

Design and Management of Post-Construction Stormwater Pollution Prevention Measures

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Section I: Introduction / Purpose

Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition. This stormwater runoff contributes to increased quantities of water-borne pollutants. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in the watersheds within the Town of Sweden. Therefore, the Town of Sweden establishes this set of water quality and quantity policies to provide reasonable guidance for the regulation of stormwater runoff and to, in addition to the above, safeguard persons, protect property, prevent damage to the environment in Town of Sweden, and comply with the NYSDEC State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Municipal Separate Storm Sewer systems (MS4s), for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction 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 prevent threats to public health and safety.

Section II: Definitions

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 stormwater management permit.

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

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

Designated Agent - Individual(s) directed by the *jurisdictional authority* to conduct site inspections and/or perform other municipal duties.

Erosion Control - Measures that minimize erosion.

Fee in Lieu - A payment of money in place of meeting all or part of the stormwater performance standards required by this ordinance.

Hotspot - An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

Impervious Cover - Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

Infiltration - The process of percolating stormwater into the subsoil.

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

Land Disturbance Activity - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than 25,000 square feet, or activities disturbing less than 25,000 square feet of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land disturbance 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.

Letter of Credit - A document issued by a bank, which guarantees the payment of a customer's drafts for a specified period and up to a specified amount.

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).

Maintenance Agreement - A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

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

New York Standards and Specifications for Erosion and Sediment Control - The most recent version of this publication which is commonly known as the “Blue Book”.

Off-Site Facility - A stormwater management measure located outside the subject property boundary.

Performance Bond - A bond underwritten by a surety in the contract amount to guarantee that the contractor will perform the required work according to the contract specifications.

Qualified Professional - A person knowledgeable in the principles and practices of erosion and sediment controls, such as a New York State licensed professional engineer, registered landscape architect, Certified Professional in Erosion & Sediment Control (CPESC), or soil scientist.

Responsible Individual - As related to inspection of construction site erosion controls, any person with an in-depth understanding of the principles and practices of erosion and sediment control, stormwater management and the proper procedures and techniques for the installation and maintenance of erosion and sediment control features.

Recharge - The replenishment of underground water reserves.

Redevelopment - Reconstruction or modification to any existing, previously developed land such as residential, commercial, industrial, institutional or road/highway, which involves soil disturbance. Redevelopment is distinguished from development or new development in that new development refers to construction on land where there had not been previous construction. Redevelopment specifically applies to construction areas with impervious surface.

Silvicultural Activity - Activities that control the establishment, growth, composition, health and

quality of forests and woodlands.

SPDES General Permit for Construction Activities - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems - State Pollutant Discharge Elimination System (SPDES) - A nationally approved program with permits issued in accordance with the Environmental Conservation Law that authorizes stormwater discharges from certain construction activities to waters of the United States.

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

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.

Stormwater Treatment Practices - Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

Water Quality Standard Violation - An increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

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

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.

Section III: Applicability

This ordinance shall be applicable to land disturbance activities as defined in Section II of this ordinance and those activities meeting Condition “A”, “B”, “C” or “D” below shall include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Section IX as applicable unless eligible for an exemption or granted a waiver by the Town of Sweden in accordance with Section VII of this ordinance:

Condition A - Stormwater runoff from land disturbance 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.

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

Condition C - Stormwater runoff from land disturbance activity disturbing between 25,000 square feet 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.

Condition D – Stormwater runoff from land disturbance activity that are smaller than 25,000 square feet disturbance if such activities are part of a larger common plan of development, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules.

All plans, documents and information required by this ordinance must be reviewed by the Town of Sweden to ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans.

When a site development plan is submitted that qualifies as a redevelopment project as defined in Section II of this ordinance, decisions on permitting and on-site stormwater requirements shall be governed by special stormwater sizing criteria found in the current *New York State Stormwater Management Design Manual*. Final authorization of all redevelopment projects will be determined after a review by the Town of Sweden. This applies to all redevelopment projects that are greater than or equal to 25,000 square feet.

