

**INCORPORATED VILLAGE OF OLD BROOKVILLE
BOARD OF TRUSTEES
LOCAL LAW NO. 3 OF 2007**

**A Proposed Local Law relating to Stormwater Management and
Erosion & Sediment Control**

BE IT ENACTED by the Board of Trustees of the Incorporated Village of Old Brookville as follows:

STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

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ARTICLE I

GENERAL PROVISIONS

§ 1.1 Intent.

It is the intent of this legislation to adopt a stormwater management and erosion and sediment control local law that will satisfy the relevant part of the Phase II stormwater regulations adopted by DEC.

§ 1.2 Definitions

A. For the purposes of this law, certain terms and words are hereby defined. Words used in the present tense include the future, words in the singular include the plural, and words in the plural include the singular; the word "shall" is mandatory. Notwithstanding some references for definitional purposes to the Village Code, the omission of such references in other instances shall not be taken as an intent not to use such definitions for specific terms that are not defined in this section and are defined in said Code when it is deemed by the Building Inspector or any other official, board, or committee of the Village to be appropriate to do so.

B. As used in this law, the following terms shall have the meanings indicated.

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

Building - Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

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

Clearing - Any activity that removes the vegetative surface cover.

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

DEC - The New York State Department of Environmental Conservation

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

Developer - A person who undertakes land development activities.

EPA - The United States Environmental Protection Agency

Erosion Control Manual - The most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book".

EPA - The United States Environmental Protection Agency.

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

Impervious Cover - Those surfaces, improvements and structures that allow little or no penetration of runoff (from precipitation) into the soil (e.g., building rooftops, pavement, sidewalks, driveways, etc).

Industrial Stormwater Permit - A 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.

Infiltration - The process by which water seeps into the soil.

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

Land Development Activity - Construction activity including, but not limited to, clearing, grading, excavating, soil disturbance and placement of fill that results in land disturbance of equal to or greater than one acre, or an activity disturbing less than one acre of total land area that is part of a larger common plan of development or sale, which, in the aggregate, results in land disturbance equal to or greater than one acre, even though multiple separate and distinct land development activities may take place at different times on different schedules.

Landowner - The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Maintenance Agreement - A document legally recorded in the Office of the Nassau County Clerk that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

MS4S- Municipal Separate Stormwater Sewer Systems.

Nonpoint Source Pollution - Pollution from any source other than from any discernible, confined, and discrete conveyances, (such as pipe, channel, ditch, sluice, stream, etc.), and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

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

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

Project - Land development activity

Recharge - The replenishment of underground water reserves.

Sediment Control - Measures that prevent eroded sediment from leaving the site.

Sensitive Areas - Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, and/or other habitats for threatened, endangered or special concern species.

SMO- The Stormwater management Officer.

SMPs- Stormwater Management Practices.

SPDES- State Pollutant Discharge Elimination System.

SPDES General Permit for Construction Activities GP-02-01 - A DEC SPDES permit issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02 - A DEC SPDES permit 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

STATE- The State of New York.

Stabilization - The use of practices that prevent exposed soil from eroding.

Stop Work Order - An order issued which requires that all, or a specified portion thereof, construction activity on a site be stopped.

Stormwater - Rainwater, surface runoff, snowmelt and drainage

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

Stormwater Management - The use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

Stormwater Management Facility - One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

Stormwater Management Officer - The Building Inspector, or his designee, as the designated officer of the Village to accept and review stormwater pollution prevention plans, forward the plans to the applicable Village board or committee and inspect stormwater management practices.

Stormwater Management Practices (SMPs) - Measures, either structural or nonstructural, or a combination of the two, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

Stormwater Pollution Prevention Plan (SWPPP) - A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

Stormwater Runoff - Flow on the surface of the ground, resulting from precipitation

Surface Waters of the State of New York - Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the State and all other bodies of surface water, natural or artificial, inland or coastal,

fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the State or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the State. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the State (such as a disposal area in wetlands) nor resulted from impoundment of waters of the State.

SWPPP- Stormwater pollution prevention plan.

Watercourse - A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

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

§ 1.3 Findings of Fact

It is hereby determined that:

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

§ 1.4 Purpose

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

- A. Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;
- B. Require land development activities to conform to the substantive requirements of SPDES General Permit for Construction Activities GP-02-01 or as amended or revised;
- C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- D. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- E. Minimize the total annual volume of stormwater runoff which flows from any specific site during or 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 and to ensure that these management practices are properly maintained and eliminate threats to public safety.

§ 1.5 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 Old Brookville 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 and for the protection and enhancement of its physical environment. The Village Board of Trustees 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.

§ 1.6 Applicability

- A. This law shall be applicable to all land development activities.
- B. The SMO shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable Village board. The SMO may either:
 - (1) review the plans;

- (2) upon approval by the Board of Trustees engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by the Board of Trustees; or
- (3) accept the certification of a licensed professional that the plans conform to the requirements of this law.
- C. All land development activities subject to review and approval by any board of the Village shall be reviewed by such board subject to the standards contained in this law.
- D. All land development activities not subject to review as stated in subsection C above shall be required to submit a SWPPP to the SMO who shall approve the SWPPP if it complies with the requirements of this law.

§ 1.7 Exemptions

The following activities are exempt from review under this law.

- A. 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.
- B. Repairs to any stormwater management practice or facility deemed necessary by the SMO.
- C. Any part of a subdivision if a plat for the subdivision has been approved by the Planning Board of the Village on or before the effective date of this law.
- D. Land development activities for which a building permit has been approved on or before the effective date of this law.
- E. Cemetery graves.
- F. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- G. Emergency activity immediately necessary to protect life, property or natural resources.
- H. 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.
- I. Landscaping and horticultural activities in connection with an existing structure.

Article II

STORMWATER POLLUTION PREVENTION PLANS

§ 2.8 SWPPP

A. SWPPP Requirement.

No approval of a land development activity shall be issued until the appropriate board has received a SWPPP prepared in accordance with the specifications in this local law.

B. Contents of SWPPP.

- (1) All SWPPPs shall provide the following background information and erosion and sediment controls:
 - (a.) Background information about the scope of the project, including location, type and size of project.
 - (b.) 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); the site map should be at a scale no smaller than 1"=100'
 - (c.) Description of the soil(s) present at the site;
 - (d.) 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 Erosion Control Manual, not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
 - (e.) 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;
 - (f.) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;

- (g.) 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;
 - (h.) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
 - (i.) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and size of any temporary sediment basins;
 - (j.) Temporary practices that will be converted to permanent control measures;
 - (k.) 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;
 - (l.) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 - (m.) Name(s) of the receiving water(s);
 - (n.) Delineation of SWPPP implementation responsibilities for each part of the site;
 - (o.) 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
 - (p.) Any existing data that describes the stormwater runoff at the site.
- (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 below as applicable:
- (a) Condition A - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the DEC'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.
 - (b) Condition B - Stormwater runoff from land development activities disturbing five (5) or more acres.
 - (c) Condition C - Stormwater runoff from land development activity disturbing at least one (1) but less than 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.
- (3) SWPPP Requirements for Condition A, B and C:

