\_\_\_  
Title

Title

\_\_\_\_\_  
Date

Date

STATE OF NEW YORK ) ss.:  
COUNTY OF ULSTER )

STATE OF NEW YORK ) ss.:  
COUNTY OF ULSTER )

On this \_\_\_\_\_ day of \_\_\_\_\_  
in the year 20\_\_\_\_\_, before me, the  
undersigned, a Notary Public in and for said  
state, personally appeared

On this \_\_\_\_\_ day of \_\_\_\_\_  
in the year 20\_\_\_\_\_, before me, the  
undersigned, a Notary Public in and for said  
state, personally appeared

\_\_\_\_\_  
personally known to me or provided to me  
on the basis of satisfactory evidence to be  
the individual whose name is subscribed to  
the within instrument and acknowledged to  
me that s/he executed the same in his/her  
capacity, and that by his/her signature on the  
instrument, the individual, or the person  
upon behalf of which the individual acted,  
executed the instrument.

\_\_\_\_\_  
personally known to me or provided to me  
on the basis of satisfactory evidence to be  
the individual whose name is subscribed to  
the within instrument and acknowledged to  
me that s/he executed the same in his/her  
capacity, and that by his/her signature on the  
instrument, the individual, or the person  
upon behalf of which the individual acted,  
executed the instrument.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary Public

