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☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Canandaigua

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Local Law No. _____ of the year 20¹⁵

A local law Creation of Chapter 170 titled Stormwater Management
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Canandaigua _____ as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

CHAPTER 170 STORMWATER MANAGEMENT

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Section 170-1. FINDINGS AND PURPOSE.

A) It is hereby determined that:

- 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;
- 2) This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- 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;
- 4) Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- 5) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- 6) Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- 7) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from Land Development Activities;
- 8) The regulation of stormwater runoff discharges from Land Development Activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety; and
- 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.

B) The purpose of this chapter 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 Town, and to address the findings of fact in Section 170-1(A) of this chapter. This chapter seeks to meet those purposes by achieving the following objectives:

- 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 GP-0-15-003, as amended or revised;
- 2) Require Land Development Activities to conform to the substantive requirements of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-15-002, as amended or revised;
- 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;
- 4) Minimize increases in pollution caused by stormwater runoff from Land Development Activities which would otherwise degrade local water quality;

- C) Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- D) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

Section 170-2.DEFINITIONS.

The terms used in this chapter or in documents prepared or reviewed under this chapter shall have the meaning as set forth in this section.

- 1) 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.
- 2) Agricultural Structure. Any barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agricultural use.
- 3) Applicant. A landowner or agent of a landowner who has filed an application for a Land Development Activity.
- 4) Channel. A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
- 5) Clearing. Any activity that removes the vegetative surface cover.
- 6) DEC. The New York State Department of Environmental Conservation.
- 7) 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.
- 8) Developer. A person who undertakes Land Development Activities.
- 9) Direct Discharge (to a specific surface waterbody). When the first point discharge from a Land Development Activity, either by overland flow or through a separate storm sewer system, is the specific surface waterbody.
- 10) 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."
- 11) Grading. Excavation or fill of material, including the resulting conditions thereof.
- 12) Impervious Cover. Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).
- 13) Industrial Stormwater Permit. A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.
- 14) Infiltration. The process of percolating stormwater into the subsoil.
- 15) Land Development Activity. Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct Land Development Activities may take place at different times on different schedules,

- including the construction of agricultural structures.
- 16) 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.
 - 17) Licensed/Certified Professional. A person currently licensed to practice engineering in New York State, a registered landscape architect or a Certified Professional in Erosion and Sediment Control (CPESC).
 - 18) MS4 Program Coordinator. An employee or consultant designated by, and serving at the pleasure of, the Town Board to implement, manage, supervise the Town's MS4 program.
 - 19) 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.
 - 20) Phasing. Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.
 - 21) Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
 - 22) 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.
 - 23) Project. Land Development Activity.
 - 24) Recharge. The replenishment of underground water reserves.
 - 25) Sediment Control. Measures that prevent eroded sediment from leaving the site.
 - 26) Sensitive Areas. Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.
 - 27) SPDES General Permit for Construction Activities GP-0-15-002. 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.
 - 28) SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-0-15-003. A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.
 - 29) Stabilization. The use of practices that prevent exposed soil from eroding.
 - 30) Steep Slope Area. Land area with a Soil Slope Phase that is identified as an E or F, or the map unit name is inclusive of 25% or greater slope, on the United States Department of Agricultural ("USDA") Soil Survey for Ontario County, New York.
 - 31) Stormwater. Rainwater, surface runoff, snowmelt and drainage.
 - 32) 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.
 - 33) 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.

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- 34) Stormwater Management Facility. One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.
- 35) Stormwater Management Officer (SMO). Any Code Enforcement Officer or other official designated by, and serving at the pleasure of, the Town Board to enforce this chapter.
- 36) Stormwater Management Practices (SMPs). Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.
- 37) Stormwater Pollution Prevention Plan (SWPPP). A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.
- 38) Surface Waters of the State of New York - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.
- 39) Town. The Town of Canandaigua.
- 40) Watercourse. A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- 41) Waterway. A channel that directs surface runoff to a watercourse or to the public storm drain.
- 42) 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, including areas regulated as wetlands under federal or state law.

Section 170-3. APPLICABILITY.

