

## **CHAPTER 73**

### **STORMWATER MANAGEMENT AND CONTROL**

#### **ARTICLE 1. GENERAL PROVISIONS**

##### **Section 1. Findings of Fact.**

It is hereby determined that:

1.1 Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion or sediment transport and deposition.

1.2 This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species.

1.3 Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat.

1.4 Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing soil erosion and sediment transport.

1.5 Impervious surfaces allow less water to percolate into the soil, at times decreasing groundwater recharge and stream baseflow.

1.6 Substantial economic losses can result from these adverse impacts on the waters of the municipality.

1.7 Stormwater runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;

1.8 The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion and non-point source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.

1.9 Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

## **Section 2. Purpose.**

The purpose of this Local Law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety and welfare of the public residing within this jurisdiction and to address the findings of fact in Section 1 hereof. This Local Law seeks to meet those purposes by achieving the following objectives:

2.1 Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02 or as amended or revised.

2.2 Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised;

2.3 Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature and streambank erosion and maintain the integrity of stream channels.

2.4 Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality.

2.5 Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable.

2.6 Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

**Section 3. Statutory Authority.**

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

**Section 4. Applicability.**

4.1 This Local Law shall be applicable to all land development activities as defined in this Local Law.

4.2 The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may (1) review the plans, (2) conduct on-site erosion and sediment control inspections, (3) upon approval by the Village Board of Trustees of the Village of Baldwinsville engage the services of a registered professional engineer to review the plans, specifications and related documents and to conduct on-site erosion and sediment control inspections at a cost not to exceed a fee schedule established by said governing board by Resolution and amended from time to time, or (4) accept the certification of a licensed professional that the plans conform to the requirements of this law.

4.3 All land development activities subject to review and approval by the Board of Trustees and Planning Board of the Village of Baldwinsville under **SUBDIVISION, SITE PLAN AND/OR SPECIAL USE PERMIT** regulations shall be reviewed subject to the standards contained in this local law.

4.4 All land development activities not subject to review as stated in Section 4.3 shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall review the Plan in the manner as provided in Section 4.2 above and who shall approve the SWPPP if it complies with the requirements of this Law.

**Section 5. Exemptions.**

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

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

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

5.3 Any part of a subdivision if a plat for the subdivision has been approved by the Village of Baldwinsville on or before the effective date of this Law.

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

5.5 Cemetery graves.

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

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

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

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

5.10 Soil disturbance activities of less than one (1) acre in combined area, considering all phases of development.

5.11 Agricultural activity as defined in Schedule "A" of this Local Law.

## **ARTICLE 2. STORMWATER CONTROL**

### **Section 1. Definitions.**

The terms used in this Local Law or in documents prepared or reviewed under this Local Law shall have the meaning as set forth in Schedule "A" of this Local Law.

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

#### **2.1 Stormwater Pollution Prevention Plan Requirement.**

No application for approval of a land development activity shall be processed until the appropriate board has reviewed and approved a Stormwater Pollution Prevent Plan (SWPPP) prepared in accordance with the specifications in this Local Law.

## 2.2 Contents of Stormwater Pollution Prevention Plans.

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

1. Background information about the scope of the project, including location, type and size of project.

2. Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);

Site map should be at a scale no smaller than 1" = 100'.

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

4. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than one (1) acre shall be disturbed at any one time unless pursuant to an approved SWPPP.

5. Description of the pollution prevention measures that will be used to control litter, construction chemicals, construction debris and construction equipment and vehicles from becoming a pollutant source in stormwater runoff.

6. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the material to stormwater, and spill prevention and response.

7. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out.

8. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice.

9. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins.

10. Temporary practices that will be converted to permanent control measures.
11. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place.
12. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice.
13. Name(s) of the receiving water(s).
14. Delineation of SWPPP implementation responsibilities for each part of the site.
15. Description of structural practices designed to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.
16. Any existing data that describes the stormwater runoff at the site.

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

1. Condition "A": Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
2. Condition "B": Stormwater runoff from land development activities disturbing five (5) or more acres.
3. Condition "C": Stormwater runoff from construction activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

#### 2.2.3 SWPPP Requirements for Condition "A", "B" and "C":

The layout of structural components for a stormwater management system, design of stormwater management systems, details and practices and analysis of hydrologic and hydraulic conditions associated with providing water quantity and water quality controls shall be performed by a professional engineer.

