

**VILLAGE OF MAYVILLE  
LOCAL LAW NO. 2 FOR THE YEAR 2013**

**ADOPTION SITE PLAN REVIEW AND STORMWATER REGULATIONS**

Be it enacted by the Village Board of the Village of Mayville, County of Chautauqua, and State of New York, as follows:

**Section 1. SITE PLAN REVIEW**

- A. The existing Article X, Section 1004 of the Village of Mayville Zoning Law is hereby deleted in its entirety.
- B. The Village Board of the Village of Mayville, pursuant to 7-725-a of Village Law, hereby authorizes the Mayville Village Planning Board to grant site plan approval.
- C. The existing Article X of the Village of Mayville Zoning Code is hereby amended with the addition of a new Section 1004 as follows:

ARTICLE X, Section 1004  
Site Plan Review

**§ 1004.1 Purpose and Intent.**

The purpose of this Section is to provide regulations governing the applicability, submission requirements, and standards for review and design of uses required to obtain site plan approval. The intent is to:

- A. Ensure that the development and use of land within the Village of Mayville does not have an adverse effect on adjacent lands or on the character of the community.
- B. It is the further intent of these regulations to protect the community from traffic congestion, noise, lighting, odor and other forms of pollution, inappropriate design, flooding, excessive soil erosion, and stormwater impacts, and to ensure that the proposed use will be in harmony with the appropriate and orderly development of the district in which it is proposed, and that its impacts can be mitigated by compliance with reasonable conditions.

**§ 1004.2 Authority.**

The Planning Board of the Village of Mayville is hereby authorized to grant site plan approval pursuant to 7-725-a of Village Law, as amended from time to time.

**§ 1004.3 Applicability.**

- A. Uses requiring site plan approval. Prior to the issuance of a building permit in any zoning district or a permit for a change in use or approval of a special use, the Code Enforcement Officer shall require site plan approval in accordance with the provisions of this subsection. All new land use activities shall require site plan approval, including new structures, new uses, expansions of existing structures, excavation operations and legal conversions of existing buildings to other uses except those specifically exempted below.
  
- B. Level of site plan review required. All uses requiring site plan approval, as specified above, shall comply with the review provisions of either the "minor site plan approval" process or "major site plan approval" process.
  - (1) Uses qualifying for minor site plan approval. Single family dwellings, and their accessory structures, on an approved building lot meeting the dimensional requirements of the Village of Mayville that are not part of a proposed subdivision and do not exceed any of the following thresholds:
    - (a) Located within 1,000 feet of the shoreline of Chautauqua Lake or 200 feet of a wetland, streambank or watercourse;
    - (b) Located within a 100-year flood hazard area as defined by the Federal Emergency Management Agency (FEMA) and shown on the most current Flood Insurance Rate Maps (FIRM);
    - (c) Requires a cumulative total of 10,000 square feet of land disturbance;
    - (d) Creates a use with impervious surfaces that cumulatively are greater than 15% of the total lot area; or
    - (e) Contain slopes in excess of 15% within the area of land disturbance.
  - (2) Uses qualifying for major site plan approval. All uses requiring site plan approval as described in the preceding section (A) that does not qualify for "minor site plan" approval and which are not exempted under the "Exempted Uses" list below.
  
- C. Exempted uses. The following land use activities are exempted from the requirements of this article, unless site plan is otherwise required as a condition of a separate Village approval:
  - (1) Development creating less than 2,500 square feet of land disturbance in total.
  - (2) Normal building maintenance, including the repair or maintenance of structural members.
  - (3) Agricultural land uses and structures, with the exception of roadside stands for the sale of agricultural products from a permanent structure, on farms with an approved Agricultural Environmental Management (AEM) Plan and/or an approved Comprehensive Nutrient Management Plan (CNMP) created in partnership with, and approved by, the Chautauqua County Soil & Water Conservation District.

- (4) Incidental landscaping or grading (less than 2,500 square feet).
- (5) Interior alterations that do not substantially change the nature or use of a residential, commercial or industrial structure.
- (6) Exterior alterations or additions to an existing residential or commercial structure, which do not substantially change its nature or use, and will not increase the gross floor area of the existing structure by more than 15% in total within any five year period.
- (7) Any change of use where no change to the building footprint or site is proposed.

D. Existing uses and structures. This subsection does not apply to uses and structures that are lawfully in existence as of the date this subsection is adopted. Any use that would otherwise be subject to this subsection, which has been discontinued for a period of one year or more, shall be subject to review pursuant to the terms herein defined before such use is resumed. Any use or structure shall be considered to be in existence, provided that such use or structure has started construction prior to the effective date of this subsection and is fully constructed and completed within one year after the effective date of these regulations.

**§ 1004.4 Procedures.**

A. Pre-application meeting. The applicant shall meet with the Code Enforcement Officer prior to submission of a site plan for review to determine whether a minor or major site plan approval is required. At the pre-application meeting, the applicant shall provide a written statement and/or a rough sketch describing what is proposed, including an indication of all existing structures and uses, if any, on the site. The Code Enforcement Officer shall use the pre-application meeting as an opportunity to advise the applicant of the procedures for both minor and major site plan approval and the potential information to be required on either type of site plan.

**B. Minor Site Plan Review**

(1) Application for minor site plan approval. Within 60 calendar days of the pre-application meeting, a complete application for site plan approval shall be made in writing to the Code Enforcement Officer. The application shall be accompanied by not less than three (3) prints of the proposed site plan (or as many additional prints as may be required for circulation purposes) and one electronic file of the proposed site plan, in a form usable by the Village (pdf or other specified format). Site plans may be provided on a drawing certified by a licensed civil engineer, registered landscape architect, registered architect or other licensed design professionals, but the Code Enforcement Officer shall not require this unless the services of such professionals are necessary to provide accurate information or are otherwise required by law. Such plans shall be submitted and shall include information drawn from the section below of items, as determined necessary by the Code Enforcement Officer at the time of the pre-application meeting.

(2) Minor site plan contents. A minor project site plan application shall contain the following information (see [www.chautauquagis.com](http://www.chautauquagis.com) as a source for some information):

- (a) The name and address of the applicant and any professional advisors.
- (b) A sketch of the parcel on a location map (e.g., a tax map) showing boundaries and dimensions of the parcel and identifying contiguous properties that are within 500 feet of

- the proposed structure and any known easements or rights-of-way and roadways.
- (c) Existing features of the site lying within 300 feet of the proposed structure, including land and water areas, water or sewer systems, and the approximate location of all structures within 500 feet of the proposed structures.
  - (d) The proposed location and arrangements of structures and uses on the site, including means of ingress and egress, parking, and circulation of traffic.
  - (e) A sketch of any proposed structures (including septic systems), showing exterior dimensions and elevations of front, side, and rear views; copies of available blueprints, plans, or drawings.
  - (f) A concise description of the project describing the intended use of proposed structures and any changes in the existing topography (i.e. – grading, filling, vegetation removal) and natural features.
  - (g) If the parcel contains a wetland, or floodplain, a copy of the floodplain map and wetland map that corresponds with the boundaries of the property.
- (3) Code Enforcement Officer's review of minor site plan. The Code Enforcement Officer's review of a site plan shall include, but is not limited to, the following considerations:
- (a) Any excavation, filling and grading proposed to be undertaken, including the depth, nature and volume of materials involved.
  - (b) The type, size and location of vegetation to be removed during site preparation.
  - (c) All temporary and permanent drainage, erosion and sediment facilities proposed.
  - (d) Adequacy of stormwater management and sanitary waste disposal facilities.
  - (e) Total cumulative impervious surface coverage as a percentage of lot area.
  - (f) Location of septic system and leach fields in relationship to wetlands, streambanks and watercourses.
  - (g) Site layout and design in relationship to natural features.
  - (h) An on-site visit to the proposed site to examine features.
- (4) Site plan design criteria. The Code Enforcement Officer, in reviewing site plans, shall consider the standards set forth below:
- (a) The stormwater management and erosion and sediment controls contained in Article VI, Section 627 of this law.
- (5) Required referral. On occasion, when applicable, the Code Enforcement Officer shall refer the plan to the Chautauqua County Planning Board for its review and approval, pursuant to § 239-m of the General Municipal Law, prior to taking final action on the site plan.