This chapter shall be applicable to all Land Development Activities as defined in Section 170-2 of this chapter.

Section 170-4. RESPONSIBILITY FOR ADMINISTRATION.

- A) The MS4 Program Coordinator shall review all Stormwater Pollution Prevention Plans (SWPPP). The Coordinator may:
 - 1) Personally review and approve plans,
 - 2) Engage the services of a licensed professional engineer to review and make recommendations as to approval of plans, specifications and related documents, or
 - 3) Accept the certification of a Licensed/Certified Professional that the plans conform to the requirements of this chapter.
- B) When the MS4 Program Coordinator engages the services of a licensed professional engineer as authorized by Section 170-4.A.2, above, the Applicant shall be responsible for the

pavement of any Administrative Fees, as defined in Chapter 111 of the Town code. Application forms promulgated by the Town shall include an acknowledgement that the Applicant shall be jointly and severally liable to the Town of Canandaigua for all administrative fees, as defined in Chapter 111 of the Town Code, and the application form shall also include a statement that a copy of the current Fee Schedule may be obtained from the Town Clerk's Office.

- C) The Stormwater Management Officer (SMO) shall administer, implement, and enforce the provisions of this chapter. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the Town.

Section 170-5. EXEMPTIONS.

The following activities are exempt from review under this chapter.

- 1) Agricultural activity as defined in this chapter.
- 2) Silvicultural activity except that landing areas and log haul roads are subject to this chapter.
- 3) Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- 4) Repairs to any stormwater management practice or facility deemed necessary by the SMO.
- 5) Any part of a subdivision if a plat for the subdivision has been approved by the Town on or before the effective date of this chapter.
- 6) Land Development Activities for which a building permit has been approved on or before the effective date of this chapter.
- 7) Cemetery graves.
- 8) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- 9) Emergency activity immediately necessary to protect life, property or natural resources.
- 10) Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- 11) Landscaping and horticultural activities in connection with an existing structure.
- 12) Land development activities that are ineligible for coverage under SPDES General Permit GP-0-15-002 because they directly discharge into Canandaigua Lake and disturb one or more acres of land with no existing impervious cover and are located in steep slope areas.

Section 170-6. STORMWATER POLLUTION PREVENTION PLANS

- A) No application for final approval of a Land Development Activity shall be approved until the appropriate board or Town official has received a SWPPP prepared in accordance with the specifications in this chapter and approved by the SMO.
- B) All SWPPPs shall provide the following background information and erosion and sediment controls:
 - 1) Information as to 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 shall 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,

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- borrow or equipment storage areas; location(s) of any stormwater hotspots; and location(s) of the stormwater discharges(s);
- a) Description of the soil(s) present at the site;
 - b) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
 - c) 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;
 - d) 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;
 - e) 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;
 - f) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
 - g) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
 - h) Temporary practices that will be converted to permanent control measures;
 - i) 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;
 - j) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 - k) Name(s) of the receiving water(s);
 - l) Delineation of SWPPP implementation responsibilities for each part of the site;
 - m) 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
 - n) Any existing data that describes the stormwater runoff at the site.
- C) 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 170-6 (D) below, as applicable:
- 1) Condition A - Stormwater runoff from Land Development Activities directly discharging 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.
 - 2) Condition B - Stormwater runoff from Land Development Activities disturbing five (5) or more acres.
 - 3) Condition C - Stormwater runoff from Land Development Activity disturbing between

one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities on agricultural properties.

D) SWPPP Requirements for Conditions A, B, and C:

- 1) All information required in Section 170-6(B) of this chapter;
- 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 and Inspection Easement Agreement binding on all subsequent landowners served by the on-site stormwater management measures, in accordance with Section 170-8; and
- 9) For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this chapter.

E) 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.

F) Contractor Certification.

- 1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any Land Development Activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
- 2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- 3) The certification statement(s) shall become part of the SWPPP for the Land Development Activity.

G) 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 170-7. PERFORMANCE AND DESIGN CRITERIA.

