

Local Law 1 of 2007

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NEW YORK STATE DEPARTMENT OF STATE
41 State Street, Albany NY 12231

Village of Muttontown

Local Law 1 of 2007

A local law adding Chapter 57 (“Stormwater Management and Erosion and Sediment Control”), sections 57-1 to 57-17; and amending Chapter 158 (“Subdivision of Land”), and amending sections 158-11 and 158-12 of the Code of Muttontown to establish minimum storm water management requirements and controls.

Be it enacted by the Board of Trustees of the Village of Muttontown as follows:

Chapter 57: STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

[HISTORY: Adopted by the Board of Trustees of the Village of Muttontown April 10, 2007 by L.L. No. 1-2007.]

ARTICLE I

GENERAL PROVISIONS

§ 57-1. Intent.

It is the intent of this legislation to adopt a Stormwater Management and erosion and sediment control Chapter that will satisfy the relevant part of the Phase II Stormwater regulations adopted by DEC.

§ 57-2. Purpose.

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

- A. Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;
- B. Require Land Development Activities to conform to the substantive requirements of SPDES General Permit for Construction Activities GP-02-01 or as amended or revised;
- C. Minimize increases in Stormwater Runoff from Land Development Activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- D. Minimize increases in pollution caused by Stormwater Runoff from Land Development Activities which would otherwise degrade local water quality;
- E. Minimize the total annual volume of Stormwater Runoff which flows from any

specific site during and following development to the maximum extent practicable; and

F. Reduce Stormwater Runoff rates and volumes, soil erosion and Nonpoint Source Pollution, wherever possible, through Stormwater Management Practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

§ 57-3. Findings of fact.

It is hereby determined that:

A. Land Development Activities and associated increases in site Impervious Cover often alter the hydrologic response of local watersheds and increase Stormwater Runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;

B. This Stormwater Runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;

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

D. Improper design and construction of Stormwater Management Practices can increase the velocity of Stormwater Runoff thereby increasing stream bank erosion and sedimentation;

E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater Recharge and stream baseflow;

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

G. Stormwater runoff, soil erosion and Nonpoint Source Pollution can be controlled and minimized through the regulation of Stormwater Runoff from Land Development Activities;

H. The regulation of Stormwater Runoff discharges from Land Development Activities in order to control and minimize increases in Stormwater Runoff rates and volumes, soil erosion, stream channel erosion, and Nonpoint Source Pollution associated with Stormwater Runoff is in the public interest and will minimize threats to public health and safety.

I. Regulation of Land Development Activities by means of performance standards governing Stormwater Management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

§ 57-4. Definitions.

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

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

AGRICULTURAL ACTIVITY – The activity of an active farm, including grazing and watering of livestock, irrigating crops, harvesting crops, using land for growing agricultural

products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new Structures associated with agricultural activities.

APPLICANT - A property owner or agent of a property owner who has filed an application for a Land Development Activity.

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

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

CLEARING - Any activity that removes the vegetative surface cover.

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

DEC - The State Department of Environmental Conservation

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

DEVELOPER - A person who undertakes Land Development Activities.

EPA - The United States Environmental Protection Agency.

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

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

IMPERVIOUS COVER - Those surfaces, improvements, and Structures that cannot effectively infiltrate rainfall, snow melt, and water (e.g., Building rooftops, pavement, sidewalks, driveways, etc).

INDUSTRIAL STORMWATER PERMIT - A SPDES permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial Stormwater discharges or specifies on-site pollution control strategies.

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

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

MAINTENANCE AGREEMENT - A document duly recorded in the Office of the Nassau

County Clerk that acts as a property deed restriction, and that provides for long-term maintenance of Stormwater Management Practices.

MS4s - Municipal Separate Stormwater Sewer Systems.

NONPOINT SOURCE POLLUTION - Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal, and urban runoff sources.

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

POLLUTANT OF CONCERN - Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity, or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the Land Development Activity.

PROJECT - Land development activity

RECHARGE - The replenishment of underground water reserves.

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

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

SMO - The Stormwater Management Officer.

SMPs - Stormwater Management Practices

SPDES - State Pollutant Discharge Elimination System.

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

SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02 - A DEC SPDES permit issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify Stormwater control standards.

STATE - The State of New York.

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

STOP WORK ORDER - An order issued which requires that all, or a specified portion thereof, construction activity on a site be stopped.

STORMWATER - Rainwater, surface runoff, snowmelt, and drainage.

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

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

STORMWATER MANAGEMENT FACILITY - One or a series of Stormwater Management

Practices installed, stabilized, and operating for the purpose of controlling Stormwater Runoff.

STORMWATER MANAGEMENT OFFICER - A designated officer of the Village authorized to accept and review Stormwater Pollution Prevention Plans, forward the plans to the applicable Village board or committee and inspect Stormwater Management Practices, to be appointed at the Village's annual organizational meeting.

STORMWATER MANAGEMENT PRACTICES - Measures, either structural, nonstructural, or a combination of the two, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or Nonpoint Source Pollution inputs to Stormwater Runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN - 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.

STRUCTURE - As defined in the Zoning Chapter of the Village Code.