(6) Code Enforcement Officer's action on minor site plan. Within thirty (30) days of the receipt of a complete minor site plan application, the Code Enforcement Officer shall act on the minor site plan application.

(a) Determination. After review and evaluation, the Code Enforcement Officer, through an administrative review, shall make a determination to either approve, approve with modifications, or disapprove the minor site plan application. A copy of the determination shall be filed in the Village Clerk's Office and mailed to the applicant within five (5) business days of the Code Enforcement Officer's determination.

Upon a determination of either approval or approval with modifications of an application in full compliance with the submission requirements stated therein the Code Enforcement Officer shall be authorized to stamp and sign the minor site plan.

If the Code Enforcement Officer's determination includes a requirement that modifications be incorporated in the minor site plan, conformance with said modifications shall be considered a condition of approval.

If the minor site plan is not approved, the Code Enforcement Officer's determination shall state specific reasons for such decision. In such a case, the Code Enforcement Officer may recommend further study of the minor site plan and resubmission to his office after it has been revised or redesigned.

(b) Submission Requirements for Stamping. After receiving site plan approval, with or without modifications, from the Code Enforcement Officer, the applicant shall within two (2) calendar months submit a minimum of three (3) prints to the Code Enforcement Officer for stamping and signature. The minor site plan submitted for stamping shall conform strictly to the minor site plan approved by the Code Enforcement Officer except that it shall further incorporate any revisions or other modifications required by the Code Enforcement Officer.

(c) Effect of Stamping and Signature. Upon stamping and signature by the Code Enforcement Officer, the Code Enforcement Officer may then issue a Building Permit or Certificate of Occupancy if the project conforms to all other applicable requirements.

(d) Expiration of Approval. The Code Enforcement Officer's approval of a minor site plan shall expire if the following circumstance occurs:

(1) A complete application for either a Building Permit or Certificate of Occupancy is not submitted to the Code Enforcement Officer within twelve (12) calendar months of the signing and stamping of the Site plan by the Code Enforcement Officer.

Upon prior written request to the Code Enforcement Officer, the time period for either submission of an application for a Building Permit or Certificate of Occupancy may be extended for a maximum period of six (6) calendar months from its otherwise specified termination date.

- (e) Appeal of Determinations: Any determination of the Code Officer regarding any matter as specified above is subject to appeal before the Village's Zoning Board of Appeals which will have all authority granted in the NYS Village Law and/or the Village Zoning Law in general to review and determine the applicability of these provisions, the prior determination interpretation or requirements imposed by the Code Officer to determine their reasonableness as well as their effectiveness in carrying out the provisions of this Law. Any applicant may pursue an appeal or an interpretation of any issue relating to this Local Law before the said Village Zoning Board of Appeals. Such appeal may also include an initial determination as to whether an application involves a minor or major site plan review requirement.

### C. Major Site Plan Review

- (1) Sketch plan conference. A sketch plan conference between the Planning Board and the applicant shall be held to initially review the basic site design concept and generally determine the extent of site plan review necessary for the proposed project. All required materials for the sketch plan conference shall be submitted to the Code Enforcement Officer at least ten (10) days prior to the regularly scheduled Planning Board meeting and forwarded to the Planning Board members at least seven days prior to the regularly scheduled meeting in order to be placed on the monthly agenda for consideration by the Board. At the sketch plan conference, the applicant shall provide a written statement and/or a rough sketch describing what is proposed, including an indication of all existing structures and uses, if any, on the site. The Planning Board shall use the sketch plan conference as an opportunity to advise the applicant of the information to be required on the site plan and in accompanying reports. The Planning Board shall additionally employ the conference as an opportunity to discuss with the applicant the extent of the SEQR review process required for the application.

- (a) The sketch plan shall be clearly designated as such and shall identify all existing and proposed (see [www.chautauquagis.com](http://www.chautauquagis.com) or zoning maps for some information):

- 1. Zoning classification and required setbacks.
- 2. Lot lines.
- 3. Land features, including environmentally sensitive features.
- 4. Land use(s).
- 5. Utilities.
- 6. Development, including buildings, pavement and other improvements, including setbacks.
- 7. Location and nature of all existing easements, deed restrictions and other encumbrances.

- (b) Sketch plans shall be drawn to scale.

- (c) It is the responsibility of the applicant to provide a sketch plan that depicts a reasoned and viable proposal for development of the lot.

- (d) The Planning Board, upon review of the sketch plan, may waive requirements for application materials for developments for which, due to character, size, location or special

circumstances, such information is not required in order for the Planning Board to properly perform site plan review.

- (e) Planning Board members may suggest modifications to, but shall not approve or disapprove, the sketch plan. Comments made by individual Board members during sketch plan review shall not be interpreted as constituting approval or disapproval by the Board, nor shall they be interpreted to limit the scope of any subsequent review or approval of a derivative plan.

(2) Application for major site plan approval. Within 90 calendar days of the sketch plan conference, a complete application for site plan approval shall be made in writing to the Planning Board. The application shall be accompanied by not less than eight (8) prints of the proposed site plan (or as many additional prints as may be required for circulation purposes under SEQRA) and one electronic file of the proposed site plan, in a form usable by the Village. Site plans shall be provided on a drawing certified by a licensed civil engineer, registered landscape architect, registered architect or other licensed design professionals, as may be necessary to comply with the professional licensing regulations administered by the New York State Education Department. Such plans shall be submitted at least 10 days prior to a scheduled regular meeting of the Planning Board and shall include information drawn from the following checklist of items, as determined necessary by the Planning Board at the time of the sketch plan conference:

- (a) A site plan drawn at a scale of 100 feet to one inch or larger showing the following information:

1. Legal data.

- (i) Title of drawing, including name and address of applicant and person(s) responsible for preparation of such drawing;
- (ii) North arrow, scale and date;
- (iii) An area map keyed to the real property tax maps, showing the parcel under consideration for Site plan review, and all properties, subdivisions, streets, power lines and easements within five hundred (500) feet of the boundaries thereof;
- (iv) Accurate boundaries of the property plotted to scale, including reference to specific data sources;
- (v) The locations, names and existing widths of adjacent streets/roads, right of ways and curb lines.
- (vi) The locations and owners of all adjoining lands as shown on the latest tax records and tax map identification numbers.

2. Natural features.

- (i) Existing contours with intervals of 20 feet or less, including the source of the information.
- (ii) Approximate boundaries of any areas subject to flooding or stormwater overflows.
- (iii) The location of existing watercourses, New York State and federal wetlands, wooded areas, rock outcrops, isolated trees with a diameter of eight inches or more measured at breast height above the base of the trunk and other significant existing features.
- (iv) Land exceeding a slope of 15%.