All Land Development Activities shall be subject to the following performance and design

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criteria:

- 1) Technical Standards.
 - a) For the purpose of this chapter, 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 chapter:
 - (i) The Design Manual.
 - (ii) The Erosion Control Manual.
 - (iii) The Town's Site Design and Development Criteria.
- 2) 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 section 170-7(A)(1) of this chapter and the SWPPP shall be prepared by a licensed professional.
- 3) 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.

Section 170-8. MAINTENANCE, INSPECTION AND REPAIR OF STORMWATER FACILITIES.

A) Maintenance and Inspection During Construction.

- 1) The applicant or developer of the Land Development Activity 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 chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- 2) For Land Development Activities meeting Condition A and B in section 170-6 (C) of this chapter, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices twice every 7 calendar days. Inspection reports shall be maintained in a site log book.
- 3) For Land Development Activities meeting Condition C and D in section 170-6 (C) of this chapter, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices once every 7 calendar days. Inspection reports shall be maintained in a site log book.

B) Maintenance After Construction.

- 1) The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall ensure they are operated and maintained to achieve the goals of this chapter. Proper operation and maintenance also includes as a minimum, the following:
 - a) 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 chapter.
 - b) Written procedures for operation and maintenance and training new maintenance personnel.

- c) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations, in accordance with the provisions of section 170-7 of this chapter.
- C) Maintenance and Inspection Easement and Agreement.
Prior to the issuance of final approval of a Land Development Activity that has a stormwater management facility that will remain in private ownership as one of the requirements, the record owner of the stormwater management facility shall execute a Maintenance and Inspection Easement and Agreement running to the benefit of the Town. The Maintenance and Inspection Easement and Agreement shall provide for maintenance of the facility, by the owner, in accordance with the requirements of this chapter together with access to the facility at reasonable times for periodic inspection by the Town to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The Maintenance and Inspection Easement and Agreement shall be recorded in the office of the County Clerk after approval by the attorney for the Town.
- D) Dedication Permitted.
The Town, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Section 170-9. INSPECTIONS BY THE SMO.

- A) Construction Inspection
 - 1) Erosion and Sediment Control Inspection
 - a) The SMO may require such inspections as necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant how the work fails to comply with the requirements of this chapter and the SWPPP as approved. To obtain inspections, the applicant shall notify the SMO at least 48 hours before any of the following as required by the SMO:
 - (i) Start of construction;
 - (ii) Installation of sediment and erosion control measures;
 - (iii) Completion of site clearing;
 - (iv) Completion of rough grading;
 - (v) Completion of final grading;
 - (vi) Close of the construction season;
 - (vii) Completion of final landscaping; and
 - (viii) Successful establishment of landscaping in public areas.
 - b) 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 SMO.
 - 2) Stormwater Management Practice Inspections.
The SMO is authorized to conduct inspections of stormwater management practices (SMPs). All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be

certified by a professional engineer.

3) Inspection of Stormwater Facilities After Project Completion.

Inspection programs may be established by the SMO on any reasonable basis, including, but not limited to, the following: 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.

4) Submission of Reports.

The SMO may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.

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 Town the right to enter the property at reasonable times, and in a reasonable manner for the purpose of inspection as required or allowed by this chapter. This right to enter may be granted by the Maintenance and Inspection Easement and Agreement provided in accordance with section 170-8(C) of this chapter.

B) Performance Guarantee.

1) Construction Completion Guarantee

In order to ensure the full and faithful compliance with an approved SWPPP, the SMO may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town as the beneficiary. The performance guarantee shall remain in force until the surety is released from liability by the Town, 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 SWPPP, and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the SMO.

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 Town with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town may draw upon the account to cover the costs of proper operation and

maintenance, including engineering and inspection costs.