1. All information in Section 2.2.1 of this Local Law.
2. Description of each post-construction stormwater management practice.
3. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice.
4. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms.
5. Comparison of post-development stormwater runoff conditions with pre-development conditions.
6. Dimensions, material specifications and installation details for each post-construction stormwater management practice.
7. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
8. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
9. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article 2, Section 4 of this Local Law.

### **2.3 Plan Certification.**

The SWPPP shall be prepared by a qualified professional and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this Local Law.

### **2.4 Other Environmental Permits.**

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

### **2.5 Certifications.**

2.5.1 Each contractor and subcontractor involved in soil disturbance and/or stormwater management practice installation for an approved land development activity, including such development activity on separate and distinct land that is part of a larger plan of development or

sale, shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards". The certification(s) shall be added to the approved SWPPP prior to undertaking any land development activity.

2.5.1.1 Any contractor or subcontractor engaged in a land development activity, including such development activity on separate and distinct land that is part of a larger common plan of development or sale, shall submit an executed certification, as herein provided, as part of its application for any required excavation permit or building permit, together with the relevant performance security as specified in Section 2.1 hereof.

2.5.2 The owner(s) shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify that this Stormwater Pollution Protection Plan and all attachments were based on my authorization or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that false statements made herein are punishable as a Class A misdemeanor, pursuant to Section 210.45 of the Penal Law". The certification shall be added to the approved SWPPP prior to undertaking any land development activity.

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

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

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

### **Section 3. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control.**

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

### **3.1 Technical Standards.**

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

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

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

### **3.2 Water Quality Standards.**

3.2.1 Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

## **Section 4. Submission of Notice of Intent (NOI) and SPDES Permit Coverage.**

4.1 A NOI form shall be completed by the owner and submitted to the New York State Department of Environmental Conservation, Division of Environmental Permits. A copy of the NOI shall be included with the SWPPP until a time where it can be replaced with a DEC letter acknowledging its receipt and the project activity's coverage under the SPDES General Permit.

4.2 Stormwater discharges from construction activity may obtain coverage under the general permit in five (5) business days after the DEC's receipt of the NOI if the following are true:

1. The owner/operator certifies that the SWPPP has been developed in conformance with the DEC's technical standards, as set forth within Section 3.1 of this Local Law; and
2. The activity is eligible for coverage under the general permit; and
3. The construction site or post construction runoff is not discharging a pollutant of concern to either an impaired water identified on the DEC's 303(d) list or a watershed where an EPA-approved Total Maximum Daily Load (TMDL) analysis has been

completed for a pollutant of concern which would be discharged from construction or post-construction runoff; and

4. The activity and SWPPP has received the appropriate Village Board and/or Stormwater Management Officer's approval.

4.3 Certain stormwater discharges from construction activity may require additional review by the DEC. A minimum sixty (60) business day review period after the DEC's receipt of the NOI will be required if the following conditions exist:

1. The SWPPP deviates from the DEC's technical standards, as set forth within Section 3.1 of this Local Law; or

2. The construction activity or post-construction runoff causes the discharge of a pollutant of concern to a water identified on the 303(d) list or a watershed with an approved TMDL for that pollutant of concern.

4.4 For applicants whom cannot certify conformance with the DEC's technical standards, the SWPPP must:

1. Be prepared by a licensed/certified professional; and

2. Include a certification stating that the SWPPP has been developed in a manner that will ensure compliance with water quality standards and with the substantive intent of the SPDES General Permit.

4.5 Implementing the allowances of the DEC's Strategy for Redevelopment Projects (the most current version or its successor) within a SWPPP is a deviation from the DEC's technical standards, and requires the submission of NOI to the DEC for the minimum 60 day review period.

4.6 Land disturbance activity, where the SWPPP has been approved by the Village and developed in conformance with the DEC's technical standards, may commence five (5) business days after the receipt of the NOI by the DEC. Where the SWPPP is not in conformance with the DEC's technical standards and a minimum 60 days review period is required, the Village will not approve the SWPPP until written coverage under the SPDES Permit is provided by the DEC. Land disturbance activity may not commence until written coverage under the SPDES Permit is provided by the DEC and Village approval is obtained.