- (v) FEMA special flood hazard zone boundaries and designations, including the flood hazard zone, Community Panel Number and the effective date as shown.
  - (vi) Soils classification mapping from "Soils Survey of Chautauqua County" data (available at *Chautauqua County Soil & Water Conservation District*).
3. Existing structures and utilities and other features.
- (i) The location of uses and outlines of all existing structures, drawn to scale.
  - (ii) Paved areas, sidewalks and vehicular access between the site and public Streets.
  - (iii) Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within 100 feet of the site.
  - (iv) Locations, dimensions, grades and flow direction of existing sewers, drainage ditches, culverts and water lines, as well as other underground and aboveground utilities within and adjacent to the property.
  - (v) Other existing development, including fences, retaining walls, landscaping and screening.
4. Proposed development.
- (i) The location, type of construction and exterior dimensions of proposed buildings or structural improvements. [NOTE: Elevations and/or sections illustrating front, rear and side profiles drawn to the same or larger scale as the site development plan may be required by the Planning Board. The elevations and/or sections shall clearly delineate the bulk and height of all buildings and other permanent structures included in the proposal.]
  - (ii) The location and design of all uses not requiring structures, such as off-street parking and loading areas.
  - (iii) The location, direction, power and time of use for any proposed outdoor lighting.
  - (iv) The location, size and design for all proposed permanent outdoor signs.
  - (v) The location and arrangement of proposed means of access and egress, including sidewalks and other pedestrian access, driveways, fire lanes and other emergency zones or other paved areas; and profiles indicating grading and cross sections showing width of roadway, location and width of sidewalks and location and size of water and sewer lines. For commercial and industrial structures, identify the amount of gross floor area proposed for retail sales, services, offices and other uses.
  - (vi) Any proposed screening and other landscaping, including types and locations of proposed street trees, as well as a planting schedule.
  - (vii) The description of the water supply system, location of well(s) and/or all proposed water lines, valves and hydrants and of all sewer lines and alternate means of water supply and sewage disposal and treatment.
  - (viii) An outline of any proposed easements, deed restrictions or covenants.
  - (ix) Any contemplated public improvements on or adjoining the property.
  - (x) Any proposed new grades, indicating clearly how such grades will meet existing grades of adjacent properties on the street.
  - (xi) A drainage plan showing existing and proposed watercourses, proposed detention/retention facilities and calculations of the impact to existing drainage created by the proposed development. [NOTE: Contour intervals of one or two feet may be appropriate for grading and drainage plans.]

- (xii) Location of outdoor storage and waste receptacles and proposed screening for such.
  - (xiii) Location and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
  - (xiv) Location, design and construction materials of all energy-generation and distribution facilities, including wind, electrical, gas and solar energy.
  - (xv) If the site plan indicates only a first stage, a supplementary plan shall indicate ultimate development.
  - (xvi) The percentage of open space provided and the location and development of all proposed buffer areas, including indication of proposed vegetative cover.
  - (xvii) Any setbacks or other dimensional information required by this article.
  - (xviii) Record of applications and approval status of all necessary permits from federal, state, county and local agencies.
  - (xix) Estimated project construction schedule.
  - (xx) Estimate of the total cost of proposed site improvements which shall be confirmed by the Code Enforcement Officer or Village Engineer.
  - (xxi) Estimate of total cumulative area of disturbance in square feet.
5. Any other information required by the most current checklist prepared by the Planning Board in order to conduct its review.
  6. Any other information deemed by the Planning Board to be necessary to determine conformity of the site plan with the spirit and intent of this article.
- (b) Required fees and supporting materials. An application for site plan review and approval shall not be considered complete until accompanied by the applicable fee and escrow deposit, in accordance with the fee schedule established and annually reviewed by the Village Board, and the supporting materials described below in Section 1004.4 C(2)(b) and above in Section 1004.4C(2)(a).
1. Supporting materials. The following materials shall be submitted:
    - (i) A copy of the deed to the property as most recently filed and/or a copy of the executed contract of sale.
    - (ii) A copy of each covenant, easement or deed restriction in effect or intended to cover all or part of the tract.
    - (iii) Written offers of easement to the Village of Mayville or other public agencies for purposes of stormwater drainage, utility rights-of-way, etc.
    - (iv) Identification of all necessary permits from federal, state, county or local agencies, approvals required from said agencies for the project's execution, and proof of Special Use Permit and/or variance approvals if applicable.
    - (v) As applicable, soil logs from on-site borings or test pits, percolation test results, and stormwater runoff calculations.

(vi) Plans to prevent: the pollution of surface or groundwater; erosion of soil both during and after construction; excessive runoff; excessive raising or lowering of the water table; and flooding of other properties.

(c) Environmental Assessment Form. A complete application for Site plan review and approval shall also be accompanied by a Short or Full EAF as required by SEQR. To avoid delay, applicants are advised to familiarize themselves with the New York State SEQR requirements for environmental assessment, to determine whether their proposed project meets the thresholds for a Type 1 Action and therefore requires that a Full EAF be submitted to accompany the application for Site plan approval.

(3) Planning Board review of major site plan

(a) Factors for consideration during site plan review. The Planning Board' review of a site plan shall include, but is not limited to, the following considerations:

1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls.
2. Adequacy and arrangement of pedestrian traffic access and circulation, including separation of pedestrians from vehicular traffic, sidewalks, linkages, control of intersections with vehicular traffic and pedestrian convenience.
3. Location, arrangement, appearance and sufficiency of off-street parking and Loading areas.
4. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
5. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-deterring buffer between the proposed use and adjoining uses or properties.
6. In the case of an apartment complex or multiple dwellings, the adequacy of usable open space for playgrounds and informal recreation.
7. Adequacy of stormwater management facilities.
8. Protection of adjacent properties from noise, glare, unsightliness or other objectionable features.
9. Adequacy of water supply and sewage disposal facilities.
10. Overall impact on the neighborhood, including compatibility of design and effect on the environment.

(b) Site Plan Design Criteria. The Planning Board, in reviewing site plans, shall consider the standards set forth below:

1. All buildings in the plan shall be integrated with each other and with adjacent buildings and shall have convenient access to and from adjacent uses.
2. Individual buildings shall be related to each other and to structures in the surrounding area in architecture, design mass, materials, placement and connections to harmonize visually and physically.
3. Treatment of the sides and rear of all buildings, where appropriate, shall be comparable in amenity and appearance to the treatment given to street frontages of these same buildings.
4. The design of buildings and the parking facilities shall take advantage of the natural topography of the project site, where appropriate.
5. All buildings shall be accessible to emergency vehicles.
6. Landscaping shall be an integral part of the entire project area and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.
7. Primary landscape treatment shall consist of shrubs, ground cover and shade trees and shall combine with appropriate walks, walls and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to the growing conditions of the Village's environment.
8. Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.
9. There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking and loading space.
10. Roads, pedestrian walks and open space shall be designed as integral parts of an overall site design, be properly related to existing and proposed buildings and be appropriately landscaped.
11. Buildings and vehicular circulation areas shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
12. The light level at the lot line shall not exceed 0.2 footcandles measured at ground level. To achieve this, luminaries shall be shielded to prevent light from shining beyond the lot lines onto neighboring properties or public ways. Where residential uses adjoin commercial uses; light standards shall be restricted to a maximum of 20 feet in height.
13. Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars.
14. Parking facilities shall utilize low-impact and on-site stormwater techniques where feasible, and be designed with regard for orderly management, topography, landscaping and ease of access and shall be developed as an integral part of an overall site design.