The following activities may be exempt from the requirements of this ordinance:

- Any emergency activity which is immediately necessary for the protection of life, property or natural resources.
- Agricultural activity as defined in this ordinance.
- Silvicultural activity, except landing areas and log haul roads are subject to this ordinance.
- 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.
- Repairs to any stormwater treatment practice deemed necessary by the Town of Sweden.

Section IV: Compatibility with Other Permits and Ordinance Requirements

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health and/or the environment shall be considered to take precedence.

Construction activities that involve land disturbance may also require additional compliance measures detailed in other regulations and/or ordinances as outlined in the *Town of Sweden Land Use Development/Subdivision Regulations and Public Works Requirements and Specifications*.

Section V: Legislative Authority

In accordance with Sweden Town Code, the Town of Sweden Board has the authority to enact laws for the purpose of promoting the health, safety, or general welfare of the Town of Sweden, including the protection and preservation of the property of its inhabitants. By the same authority, the Town of Sweden Board may include in any such law provisions for the appointment of any municipal employees to effectuate and administer such law.

Section VI: Compliance

No person(s) shall receive any of the building, grading or other land disturbance approvals or permits required for land disturbance activities without first meeting the requirements of this law to the satisfaction of the Town of Sweden.

Unless specifically excluded by this law, any landowner or operator desiring approval or a permit for a land disturbance activity shall comply with all applicable provisions of this law and shall submit all required plans, documentation and information as required under this law to the Town of Sweden for review and approval.

Unless otherwise accepted by this law, the following items shall be submitted prior to the issuance of a permit or site plan approval:

- Stormwater Pollution Prevention Plan (SWPPP) (See Section X)
- Maintenance Easement(s) (See Section XI)
- Maintenance Agreement(s) (See Section XI)
- Any Applicable Fees (See Section XVII)

The SWPPP shall be prepared to meet the requirements of Sections IX through XI of this law. The Maintenance Agreement shall be prepared to meet the requirements of Section XI of this law, and applicable fees shall be those as set fourth in Section XVII of this law.

The SWPPP and all other documents required by this law must be reviewed by the Town of Sweden to ensure that established water quality standards will be maintained after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans. Information shall be submitted as a single, logical package, with all information bound together.

Section VII: Waivers and Mitigation Requirements

All person(s) shall comply with the requirements of this law, unless a written request is filed to waive the requirements in part or whole for land disturbance activities that disturb less than one acre

of land. Requests to waive any requirements of this law shall be submitted to the Town of Sweden for approval.

The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

1. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this law.
2. Alternative minimum requirements for on-site management of stormwater discharges have been established in a Stormwater Pollution Prevention Plan that has been approved by the Town of Sweden and the implementation of the plan is required by local ordinance. These practices are encouraged in order to minimize the reliance on structural practices. Credit in the form of reductions in the amount of stormwater that must be managed can be earned through the use of non-structural practices that reduce the generation of stormwater from the site. These non-structural practices are explained in detail in the manual, *Better Site Design: A Handbook for Changing Development Rules in Your Community*. Applicants wishing to obtain credit for use of non-structural practices must ensure that these practices are documented and remain unaltered by subsequent property owners.
3. Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.
4. The Town of Sweden finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.
5. Non-structural practices will be used on the site that reduce: a) the generation of stormwater from the site, b) the size and cost of stormwater storage and c) the pollutants generated at the site.

In instances where one of the conditions above applies, the Town of Sweden may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the Town of Sweden that the variance will not result in the following impacts to downstream waterways:

- Deterioration of existing culverts, bridges, dams, and other structures;
- Degradation of biological functions or habitat;
- Accelerated streambank or streambed erosion or siltation;

- Increased threat of flood damage to public health, life and/or property.