3) Performance Guarantee Procedure

- a) Where a Construction Completion Guarantee or Maintenance Guarantee are required, said guarantee(s):
 - (i) Shall be in amounts as approved by the Town Engineer or the Town Code Enforcement Officer,
 - (ii) Shall be in a form that complies with New York State Law,
 - (iii) Shall be submitted to the Town Attorney for approval,
 - (iv) Shall be submitted to the Town Board after approvals by the Town Engineer or Code Enforcement Officer and the Town Attorney, together with a complete description of the surety, and the Town Board shall either accept or reject the proposed guarantee, and
 - (v) Shall be filed with the Town prior to the issuance of permits.
- b) Inspection. All land development activities covered under a performance guarantee must be inspected periodically as determined by the SMO. Costs of the required inspections shall be estimated by the Town Engineer and will be borne by the applicant and shall be included in the initial value of the surety.
 - (i) The inspection procedure is designed to determine compliance with the approved plans.
 - (ii) For inspection purposes, the contractor will notify the Town when construction will be undertaken on proposed improvements. Reasonable notice is required.
 - (iii) Inspections are the responsibility of the Town Engineer, Highway and Water Superintendent, Town of Farmington Water and Sewer Superintendent and/or the Town of Canandaigua Code Enforcement Officer, and other agencies as required and appropriate.
- c) Surety default and retention. If the requirements of the SWPPP are not met at any time, the Town Board may declare the performance guarantee in default and collect the amount payable thereunder. Upon receipt of such amount, the Town shall cause to install such improvements as were covered by the performance guarantee.
- d) Release of sureties. Upon completion of required improvements, the applicant may request full or partial release of performance guarantees filed with the Town.
 - (i) The process for release of surety will be initiated when a written request for partial or total release is submitted to the Town Development Office for approval.
 - (ii) The request will then be reviewed by appropriate Town Staff or the Town Engineer and compared with the inspection record.
 - (iii) Development Office staff will then forward a recommendation regarding the request to the Town Board for their formal consideration.
 - (iv) Approval for full or partial release of funds shall be forwarded to the Town's Fiscal Officer, who, upon review, may release the specified funds.
 - (v) Approval by the Town for authorized periodic payments is not to be construed as acceptance of the work completed to date.

C) Recordkeeping.

The SMO may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

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Section 170-10. ENFORCEMENT AND PENALTIES.

A) Notice of Violation.

- 1) When the SMO determines that a Land Development Activity is not being carried out in accordance with the requirements of this chapter, the SMO may issue a written notice of violation to the landowner, applicant and/or developer. The notice of violation shall contain:
 - a) The name and address of the landowner, developer and/or applicant;
 - b) The address, when available, or a description of the building, structure or land upon which the violation is occurring;
 - c) A statement specifying the nature of the violation;
 - d) A description of the remedial measures necessary to bring the Land Development Activity into compliance with this chapter and a time schedule for the completion of such remedial action; and
 - e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.

B) Stop Work Orders.

The SMO may issue a stop work order for violations of this chapter. 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 SMO confirms that the Land Development Activity is in compliance and the violation has been satisfactorily addressed in writing. 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 chapter.

C) Violations.

Any Land Development Activity that is commenced or is in violation with this chapter may be restrained by injunction or otherwise abated in a manner provided by law in an action authorized by the Town Board in State Supreme Court. Further, the SMO may issue appearance tickets for violations of this chapter.

D) Penalties.

- 1) In addition to or as an alternative to any penalty provided in this chapter or by law, any person who violates the provisions of this chapter shall be guilty of a violation
 - a) Punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense;
 - b) For conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and,
 - c) Upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both.
- 2) For the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's

continued violation shall constitute a separate additional violation.

E) Withholding of Certificate of Occupancy.

If a Land Development Activity is conducted in violation of this chapter, the SMO may prevent the occupancy of said building or land, and the Building Inspector or Code Enforcement Officer may refuse to issue or may condition a Certificate of Occupancy or Certificate of Compliance pursuant to Chapter 92 of the Town Code.

F) Restoration of Lands.

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

Section 170-11. FEES FOR SERVICES.

The Town may require any person undertaking Land Development Activities regulated by this chapter to pay Administrative Fees as defined in Chapter 111 of the Town Code.

DRAFT

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20¹⁵ of the (County)(City)(Town)(Village) of Canandaigua was duly passed by the Town Board _____ on _____ 20¹⁵, in accordance with the applicable provisions of law.

DRAFT

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted _____ (Elective Chief Executive Officer*) on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. _____ (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

DRAFT

Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

(Seal)

Date: _____