15. Any above-grade loading facility shall be screened from public view to the extent necessary to eliminate unsightliness.
  16. Off-street parking and loading requirements required in the Village of Mayville Zoning Law shall be satisfied.
  17. Drainage of the site and surface waters flowing there from shall utilize natural drainage pathways where feasible and in the best public interest; shall not adversely affect adjacent properties or public roadways; and shall strive to not increase runoff downstream from the project site.
  18. The stormwater management and erosion and sediment controls contained in Article VI, Section 627 of this law.
- (c) Referral to other agencies and boards. The Planning Board may refer the site plan for review and comment to local and county officials or their designated consultants, in addition to representatives of State agencies including, but not limited to the Soil & Water Conservation District, the New York State Department of Transportation, the State Department of Environmental Conservation and the State Department of Health.
  - (d) Required referral. Prior to taking final action on the site plan, and where applicable, the Planning Board shall refer the plan to the Chautauqua County Planning Board for its review and approval, pursuant to § 239-m of the General Municipal Law.
  - (e) Public hearing. The Planning Board shall conduct a public hearing on the application for a major site plan approval. The public hearing shall be conducted within sixty-two (62) calendar days of the receipt of the complete application and shall be advertised in the official newspaper of the Village at least five (5) calendar days before the public hearing.
  - (f) Waiver of requirements. The Planning Board may waive any specific requirements set forth in Section 1004.4 C (a) of this Zoning Law for the approval, approval with modifications or disapproval of a major site plan submitted for approval. The grant of any such waiver shall be accompanied by a finding that compliance with the requirement is either not requisite in the interest of the public health, safety and general welfare or inappropriate to the particular site plan.
- (4) Planning Board action on major site plan. Planning Board Action on Site Plan. Within sixty-two (62) days of the close of a public hearing, the Planning Board shall act on the major site plan application.
    - (a) Action by Resolution. The Planning Board shall act by resolution to approve, approve with modifications, or disapprove the Site plan application. A copy of the resolution shall be filed in the Village Clerk's Office and mailed to the applicant within five (5) business days of the Planning Board's actions. A resolution of either approval or approval with modifications shall include authorization to the Planning Board Chairman to stamp and sign the Site plan upon the applicant's compliance with the submission requirements stated therein.

If the Planning Board' resolution includes a requirement that modifications be incorporated in the Site plan, conformance with said modifications shall be considered a condition of approval. If the Site plan is disapproved, the Planning Board' resolution shall state specific reasons for such decision. In such a case, the Planning Board may recommend further study, or modification, of the Site plan and resubmission to the Planning Board after it has been revised or redesigned.

(b) Submission Requirements for Stamping. After receiving site plan approval, with or without modifications, from the Planning Board, the applicant shall within six (6) calendar months submit a minimum of eight (8) prints, and one (1) electronic file to the Planning Board for stamping and signature by the Chairman. The site plan submitted for stamping shall conform strictly to the Site plan approved by the Planning Board except that it shall further incorporate any revisions or other modifications required by the Planning Board and shall be accompanied by the following additional information:

(1) Record of application for and approval status of all necessary permits from Federal, State and County officials.

(2) An estimated project construction schedule and if a performance guarantee is to be provided by the applicant for all or some portion of the work, a detailed site improvements cost estimate.

(c) Effect of Stamping by Planning Board. Upon stamping and signature by the Chairman, the Planning Board shall forward a copy of the approved site plan to the Code Enforcement Officer and the applicant. The Code Enforcement Officer may then issue a Building Permit or Certificate of Occupancy if the project conforms to all other applicable requirements.

(d) Expiration of Approval. Planning Board approval of a site plan shall expire either of the following circumstances occurs:

1. The site plan is not submitted for stamping and signature to the Chairman within 180 calendar days of the Planning Board' resolution of Site plan approval, with or without modifications.

2. A complete application for either a Building Permit or Certificate of Occupancy is not submitted to the Code Enforcement Officer within 180 calendar days of the stamping and signing of the Site plan by the Chairman.

Upon prior written request to the Planning Board, the time period for either submission of the Site plan or submission of the complete application for a Building Permit or Certificate of Occupancy may be extended for a maximum period of 180 calendar days from its otherwise specified termination date.

#### **§ 1004.5 Reimbursable costs.**

Reasonable costs incurred by the Planning Board for private consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant. Such reimbursable costs shall be in addition to the fee required in 1004.4 C (2) (b) herein.

**§ 1004.6 Guaranty of site improvements.**

- A. General. Subsequent to the granting of site plan approval, no certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty has been provided by the applicant for improvements not yet completed.
  
- B. Performance guaranty options. In order that the Village has the assurance that the construction and installation of such improvements as storm sewers, water supply, sewage disposal, sidewalks, parking and access roads will be constructed in accordance with Village standards and/or any site plan approval modifications, the Planning Board may require that the applicant enter into one of the following agreements with the Village:
  - (1) Furnish bond executed by a surety company (licensed in New York State) equal to the cost of construction of such improvements as shown on the plans. Such bond shall be based on an estimate furnished by the applicant, confirmed by the Code Enforcement Officer or Village Engineer and approved by the Planning Board.
  
  - (2). Deposit a certified check in sufficient amount up to the total cost of construction of such improvements as shown on the site plan.
  
  - (3) Provide the Village with a letter of credit that is of sufficient amount to cover up to 110% of the total cost of improvements as shown on the site plan.
  
- C. Conditions.
  - (1) The performance guaranty shall be to the Village and shall provide that the applicant, his/her heirs, successors, assigns or his/her agent will comply with all applicable terms, conditions, provisions and requirements of this article and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.
  
  - (2) Any such bond shall require the approval of the Village Board in consultation with the Village Attorney as to form, sufficiency manner of execution and surety.
  
  - (3) Certified checks shall be made payable to the Village of Mayville and will be placed in an escrow account established by the Village for this purpose.

(4) Letters of credit shall require the approval of the Village Board in consultation with the Village Attorney as to form, sufficiency, and manner of execution and shall be duly notarized.