Furthermore, where compliance with minimum requirements for stormwater management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the Town of Sweden. Mitigation measures may include, but are not limited to, the following:

- The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation (Dedication or Easement of Land, see Section VIII.2 below). These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat.
- The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this law.
- Monetary contributions (Fee in Lieu-Of, see Section VIII.1 below) to a dedicated fund for stormwater management activities.

No waivers or mitigation plans will be considered for land disturbance activity that disturbs one (1) acre or greater of land.

Section VIII: Fee in Lieu-Of and Dedication or Easement of Land

1. Fee in Lieu-Of

Where the Town of Sweden waives all or part of the minimum stormwater management requirements, or where the waiver is based on the provision of adequate stormwater facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the Town of Sweden. All monetary contributions shall be made to a dedicated fund for stormwater management activities. The fee structure shall be based on the cubic feet of storage required for stormwater management of the development in question. All of the monetary contributions shall be made by the applicant prior to the issuance of any permit or approval for the development.

2. Dedication or Easement of Land

In lieu of a monetary contribution, an applicant may obtain a waiver of the required stormwater management by entering into an agreement with the Town of Sweden for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site stormwater management facility. The agreement shall be entered into by the applicant and the Town of Sweden prior to the recording of plats or, if no record plat is required, prior to the issuance of the permit.

Section IX: General Design and Performance Criteria for Stormwater Management

The applicant shall consult the *Town of Sweden's Land Use Development and Subdivision Regulations and Public Works Requirements and Specifications*, the *New York State Stormwater Management Design Manual* and the *New York Standards and Specifications for Erosion and Sediment Control* for standards and specifications related to stormwater management design criteria. 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. If there is a conflict between any of the standards, the more stringent standard shall apply. 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 this section (Section IX) and Section X of this ordinance and the SWPPP shall be prepared by a licensed/certified professional.

The following design and performance criteria shall be addressed for stormwater management at all sites:

1. All site designs shall establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practicable to provide treatment for both water quality and quantity.
2. All stormwater runoff generated from new development shall not discharge untreated stormwater directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the Town of Sweden. In no case shall the impact on functional values be any greater than that allowed by the Army Corp of Engineers (C.O.E) or the NYSDEC responsible for natural resources.
3. An attempt shall be made to maintain annual groundwater recharge rates, by promoting infiltration through the use of structural and non-structural methods. At a minimum, an attempt shall be made for annual recharge from the post development site to mimic the annual recharge from pre-development site conditions.
4. In order to protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in *Town of Sweden Land Use Development and Subdivision Regulations and Public Works Requirements and Specifications* and/or the *New York State Stormwater Management Design Manual*. Stormwater discharges to critical areas with sensitive resources may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.
5. Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots", may require the use of specific structural stormwater treatment practices and pollution prevention practices.

6. Prior to design, applicants are required to consult with the Town of Sweden to determine if they are subject to additional stormwater design requirements.
7. The calculations for determining peak flows (WQv) as found in the *New York State Stormwater Management Design Manual* shall be used for sizing all stormwater management practices.

Section X: Stormwater Pollution Prevention Plan Requirements

A SWPPP is required as part of the compliance with this law. This plan must be prepared by a qualified professional and must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices and shall also include sufficient information (e.g., maps, hydrologic calculations, etc) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The plan must be signed by a New York State licensed professional engineer (PE), who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the *New York State Stormwater Management Design Manual*. No building or grading permit or site plan approval shall be issued until a satisfactory Stormwater Pollution Prevention Plan, or a waiver thereof, has undergone a review and been approved by the Town of Sweden after determining that the plan or waiver is consistent with the requirements of this ordinance.

The applicant shall employ a “Responsible Individual” as defined in Section II of this ordinance who will oversee the implementation of the SWPPP on a daily basis. The applicant shall also employ the services of a qualified professional in erosion and sediment control who will inspect and document the effectiveness of all erosion and sediment control practices. The documentation will be kept in a site logbook. Inspection reports will be completed every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. A monthly summary of reports will be copied to the site logbook and delivered to the Town of Sweden within 5 days after the month's end.