Section 5. **Maintenance and Repair of Stormwater Facilities.**

5.1 **Maintenance During Construction.**

5.1.1 The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this Local Law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

5.1.2 The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven (7) days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and also copied to the site log book.

5.1.3 If the soil disturbance is completely suspended, such as at the end of the construction season, and the site is properly stabilized in accordance with the New York State Standards and Specifications for Erosion and Sediment Control and provided that complete stabilization activities are completed before proper installation is precluded by snow cover or frozen ground or, if vegetation is desired, seeding, planting and/or sodding is scheduled to avoid die-off from fall frosts and allow for proper germination/establishment, an applicant or developer may reduce the self-inspection frequency set forth in Section 5.1.2 above, but shall maintain a minimum of monthly inspections in all situations, even when there is total winter shutdown. However, during periods of reduced inspection frequency, self-inspections must still be done after every storm event of 0.5 inches or greater. Weekly inspections as provided for in Section 5.1.2 above must resume no later than March 15 or as directed by the Department of Environmental Conservation.

5.2 **Maintenance Easement(s).**

As a part of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a Maintenance Easement Agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Village of Baldwinsville 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 of Baldwinsville.

### **5.3 Maintenance After Construction.**

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

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

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

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

### **5.4 Maintenance Agreements.**

The Village of Baldwinsville 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 as part of final plan approval. The Maintenance Agreement shall be consistent with the terms and conditions of Schedule "B" of this Local Law entitled "Sample Stormwater Control Facility Maintenance Agreement". The Village of Baldwinsville, 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. The Village may require the formation of a drainage district or special assessment district to cover the costs of operation, maintenance and improvements to stormwater facilities.

## **ARTICLE 3. SUBDIVISION PRELIMINARY AND FINAL PLAN APPROVAL**

### **Section 3.1 Preliminary Plan Approval.**

A Stormwater Pollution Prevent Plan (SWPPP) consistent with the requirements of Article 1 and 2 of this Local Law shall be required for Preliminary Subdivision Plan approval as provided for in Chapter 63 of the Code of the Village of Baldwinsville. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this Local Law. The approved Preliminary Subdivision Plan shall be consistent with the provisions of this Local Law.

**Section 3.2 Final Plan Approval.**

A Stormwater Pollution Prevent Plan consistent with the requirements of Article 1 and 2 of this Local Law and with the terms of preliminary plan approval shall be implemented for Final Subdivision Plat approval as provided for in Chapter 63 of the Code of the Village of Baldwinsville. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this Local Law. The approved Final Subdivision Plan shall be consistent with the provisions of this Local Law.

**ARTICLE 4. SITE PLAN REVIEW AND APPROVAL**

4.1 A Stormwater Pollution Prevent Plan consistent with the requirements of Article 1 and 2 of this Local Law shall be required for Site Plan Approval as provided for in Chapter 72, Section 72-28(A) of the Code of the Village of Baldwinsville. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this Local Law. The approved Site Plan shall be consistent with the provisions of this Local Law.

**ARTICLE 5. ADMINISTRATION AND ENFORCEMENT**

**Section 1. Construction Inspection.**

**1.1 Erosion and Sediment Control Inspection.**

The Village of Baldwinsville Stormwater Management Officer or licensed professional engineer or certified erosion and sediment control specialist engaged on his behalf may require such inspection as necessary to determine compliance with this Law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this Law and the stormwater pollution prevent plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Village of Baldwinsville enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

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

1.1.7 Completion of final landscaping.

1.1.8 Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

## **1.2 Stormwater Management Practice Inspections.**

The Village of Baldwinsville Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit "as built" plans for any stormwater management practices located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a qualified professional.

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

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

## **1.4 Submission of Reports.**

The Village of Baldwinsville Stormwater Management Officer may require monitoring and reporting from entities subject to this Law as are necessary to determine compliance with this Law.