SURFACE WATERS OF THE STATE Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the State and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the State or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not Surface Waters of the State. The said exclusion applies only to manmade bodies of water which neither were originally created in waters of the State (such as a disposal area in wetlands), nor resulted from impoundment of waters of the State.

SWPPP - Stormwater Pollution Prevention Plan.

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

WATER WAY - A Channel that directs surface runoff to a Watercourse or to the public storm drain.

§ 57-5. Statutory authority.

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Board of Trustees has the authority to enact and amend rules, regulations and/or local laws for the purpose of promoting the health, safety or general welfare of the Village and for the protection and enhancement of its physical environment. The Board of Trustees may include in any such rules, regulations and/or local laws provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer, and enforce such rules, regulations and/or local laws.

§ 57-6. Applicability.

A. This Chapter shall be applicable to all Land Development Activities, as defined in this Chapter.

B. The Village shall designate a SMO who shall accept all Stormwater Pollution Prevention Plans and notify the applicable Village board. The SMO may:

- (1) review the plans;
- (2) upon approval by the Board of Trustees engage the services of a registered professional engineer to review the plans, specifications, and related documents, at a cost borne by the Applicant; or
- (3) accept the certification of a licensed professional that the plans conform to the requirements of this law.

C. All Land Development Activities subject to review and approval by any board of the Village shall be reviewed by such board consistent with the standards contained in this Chapter.

D. All Developers wishing to engage in Land Development Activities not subject to review as stated in subsection C above shall be required to submit a SWPPP to the SMO who shall approve the SWPPP if it complies with the requirements of this Chapter.

§ 57-7. Exemptions.

The following are exempt from the provisions of this Chapter.

- A. Agricultural Activity as defined in this Chapter
- B. Silvicultural activities (commercial tree harvesting) except that landing areas, staging areas and haul roads are subject to this Chapter.
- C. 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.
- D. Repairs to any Stormwater Management Practice or facility deemed necessary by the SMO.
- E. Any part of a subdivision if a plat for the subdivision has been approved by the Village Planning Board on or before the effective date of this Chapter, except where the Planning Board has reserved site plan review or other continuing jurisdiction.
- F. Land Development Activities for which a building permit has been approved on or before the effective date of this Chapter.
- G. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- H. Emergency activity immediately necessary to protect life, property or natural resources.
- I. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- J. Landscaping and horticultural activities in connection with an existing Structure.
- K. Cemetery graves.

ARTICLE II
STORMWATER POLLUTION PREVENTION PLANS

§ 57-8. SWPPP.

A. SWPPP requirement.

No application for approval of a Land Development Activity shall be reviewed until the appropriate board has received a SWPPP prepared in accordance with the specifications in this Chapter.

B. Contents of SWPPP.

(1) All SWPPPs shall provide the following background information and erosion and Sediment Controls:

(a) Background information about the scope of the Project, including location, type and size of Project.

(b) Site map/construction drawing(s) for the Project, including a general location map. At a minimum, the site map shall show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off site material, waste, borrow, or equipment storage areas; and location(s) of the Stormwater discharges(s). The site map shall be at a scale no smaller than 1 inch=100 feet.

(c) Description of the soil(s) present at the site;

(d) Construction Phasing plan describing the intended sequence of construction activities, including Clearing and grubbing, excavation and Grading, utility and infrastructure installation, and any other activity at the site that results in soil disturbance. Consistent with the Erosion Control Manual, not more than five acres shall be disturbed at anyone time unless pursuant to an approved SWPPP.

(e) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in Stormwater Runoff;

(f) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to Stormwater, and spill prevention and response;

(g) Temporary and permanent structural and vegetative measures to be used for soil Stabilization, runoff control and Sediment Control for each stage of the Project from initial land Clearing and grubbing to Project close-out;

(h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and Sediment Control practice;

(i) Dimensions, material specifications and installation details for all erosion and Sediment Control practices, including the siting and sizing of any temporary sediment basins;

(j) Temporary practices that will be converted to permanent control measures;

(k) Implementation schedule for staging temporary erosion and Sediment Control practices, including the timing of initial placement and duration that each practice should remain in place;

(l) Maintenance schedule to ensure continuous and effective operation of the erosion and Sediment Control practice;

(m) Name(s) of the receiving water(s);

(n) Delineation of SWPPP implementation responsibilities for each part of the site;

(o) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and

(p) Any existing data that describes the Stormwater Runoff at the site.

(2) Land Development Activities meeting Condition "A", "B", or "C" below shall also include water quantity and water quality controls (post-construction Stormwater Runoff controls) as set forth below as applicable:

(a) Condition A -Stormwater Runoff from Land Development Activities discharging a Pollutant of Concern to either impaired water identified on the DEC's 303(d) list of impaired waters, or such superseding list as may be prepared by DEC, or a Total Maximum Daily Load designated watershed for which pollutants in Stormwater have been identified as a source of the impairment.

(b) Condition B -Stormwater Runoff from Land Development Activities disturbing five or more acres.

(c) Condition C -Stormwater Runoff from Land Development Activity disturbing at least one but less than five acres of land during the course of the Project, exclusive of the construction of single family residences and construction activities at agricultural properties.