All SWPPPs shall provide the following information:

1. All information listed in Section IX of the *Ordinance for Construction Site Stormwater Pollution Prevention and Erosion and Sediment Control*.
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. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses. A written description of the site plan and justification of proposed changes in natural conditions may also be required;

4. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms including calculations such as a description of the design storm frequency, intensity and duration; time of concentration; Soil Curve Numbers or runoff coefficients; peak runoff rates and total runoff volumes for each watershed area; infiltration rates, where applicable; culvert capacities; flow velocities; data on the increase in rate and volume of runoff for the design storms referenced in the *New York State Stormwater Management Design Manual*, and documentation of sources for all computation methods and field test results;
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. The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures including a schedule to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
8. The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property. See Section XI of this ordinance for additional information.
9. The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by the on-site stormwater management measure(s) in accordance with the specifications of this ordinance. See Section XI of this ordinance for additional information
10. The SWPPP shall be prepared by a qualified professional and the final plan must be signed by a New York State licensed professional engineer, who shall certify that the design of all stormwater management practices meet the requirements in this ordinance.
11. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description

should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

12. The Town of Sweden may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.
13. The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect or by the soil and water conservation district and in compliance with landscaping specifications outlined in the *New York State Stormwater Management Design Manual*.
14. The applicant shall assure that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater design plan.

Section XI: Maintenance of Stormwater Management Facilities

Maintenance Easement

The applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Sweden, or their contractor or agent, to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance and to if necessary implement emergency repairs to protect the health, safety and welfare of the public. The easement dimensions shall be as directed by the Town of Sweden and the easement agreement shall be recorded in the office of the County Clerk, with a copy provided to the Town of Sweden.

Maintenance after Construction

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

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

2. Written procedures for operation and maintenance and training new maintenance personnel.
3. Discharges from the stormwater management practices shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section II of this ordinance.

Maintenance Agreements

The maintenance and proper operation of all privately owned stormwater management facilities, including nonstructural practices, shall be ensured through the creation of a formal and enforceable maintenance agreement that must be approved by the Town of Sweden and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. This agreement will include any and all maintenance easements required to access and inspect the stormwater management practices, and will outline the procedures and schedule to be followed to perform routine maintenance as necessary to ensure proper functioning of the stormwater management practice. In addition, the legally binding agreement shall identify the parties responsible for the proper maintenance of all stormwater treatment practices and include plans for periodic inspections by the owners, or their designated agent, to ensure proper performance of the facility. The maintenance agreement shall be consistent with the terms and conditions of the “Stormwater Control Facility Maintenance Agreement”.

The Town of Sweden, in lieu of a maintenance agreement, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Requirements of Maintenance Agreements

All stormwater management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs to ensure compliance with the requirements of this ordinance and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be identified in writing, along with the schedule and methods to be employed to complete the maintenance. The maintenance repairs and restoration schedule are to be approved by the Town of Sweden prior to commencing the work and the Town of Sweden shall inspect the facility upon completion of the work. The inspection and maintenance requirement may be increased by the Town of Sweden as deemed necessary to ensure proper functioning of the stormwater management facility.

Records of Installation and Maintenance Activities

Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five (5) years. These records shall be made available to the Town of Sweden during inspection of the facility and at other reasonable times upon request.

Maintenance Guarantees for Privately Owned Stormwater Facilities

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the applicant or by a corporation that owns or manages a commercial or industrial facility, the applicant, prior to construction, may be required to provide the Town of Sweden 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 Town of Sweden acknowledges compliance with all details of approved site plan. If the applicant or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Sweden may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs, until the Town of Sweden acknowledges compliance with all details of approved site plan.