- D. Extension of time. The construction or installation of any improvements or facilities (except for improvements or facilities related to Stormwater Management and Erosion and Sediment Control as required by Article VI, Section 627 of this law), other than roads, for which a guaranty has been made by the applicant in the form of a bond or certified check deposit, shall be completed within one year from the date of approval of the site plan. Road improvements shall be completed and approved by the Village Street Superintendent within two years from the date of approval of the site plan, during which time they will be maintained in a manner consistent with the provisions of Article VI, Section 627 of this law. The applicant may request that the Planning Board grant him or her an extension of time to complete such improvements, provided that the applicant can show reasonable cause for inability to complete said improvements within the required time. The extension shall not exceed six months, at the end of which time the Village may use as much of the bond or check deposit to construct the improvements as necessary. The Planning Board may also grant the applicant an extension of time whenever construction of improvements is not performed in accordance with applicable standards and specifications.
- E. Schedule of improvements. When a certified check or performance bond is issued pursuant to the preceding subsections, the Village and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However, 10% of the check deposit or performance bond shall not be repaid to the applicant until one year following the completion and inspection by the Village of all construction and installation covered by the check deposit or performance bond.
- F. Inspections. Inspections during the installation of improvements shall be made by the Code Enforcement Officer to ensure conformity with the approved plans and specifications as contained in the contract and this article. The applicant shall notify the Code Enforcement Officer when each phase of improvements is ready for inspection. Upon acceptance, final completion of installation and improvement, the Planning Board shall issue a letter to the applicant or his/her representative that provides sufficient evidence for the release by the Village of the portion of the performance bond or certified deposit as designated in the contract to cover the cost of such completed work.
- G. Phased development. The Planning Board may further request, subject to Village Board approval, that the applicant deposit a separate performance bond or certified check for each phase of development proposed. In this event, 10% of the check deposit or performance bond shall be withheld from the applicant until 60 days following the completion, inspection and acceptance by the Village of all construction and installation covered by such deposit. No subsequent phase of development shall be undertaken until each earlier phase has been completed and approved by the Code Enforcement Officer.

**Section 2. STORMWATER REGULATIONS.**

A new Article VI, Section 627 is hereby added to the Village of Mayville Zoning Law, which shall provide as follows:

## **§ 627 Stormwater Management, Erosion and Sediment Control.**

### **A. Purpose.**

The purpose of this supplemental section 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. This supplemental section seeks to meet those purposes by achieving the following objectives:

- (1) Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised.
- (2) Minimize increases in the magnitude, rate, and frequency of stormwater runoff between pre-development and post-development conditions from land use activities so as to prevent an increase in flooding, siltation and streambank erosion.
- (3) Prevent accelerated soil erosion and sedimentation so as to avoid its deposit in streams and other receiving water bodies.
- (4) Reduce detrimental impacts of stormwater flows on adjacent properties and downstream communities.
- (5) Minimize the accumulation, and facilitate the removal of pollutants in stormwater runoff so as to perpetuate the natural biological and recreational functions of streams, water bodies, and wetlands.
- (6) Reduce the need for costly maintenance and repairs to roads, embankments, ditches, streams, lakes, ponds, wetlands, and stormwater control facilities resulting from inadequate control of soil erosion and stormwater runoff.
- (7) Assure soil erosion control and stormwater runoff control systems are incorporated into site planning at an early stage.

### **B. Applicability**

- (1) This supplemental section applies to all land development activities and/or redevelopment activities that exceed any one of the thresholds below, unless exempt pursuant to Subsection C below. No person may undertake a land development activity without first meeting the requirements of this supplemental section.
- (2) This supplemental section defines three levels of applicability. Depending on the area of disturbance and other criteria listed below, land development activities will require either:
  - (a) A Full SWPPP (Stormwater Pollution Prevention Plan) with both erosion and sediment control and post construction water quality and quantity controls;
  - (b) A Basic SWPPP with erosion and sediment control, or
  - (c) A Simple SWPPP, with a generic small site erosion and sediment control plan.

- (3) Any of the following activities require a Full SWPPP, with Erosion and Sediment Control and Post Construction Water Quality and Quantity Controls, completed in accordance with the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised:
- (a) Any land development activity with an area of disturbance greater than or equal to one acre that is listed in the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001, Appendix B, Table 2.
  - (b) Any single family home or single family residential subdivision, with an area of disturbance greater than or equal to one acre, that will directly discharge into Chautauqua Lake.
- (4) Any of the following activities require a Basic SWPPP, with Erosion and Sediment Controls, completed in accordance with the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised, unless already subject to a Full SWPPP as described above:
- (a) Any land development activity with an area of disturbance greater than or equal to one acre that is listed in the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001, Appendix B, Table 1.
  - (b) The construction of a single family home not directly discharging into Chautauqua Lake that involves an area of disturbance greater than or equal to one acre of land, but less than five acres.
  - (c) The construction of a single family residential subdivision with 25% or less of impervious surface cover at total site build-out and not directly discharging into Chautauqua Lake that involves an area of disturbance greater than or equal to one acre of land, but less than five acres.
  - (d) Construction of a barn or other agricultural building, silo, stock yard or pen that involves an area of disturbance greater than or equal to one acre of land, but less than five acres.
- (5) Any of the following activities require a Simple SWPPP, unless already subject to a Basic or Full SWPPP as described above:
- (a) Any land development activity or redevelopment activity with an area of disturbance greater than or equal to 2,500 square feet but less than one acre;
  - (b) Any land development activity that involves the excavation or filling, resulting in the movement of 250 cubic yards or more of soil or similar material.
  - (c) Any land development activity, regardless of size, that the Village Code Enforcement Officer determines likely to cause an adverse impact, according to criteria of slope, soil erodibility, proximity to a sensitive area, or proximity to a stormwater structure or facility.

C. **Exemptions.** The following activities are exempt in part or in whole from review under this supplemental section:

- (1) Silvicultural activities as defined, except that landing areas and log haul roads are subject to this law.
- (2) Agricultural activity as defined.
- (3) Routine maintenance activities that disturb less than 1 acre 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 Code Enforcement Officer.
- (5) Subdivision plats approved by the Village before the effective date of this law, except individual building permits applied for on or after the effective date of this law are subject to this law.
- (6) Land development activities for which a building permit has been approved before the effective date of this law, although the provisions of this law may be applied to permit renewals, or substantial modifications to the original proposal if occurring on or after the effective date of this law.
- (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, vegetables 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 creating less than 2,500 square feet of land disturbance in total.

D. **Stormwater Pollution Prevention Plans (SWPPP)**

- (1) **SWPPP Submittal Requirements.** Any land development activity and/or redevelopment activity that exceed the thresholds listed in subsection B of this section, and are not exempt pursuant to Subsection C of this section, shall complete and submit a SWPPP as follows:
  - (a) Simple SWPPP - Any land development or redevelopment activity required to complete a Type I or II Simple SWPPP must complete the Simple SWPPP in accordance with the requirements of subsection D(3) and subsection E of this supplemental regulation. Informational requirements that are not relevant or necessary to meet the erosion and stormwater objectives of this supplemental section may be waived by the reviewing board or official.

Once completed, the Type I or II Simple SWPPP shall be submitted to the reviewing board as

part of an application, and/or the Code Enforcement Officer, as part of an application for a building or zoning permit.

- (b) Basic SWPPP – Any land development or redevelopment activity required to complete a Basic SWPPP must comply with the substantive requirements of the NYS Department of Environmental Conservation (DEC) State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised. Such activities will be required to undertake and complete all required submittals to the DEC.

Copies of the Final SWPPP and Notice of Intent (NOI); submitted to the DEC; and completed in accordance with the technical standards referenced in Parts III.B.1,2 or 3 of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised, and contained in part in subsection D of this supplemental section, shall be submitted to the reviewing board as part of an application, and/or the Code Enforcement Officer, as part of an application for a building or zoning permit.

- (c) Full SWPPP – Any land development or redevelopment activity required to complete a Full SWPPP must comply with the substantive requirements of the NYS Department of Environmental Conservation (DEC) State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised. Such activities will be required to undertake and complete all required submittals to the DEC.

Copies of the Final SWPPP and Notice of Intent; submitted to the DEC; and completed in accordance with the technical standards referenced in Parts III.B.1,2 or 3 of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised, and contained in part in subsection D of this supplemental section, shall be submitted to the reviewing board as part of an application, and/or the Code Enforcement Officer, as part of an application for a building or zoning permit.