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

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

## **1.6 Notice of Termination.**

After construction and final stabilization is completed, as defined in the SPDES General Permit and by this law, cancellation of permit coverage is to be accomplished by the submittal of a Notice of Termination (NOT). The Village of Baldwinsville recognizes final stabilization to mean that all soil disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 80% has been established or equivalent permanent stabilization measures provided. The Village recognizes the use of mulch in covering ground surface as a temporary stabilization measure only, unless it is used specifically in connection with gardening or landscape plantings. The NOT shall not be submitted for a subdivision until construction and final stabilization of the last lot is complete. The NOT shall include identification of any permanent structures that are being left on the site after stabilization occurs and after termination of permit coverage. The NOT shall also include a certification that the structures were constructed as described in the SWPPP and that an Operation and Maintenance (O&M) manual has been prepared and has been made available to the owner of such permanent structures who is expected to conduct the necessary O&M over the life of the structure(s). A copy of the NOT shall both be added to the SWPPP and provided to the Village of Baldwinsville Stormwater Management Officer prior to obtaining final approvals from the Village.

## **Section 2. Performance Guarantee**

### **2.1 Construction Completion Guarantee.**

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Village of Baldwinsville in its approval of the Stormwater Pollution Prevention Plan, the Village of Baldwinsville may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village of Baldwinsville as the beneficiary. The security shall be in an amount to be determined by the Village of Baldwinsville based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Village of Baldwinsville, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Village of Baldwinsville. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

### **2.2 Maintenance Guarantee.**

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a

commercial or industrial facility, the developer, prior to construction, may be required to provide the Village of Baldwinsville with an irrevocable, renewable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Village of Baldwinsville may immediately and without further notice draw upon the account to cover the costs of proper operation and maintenance, including engineering, legal and inspection costs.

### **2.3 Recordkeeping.**

The Village of Baldwinsville may require entities subject to this Law to maintain records demonstrating compliance with this Law.

## **Section 3. Enforcement and Penalties.**

### **3.1 Notice of Violation.**

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

3.1.1 The name and address of the landowner, developer or applicant.

3.1.2 The address when available or a description of the building, structure or land upon which the violation is occurring.

3.1.3 A statement specifying the nature of the violation.

3.1.4 A description of the remedial measures necessary to bring the land development activity into compliance with this Local Law and a time schedule for the completion of such remedial action.

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

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

### **3.2 Stop Work Orders.**

The Village of Baldwinsville 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 Baldwinsville confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal or monetary penalties in accordance with the enforcement measures authorized in this Local Law.

### **3.3 Violations.**

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

### **3.4 Penalties.**

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Local Law shall be guilty of a violation punishable by a fine not exceeding Three Hundred Fifty Dollars (\$350) or imprisonment for a period not to exceed six (6) months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five (5) years punishable by a fine not less than Three Hundred Fifty Dollars nor more than Seven Hundred Dollars (\$700) or imprisonment for a period not to exceed six (6) months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than Seven Hundred Dollars nor more than One Thousand Dollars (\$1,000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this Local Law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

### **3.5 Civil Penalties.**

Any person who violates the provisions of this Local Law shall be subject to a civil penalty of Three Hundred Fifty (\$350.00) Dollars plus reasonable attorneys' fees incurred by the Village for enforcement for each and every first offense; a penalty of Seven Hundred (\$700.00) Dollars plus reasonable attorneys' fees incurred by the Village for enforcement for each and every second offense; and a penalty of One Thousand (\$1,000.00) Dollars plus reasonable attorneys' fees incurred by the Village for enforcement for a third and each subsequent offense. Each violation shall be a separate and distinct offense and in case of a continuing violation, every week's continuance shall be a separate and distinct offense.

#### **3.5.1 Deposit of Money.**

All monies recovered or received by the Village in satisfaction of the penalties assessed for violations of this Local Law shall be deposited to the credit of the Village's general fund.

### **3.5.2 Prosecution for Civil Penalties.**

Whenever the Village shall know or have reason to believe that any penalty has been incurred by any person for a violation of any of the provisions of this Local Law, the Village may cause an action or proceeding to be brought in the name of the Village of Baldwinsville for the recovery of the same.

### **3.6 Withholding of Certificate of Occupancy.**

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

### **3.7 Restoration of Lands.**

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within ninety (90) days after notice, the Village of Baldwinsville may take necessary correction action, the cost of which shall become a lien upon the property until paid.

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

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

## **Section 5. Severability and Effective Date.**

### **5.1 Severability.**

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

### **5.2 Effective Date.**

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