Section XII: Inspection and Right of Entry

The Town of Sweden or designated agent shall make inspections at any reasonable time for purposes of inspecting the construction of the stormwater management facilities. Inspections may include but are 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 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. The applicant must notify the Town of Sweden in advance before the commencement of construction. If any violations are found, the property owner shall be notified of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the Town of Sweden.

Furthermore, when any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, or combined sewer, the property owner shall grant to the Town of Sweden the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

Section XIII: As-Built Plans and Project Closeout

As Built Plans

All applicants are required to submit actual “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 New York State licensed professional engineer. A final inspection by the Town of Sweden is required before the release of any performance securities can occur.

Section XIV: Landscape Alterations

All applicants are responsible for maintaining the grading of the site so that it is consistent with the certified “as-built” plans. Any post-construction alterations to the landscape shall receive prior approval from the Town of Sweden. Temporary landscape alterations, such as those associated with utility excavations and landscaping activities must be restored to conditions that are consistent with the certified “as-built” plans.

Section XV: Enforcement & Penalties

Failure to Maintain Practices

If a responsible party fails or refuses to meet the requirements of the maintenance agreement, the Town of Sweden, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the Town of Sweden shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have 10 business days to affect maintenance and repair of the facility in an approved manner. After proper notice, the Town of Sweden may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.

Violations

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

Notice of Violation

When the Town of Sweden determines that an activity is not being carried out in accordance with the requirements of this ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

1. The name and address of the owner or applicant;
2. The address when available or a description of the building, structure or land upon which the violation is occurring;
3. A statement specifying the nature of the violation;

4. A description of the remedial measures necessary to bring the development activity into compliance with this ordinance and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6. A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

Stop-Work Orders

Persons receiving a notice of violation will be required to halt all construction and/or maintenance activities. This stop-work order will be in effect until the Town of Sweden confirms in writing that the activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.

Civil and Criminal Penalties

Failure to comply with any provision or requirement of this ordinance, or any statement plan, application, approval, permit or certification provided pursuant to the provisions of this ordinance, shall be deemed a violation punishable by a fine not exceeding three hundred fifty dollars \$350.00 or imprisonment for a period not to exceed fifteen (15) days, or both, for conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than \$350.00 nor more than \$700.00 or imprisonment for a period not to exceed fifteen (15) days, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than \$700.00 nor more than \$1,000.00 or imprisonment for a period not to exceed fifteen (15) days, or both. Each week's continued violation shall constitute a separate additional violation.

Holds on Occupation Permits

Occupation permits may not be granted until corrections to all stormwater management practices have been made and accepted by the Town of Sweden.

Section XVI: Severability

The provisions and sections of this ordinance shall be deemed to be separable and if the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

To the extent necessary and/or applicable, this ordinance supersedes any inconsistent or conflicting provisions contained elsewhere in the Sweden Town Code.

Section XVII: Fees

In addition to applicable fees adopted by the Town of Sweden Rules and Regulations for Building Control Fees (Revised January 2, 2008)", fees for Post-Construction Stormwater Pollution Prevention shall be charged on the following basis:

1. Commercial Stormwater Control Facilities

Commercial Stormwater Control Facilities shall be inspected on an as needed basis. Any necessitated remediation of such facilities by the Town of Sweden for compliance issues shall be charged according to executed Stormwater Control Facility Maintenance Agreements.

Section XVIII:Financial Guarantees

The Town of Sweden may, at its discretion, require the submittal of a performance security or bond prior to approval in order to insure that the stormwater practices are installed as required by the approved Stormwater Pollution Prevention Plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved by the Town of Sweden, plus 25%. The performance security shall contain forfeiture provisions for failure to complete work specified in the Stormwater Pollution Prevention Plan. The installation performance security shall be released in full only upon submission of "as built plans" and written certification by a New York State licensed professional engineer that the stormwater practice has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The Town of Sweden will make a final inspection of the stormwater practice to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security based on the completion of various development stages can be done at the discretion of the Town of Sweden.