**(2) Type and Content of a Simple SWPPP:**

- (a) Type I Simple SWPPP. A Type I Simple SWPPP shall be required for land development activities not requiring a Full or Basic SWPPP; creating cumulative areas of disturbance totaling between 2,500 and 10,000 square feet; and not exceeding the following thresholds:
  - (i) Located within 1,000 feet of the shoreline of Chautauqua Lake or 200 feet of a wetland, streambank or watercourse;
  - (ii) Within a 100-year flood hazard area as defined by the Federal Emergency Management Agency (FEMA) and shown on the most current Flood Insurance Rate Maps (FIRM);
  - (iii) Creates a use with impervious surfaces that cumulatively are greater than 15% of the total lot area; or
  - (iv) Contain slopes in excess of 15% within the area of land disturbance.

- (b) Type I Simple SWPPP Content Requirements:
- (i) Contact Information including: Owner and Developer's Name, Address, Project Address, Phone Numbers, Tax Parcel #.
  - (ii) A brief description of the project, including a sketch, which may be combined with other drawings required for a building permit, specifically showing existing drainage features and vegetation on the site.
  - (iii) The ground area in square feet or acres that will be disturbed for each phase and for all phases of the project. The areas to be measured include but are not limited to: driveways, parking areas, buildings, septic systems, wells, grading and clearing, lawns, ditches, drainage structures, utilities, stockpiles, etc., including the total project area of disturbance, total parcel acreage, area of existing impervious surface, total area of impervious surface expected at completion, and total connected impervious area.
  - (iv) A description of the distance(s) from the areas of ground disturbance on any part of the site to the edge of any stream, pond, lake, or wetland on or in the vicinity of the site.
  - (v) A generalized plan describing the erosion control measures to be used to minimize the impacts of the land development activity appropriate for the site, based upon the guidelines in the DEC Erosion Control Manual. Measures may include:
    - 1. Stabilized construction entrance;
    - 2. Stabilization of exposed soil;
    - 3. Protection of adjacent properties, waterways, and natural areas;
    - 4. Management of concentrated flow areas; and
    - 5. Maintenance during construction.
  - (vi) Any additional details requested by the CEO.
- (c) Type II Simple SWPPP. Type II Simple SWPPP shall be required for land development activities not requiring a Full or Basic SWPPP; creating cumulative areas of disturbance totaling greater than 10,000 square feet and less than 43,560 square feet; and not exceeding the following thresholds:
- (i) Located within 1,000 feet of the shoreline of Chautauqua Lake or 200 feet of a wetland, streambank or watercourse;
  - (ii) Within a 100-year flood hazard area as defined by the Federal Emergency Management Agency (FEMA) and shown on the most current Flood Insurance Rate Maps (FIRM);
  - (iii) Creates a use with impervious surfaces that cumulatively are greater than 15% of the total lot area; or
  - (iv) Contain slopes in excess of 15% within the area of land disturbance.

(d) Type II Simple SWPPP Content Requirements:

(i) A narrative describing:

1. The proposed development.
2. The schedule for grading and construction activities, including:
  - a. Start and completion dates.
  - b. Sequence of grading and construction activities.
  - c. Sequence for installation and/or application of soil erosion, sediment control and stormwater management measures.
  - d. Sequence for final stabilization and stormwater management on the project site.
3. The design criteria for proposed soil erosion and stormwater control measures and stormwater management facilities, and computations necessary to demonstrate compliance with these criteria.
4. The construction details for proposed soil erosion and sediment control measures and stormwater management facilities.
5. The installation and/or application procedures for proposed soil erosion and sediment control measures and stormwater management facilities.
6. The operation and maintenance of proposed soil erosion and sediment control measures and stormwater management facilities.
7. A statement describing all design measures taken to minimize grading and disturbance to land and vegetation.

(ii) A site plan, or subdivision plan, prepared in accordance with applicable requirements of this supplemental section or the Subdivision Law which shall include the following additional information:

1. The proposed alterations including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines.
2. The location of and design details for all proposed soil erosion and sediment control measures and stormwater management facilities.
3. The sequence of grading and construction activities.
4. The sequence for installation and/or application of soil erosion, sediment control and stormwater management measures.
5. The sequence for stabilization of the development site.

**(3) Contents of a Full or Basic SWPPP.** Any land development activity and/or redevelopment activity that exceeds the thresholds listed in the NYS Department of Environmental Conservation (DEC) State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised, shall complete a SWPPP in accordance all requirements of said Permit.

**E. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control.** All land development activities or redevelopment activities required to complete a Full, Basic or Simple SWPPP by subsection B of this supplemental section are subject to the following performance and

design criteria:

- (1) **Technical Standards.** For the purpose of this supplemental section, 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 of this supplemental section:
  - (a) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual).
  - (b) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).
- (2) **Equivalence to Technical Standards.** Where stormwater management practices are not in accordance with technical standards, the applicant must demonstrate equivalence to the technical standards set forth in Subsection E (1) for a Basic or a Full SWPPP. The Basic SWPPP developed must be prepared and certified by a licensed or certified professional and the Full SWPPP must be prepared by a licensed engineer.

Where stormwater management practices contained within a Simple SWPPP are not in accordance with technical standards, the applicant may use alternative principles, methods and procedures with prior approval of the reviewing board, based upon a favorable recommendation from the Chautauqua County Soil and Water Conservation District.

- (3) **Water Quality Standards.** Any land development activity shall not cause or contribute to a violation of water quality standards in surface waters of the State of New York. The standards are contained in Parts 700 through 705 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

These standards apply whether or not a project is subject to this supplemental section, and whether or not a project meets the requirements of this supplemental section. These standards are enforceable by the DEC under the Environmental Conservation Law.

#### F. SWPPP Review

- (1) The CEO shall accept and review all Stormwater Pollution Prevention Plans for completeness and compliance with this supplemental section and, when required, forward such plans to the applicable board. The CEO may, if necessary, subject to budget restrictions and Village Board approval, engage the services of the Chautauqua County Soil and Water Conservation District representative, a registered professional engineer or certified professional to review the plans, specifications and related documents submitted in connection with any SWPPP.
- (2) All land development activities subject to review and approval by the Village Board, Zoning Planning Board or Planning Board of the Village under Site Plan, Special Permit, or Subdivision

regulations reviewed by such Board must be reviewed subject to the standards contained in this supplemental section. No approval by any such Board shall be made unless it determines that the SWPPP complies with the requirements of this supplemental section.

- (3) All land development activities subject to review under this supplemental section, but not subject to review under Subsection F (2) above, require a Stormwater Pollution Prevention Plan (SWPPP) to be submitted to the CEO who shall determine completeness of the SWPPP and compliance with this supplemental section before issuing any required permits.
- (4) No land development activity which requires a Full, Basic or Simple SWPP in accordance with subsection B, unless exempt pursuant to Subsection C above, above shall be commenced until the Code Enforcement Officer (CEO) has either an approved a Simple SWPPP from the appropriate review board or has received a copy of the Final SWPPP and NOI submitted to the DEC and all local reviews have occurred.

#### **G. Implementation.**

- (1) The estimated costs of measures required to control soil erosion and sedimentation, as specified in the approved plan, may be covered in a performance bond or other guaranty acceptable to the reviewing board.
- (2) Site development shall not begin unless the soil erosion and stormwater control plan is approved and those control measures and facilities in the plan scheduled prior to site development are installed and functional.
- (3) Planned soil erosion and stormwater control measures and facilities shall be installed as scheduled according to the approved plan.
- (4) All erosion and stormwater control measures and facilities shall be maintained in a condition which ensures compliance with the approved plan and prevents sediment from leaving the site.

#### **H. Inspection**

- (1) **Erosion and Sediment Control Inspection.** The CEO may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant must notify the CEO at least 48 hours before any of the activities listed below, as required by the CEO, or the CEO may develop an inspection schedule specific to an individual project including but not limited to:
  - (a) Start of construction
  - (b) Installation of sediment and erosion control measures
  - (c) Completion of site clearing

- (d) Completion of rough grading
- (e) Completion of final grading
- (f) Close of the construction season
- (g) Completion of final landscaping
- (h) Successful establishment of landscaping in public areas. Additionally, the Village may conduct inspections at any time.

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 CEO.

(2) **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 must grant to the Village the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Section H (1) of this Law.

(3) **Record Keeping.** Persons subject to this law are required to maintain records demonstrating compliance with this law. Such records must be provided to the CEO upon request.

I. **Fees for Services.** The Village may require any person undertaking land development activities subject to this supplemental section to pay the reasonable costs of persons hired by the Village to review SWPPP's, perform inspections of stormwater management facilities and certify the completion of the same through application fees and escrow deposits required in connection with an application for a building or zoning permit or for site plan or subdivision approval. The Village Board may by resolution establish a fee schedule SWPPP review and stormwater and erosion inspections.

J. **Maintenance, Inspection, and Repair of Stormwater Facilities**

(1) **Maintenance and Inspection During Construction.** The applicant or developer of the land development activity or their representative must 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 supplemental section. Sediment must be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

(2) **Inspection, Maintenance and Easement Agreement.** Prior to the issuance of any approval for a project that has the construction of a stormwater management facility as one of the requirements, the applicant or developer must execute an inspection, maintenance and easement agreement that shall be binding on all subsequent landowners benefited by the stormwater management facility. The agreement must provide for Village access to the facility at all reasonable times for periodic inspection, and possible maintenance by the Village (in the

sole discretion of the Village and expense of the owner) to ensure that the facility is maintained in proper working condition and continues to meet design standards and any other requirements of approval and this supplemental section. The agreement must be recorded in the office of the County Clerk, and noted on the subdivision plat (if applicable) after approval by the counsel for the Village. The Village reserves the power to require enforcement and charge-back of expense powers in the agreement, and to assign all agreements to any future drainage district.

- (3) **Dedication of Stormwater Management Facilities Maintenance Agreement.** The Village, in lieu of the agreement required in above, in its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this supplemental section and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. Prior to accepting a dedicated facility, the Village may require the formation of a drainage district to include all parcels served by the facility, to pay the expenses of ongoing inspection, maintenance, and, if necessary, modification of the facility.

#### K. Enforcement

- (1) **Stop Work Orders.** The CEO may issue a stop work order for violations of this law. Persons receiving a stop work order are required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order will be in effect until the CEO confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this supplemental section.
- (2) **Violations.** Any land development activity that is commenced or is conducted contrary to this supplemental section, may be restrained by injunction or otherwise abated in the manner provided by Article XII of the Village of Mayville Zoning Law and as otherwise provided by law.

#### **Section 3. DEFINITIONS.**

The following definitions are added to Article II, Section 202 of the Village of Mayville Zoning Law in the appropriate alphabetical position and replacing the current definition if duplicative:

**ALTERATION, STRUCTURAL** - To change or rearrange the walls, roof, ceiling, floors, supporting beams, columns or other structural parts; interior plan or layout, the exterior architectural features; or the exit facilities of a structure; or the relocation of a building from one location to another.

**ADVERSE IMPACT** – A negative impact on land or waters resulting from a land development activity. The negative impact may include impairment to human or natural uses (such as increased risk of flooding, degradation of water quality, sedimentation, reduced groundwater recharge, impaired recreational use, impacts on aquatic organisms or other resources, or threats to public health).

**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.

**BORROW AREA** – An area from which soil, sand, gravel, or other similar material is excavated.

**BUILDING** – Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property.

**CERTIFIED PROFESSIONAL** – A Certified Professional in Erosion and Sediment Control (CPESC) or Certified Professional in Stormwater Quality (CPSWQ), as appropriate for the task at hand, whose qualifications are approved by either the DEC or the Village Board.

**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.

**COMMON PLAN OF DEVELOPMENT OR SALE** – A plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name. The term also includes phased construction activity by a single entity for its own use. For discrete construction projects that are located within a larger common plan of development or sale that are at least ¼ mile apart, each project can be treated as a separate plan of development or sale provided any interconnecting road, pipeline or utility project that is part of the same “common plan” is not concurrently being disturbed.

**CONCENTRATED FLOW** – Runoff that accumulates or converges into well-defined channels, whether man-made or formed naturally by erosion. The opposite of concentrated flow is sheet flow, where flowing water is distributed evenly over the ground surface. Over distance on natural surfaces, sheet flow tends to become concentrated flow due to erosion. To convert concentrated flow into sheet flow, use of an engineered structure, such as a flow spreader, is generally required.

**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 *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.

**DETENTION** – Temporary storage of stormwater runoff.

**DEVELOPER** – A person undertaking land development activity, or for whose benefit land development activities are carried out.

**DEVELOPMENT** – To make a site or area available for use by physical alteration. Development includes

but is not limited to providing access to a site, clearing of vegetation, grading, earth moving, excavating, providing utilities and other services such as parking facilities, stormwater management and erosion control systems, altering landforms, or constructing a structure on the land.

**DRAINAGE** – The removal of excess surface water from land by a system of swales, ditches and culverts, catch basins and piping to convey runoff to retention areas and stabilized discharge points.

**DRAINAGE AREA** – A geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

**EASEMENT** - The right to use the land of another, obtained through the purchase of use rights from a landowner, for a special purpose consistent with the property's current use.

**EPA** – U.S. Environmental Protection Agency

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

**EROSION** – The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

**EROSION CONTROL** - Use of re-seeding, re-vegetation, placement of mulch or artificial matting or rip rap or other methods to prevent soil erosion.

**EXCAVATION** – Any activity which removes or significantly disturbs rock, gravel, sand, soil or other natural deposits.

**FILLING** – Any activity which deposits natural or artificial material in a manner that modifies the surface or subsurface of land or watercourses.

**FINAL STABILIZATION** – When all soil-disturbing activities at the site have been completed and a uniform, perennial vegetative cover with a density of eighty (80) percent has been established or equivalent stabilization measures (such as the use of mulches or geotextiles) have been employed on all unpaved areas and areas not covered by permanent structures.

**FLOODPLAIN** – The area of land that is inundated when flow exceeds the capacity of the normal channel.

**FLOOD** – A flow event where the capacity of the channel is exceeded.

**GRADING** – Any excavation, alteration of land contours, grubbing, filling or stockpiling of earth materials.

**IMPERVIOUS SURFACE** – Those surfaces, improvements and structures that prevent precipitation from effectively infiltrating into the ground such as, but not limited to, paved streets, driveways, parking areas, sidewalks and building rooftops.

**IMPERVIOUS AREA, DISCONNECTED** – Impervious area that is not directly connected to a stream or drainage system, but which directs runoff towards pervious areas where it can infiltrate, be filtered, and slowed down. See the 2010 "NYS Stormwater Management Design Manual, Chapter 5", for more detailed guidelines.

**IMPERVIOUS SURFACE, CONNECTED** – The total area of impervious surface in a project (such as paved areas and rooftops) that will drain directly, via impervious conveyance (such as gutters, pipes, or paved or compacted channels or ditches), to the municipal separate storm sewer system (whether a road ditch or storm sewer) or to a surface water. Also see definition of “Disconnected impervious area”.

**IMPERVIOUS SURFACE COVERAGE** - The percentage of the lot covered by buildings, patios, parking areas, walkways or other surfaces covered with a paved surface or a surface that is impervious to water. A deck with boards spaced at least 1/8 inch apart, a swimming pool surface, and a patio with a permeable paving system shall not be considered impervious surface.

**INDUSTRIAL STORMWATER PERMIT** – A State Pollution 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.

**INFILTRATION** – The process of stormwater percolating into the subsoil.

**LAND DEVELOPMENT ACTIVITY** – All activities including clearing, grubbing, grading, excavating, stockpiling, placement of fill, paving, installation of utilities, and construction of buildings or structures that result in soil disturbance.

**LAND DISTURBANCE, AREA OF** – The total land area subject to Land Development Activity, as defined herein. If activities are part of a larger common plan of development or sale, total Area of Disturbance is calculated for the entire project, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**LANDOWNER (Owner, or Property Owner)** – The legal or equitable owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**LICENSED PROFESSIONAL** - A licensed professional engineer or licensed landscape architect who is knowledgeable in the principles and practices of erosion and sediment control and stormwater management.

**LOT COVERAGE** - The percentage of the lot area covered by the combined area of all building, structures, parking areas, or other impervious surfaces on the lot.

**OPERATOR** – The person having operational control over the construction plans and specifications for a project and/or responsibility for day-to-day supervision and control of the activities occurring at a construction site, and/or responsibility for long term maintenance of a stormwater management facility.

**PERSON** – Shall include an individual, corporation, Limited Liability Company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description, and acting as either the owner or the owner’s agent.

**PHASING** – Land Development Activity completed in distinctly separate 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 a 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

**PROJECT SITE** – The portion of a parcel (or parcels) on which land development activity will occur.

**QUALIFIED PROFESSIONAL** – A person knowledgeable in the principles and practices of erosion and sediment control and stormwater management and treatment, such as a licensed professional engineer, licensed landscape architect, or other New York State DEC endorsed individuals. All components of Basic or Full SWPPPs that involve the practice of engineering, as defined by the NYS Education Law (see Article 145), shall be prepared by, or under the direct supervision of, a professional engineer licensed to practice in the State of New York.

**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 constructed areas with impervious surface.

**RETENTION** – A practice designed to collect and store stormwater runoff without release except by means of evaporation, infiltration, or attenuated release when runoff volume exceeds the permanent storage capacity of the permanent pool or tank.

**SEDIMENT** - Soils or other surficial materials transported by surface water as a product of erosion.

**SEDIMENT CONTROL** – Measures that prevent eroded sediment from leaving the site.

**SENSITIVE AREAS** – Cold water fisheries, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species, wetlands, and unique natural areas.

**SEPTIC SYSTEM** - A subsurface sewage disposal system, which consists of a septic tank and septic field, in which waste material is distributed through a network of tile fields following a process in the septic tank where solids are settled out of the waste.

**SILVICULTURAL ACTIVITY** – The on-going practice involving the dedicated and cyclic use of land expressly for the periodic production of timber. For example, clear-cutting is not considered an exempt silvicultural activity.

**SLOPE(S)** – In this law, generally described as percent slope, which is calculated as rise over run (vertical change in elevation between two representative points on the site divided by horizontal distance between the same two points) and multiplied by 100. For example, a 5% slope is a rise of 5 feet over a horizontal distance of 100 feet. Percent slope may be calculated by observing contour lines on a map, or

by use of survey equipment. Slope can also be expressed in degrees, as in angle degrees, ranging from 0 to 90 degrees (which would be a vertical cliff). To convert from degrees slope to percent slope, take the tangent of the slope in degrees, and multiply by 100.

**SOURCE MATERIAL** – Any material(s) or machinery, which is directly or indirectly related to process, manufacturing, or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery; and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

**SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-0-10-001** – 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 GP-0-10-002** – 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 to specify stormwater control standards.

**STABILIZATION** – The use of practices that prevent exposed soil from eroding.

**STOP WORK ORDER** – An order issued which requires that some or all construction activity on a site be stopped.

**STORMWATER** – Rainwater, surface runoff, snowmelt and drainage that does not infiltrate the ground or evaporate but instead flows onto adjacent land or watercourses.

**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. See the Stormwater Design Manual for details and a list of land uses designated as hotspots for the State of New York.

**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 POLLUTION PREVENTION PLAN (SWPPP)** – A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**SWPPP, BASIC** – A Stormwater Pollution Prevention Plan (SWPPP) that includes all requirements for erosion and sediment control, but does not require post construction water quality and quantity controls.

**SWPPP, FULL** – A Stormwater Pollution Prevention Plan that includes all requirements for erosion and

sediment control, and also post construction water quality and quantity controls.

**SWPPP, SIMPLE** – A Stormwater Pollution Prevention Plan that includes an erosion and sediment control plan appropriate for small areas of disturbance.

**STORMWATER RUNOFF** – Flow through or on the ground surface resulting from precipitation.

**STREAM CORRIDOR** – The landscape features on both sides of a stream, including soils, slopes, and vegetation, whose alteration can directly impact the stream's physical characteristics and biological properties.

**WATERCOURSE** – The banks of such watercourse shall be identifiable, i.e., defined bed, banks, gullies, ravines, etc. Road ditches and shallow land depressions generally referred to as grassed waterways, swales, etc., that carry water only immediately (a few to several hours) after a runoff-producing event are not considered watercourses. Where there is a question of whether a watercourse exists and where the top of the bank is located, the reviewing board shall conduct a site evaluation to determine whether or not a particular channel is a watercourse and where the top of the bank is located. Its determination shall be final. For purposes of determining setbacks and required buffers, the boundary of the watercourse shall be measured from the lake line or the top of the bank closest to construction.

**WATERBODY** - Any natural or man-made body of water, such as a pond, lake, wetland or wet area which does not necessarily flow in a definite direction or course.

**WATERSHED** – Total drainage area contributing runoff to a given point along a watercourse.

**WETLAND** – Any area which meets one or more of the following criteria:

1. Lands and waters that meet the definition provided in New York State Environmental Conservation Law, Article 24, "Freshwater Wetlands Act." The approximate boundaries of such lands and waters are indicated on the official wetlands map promulgated by the Commissioner of the New York State Department of Environmental Conservation, or as amended and updated.
2. Areas which meet the definition used by the US Army Corps of Engineers and US Environmental Protection Agency: "Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas."

**WETLAND DELINEATION** – The process of determining the boundaries of a wetland in the field, as described in the US Army Corps of Engineers Wetland Delineation Manual, Technical Report Y-87-1.

#### **Section 4. SAVINGS CLAUSE.**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section 5. EFFECTIVE DATE.**

This local law shall take effect immediately upon filing with the Secretary of State.