(3) SWPPP requirements for Condition A, B and C:

(a) All information in subsection B of this section.

(b) Description of each post-construction Stormwater Management

(c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction Stormwater Management Practice.

(d) Hydrologic and hydraulic analysis for all structural components of the Stormwater Management system for the applicable design storms.

(e) Comparison of post-development Stormwater Runoff conditions with pre-development conditions.

(f) Dimensions, material specifications, and installation details for each post-construction Stormwater Management Practice.

(g) Maintenance schedule to ensure continuous and effective operation of each post-construction Stormwater Management Practice.

(h) Maintenance easements to ensure access to all Stormwater Management Practices at the site for the purpose of inspection and repair. Easements shall be duly recorded and shall remain in effect with transfer of title to the property.

(i) Inspection and Maintenance Agreement binding on all subsequent Landowners served by the on-site Stormwater Management measures in accordance with Article 2, Section 57-10-D of this Chapter.

(j) For Condition A, the SWPPP shall be prepared by a certified professional or professional engineer and must be signed by the professional who prepared the plan, who must certify that the design of all Stormwater Management Practices meet the requirements of this Chapter.

C. Plan certification.

The SWPPP shall be prepared by a landscape architect, certified professional, or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all Stormwater Management Practices meet the requirements in this Chapter.

D. Other environmental permits.

The Applicant shall assure that all other applicable environmental permits have been or will be acquired for the Land Development Activity prior to approval of the final storm water design plan.

E. Contractor certification.

(1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or Stormwater Management Practice installation shall sign and date a copy of the following certification statement before undertaking any Land Development Activity:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards. "

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

(3) The certification statement(s) shall become part of the SWPPP for the Land Development Activity.

F. A copy of the SWPPP shall be retained at the site of the Land Development Activity during construction from the date of initiation of construction activities to the date of final Stabilization.

§ 57-9. Performance and design criteria for Stormwater Management and erosion and Sediment Control.

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

A. Technical standards.

For the purpose of this Chapter, the following documents shall serve as the official guides and specifications for Stormwater Management. Stormwater Management Practices that are designed and constructed in accordance with those technical documents shall be presumed to meet the standards imposed by this law:

(1) The Design Manual.

(2) The Erosion Control Manual.

B. Equivalence to technical standards

Where Stormwater Management Practices are not in accordance with the technical standards, the Applicant or Developer must demonstrate equivalence to the technical standards above (Part A) and the SWPPP shall be prepared by a licensed professional.

C. Water quality standards.

Any Land Development Activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in Surface Waters of the State.

§ 57-10. Maintenance, inspection and repair of Stormwater Facilities.

A. Maintenance and inspection during construction.

(1) The Applicant or Developer of the Land Development Activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Applicant or Developer to achieve compliance with the conditions of this Chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty percent.

(2) For Land Development Activities that meet Conditions A, B or C of Section 8, the Applicant or Developer shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and Sediment Control practices every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site log book.

(3) At the discretion of the SMO, the Applicant, Developer or their representative shall be required to be on site at all times during construction or Grading activities take place for the purposes of inspection and documentation of the effectiveness of all erosion and Sediment Control practices.

B. Maintenance easement(s).

Prior to the issuance of any approval that has a Stormwater Management Facility as one of the requirements, the Applicant or Developer must execute a maintenance easement agreement that shall be binding on all subsequent Landowners served by the Stormwater Management Facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Village to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Chapter. The easement shall be recorded by the grantor in the office of the Clerk of the County of Nassau after approval by the Village Attorney.

C. Maintenance after construction.

The owner or operator of permanent Stormwater Management Practices installed in accordance with this Chapter shall be operated and maintained to achieve the goals of this Chapter. Proper operation and maintenance shall include, 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 Chapter.

(2) Written procedures for operation and maintenance and training new maintenance personnel.

(3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section 9C of this Chapter.

D. Maintenance Agreements.

The Village shall approve a formal Maintenance Agreement for storm water management facilities binding on all subsequent Landowners or benefited Landowners and recorded in the office of the Clerk of the County of Nassau as a deed restriction on the property prior to final plan approval. The Maintenance Agreement shall be consistent with the terms and conditions of this Chapter. The Village, in lieu of a Maintenance Agreement, at its sole discretion, may accept Dedication of any existing or future Stormwater Management Facility, provided such facility meets all the requirements of this Chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

ARTICLE III

ADMINISTRATION AND ENFORCEMENT

§ 57-11. Construction inspection.

A. Erosion and Sediment Control inspection.

The SMO may require such inspections as he or she deems necessary to determine compliance with this Chapter 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 Chapter and the SWPPP as approved. To obtain inspections, the Applicant shall notify the SMO at least 48 hours before any of the following, and/or as otherwise required by the SMO:

- (1) Start of construction.
- (2) Installation of sediment and erosion control measures.
- (3) Completion of site Clearing.
- (4) Completion of rough Grading.
- (5) Completion of final Grading.
- (6) Close of the construction season.
- (7) Completion of final landscaping.
- (8) Successful establishment of landscaping in public areas.

If any violations are found, the Applicant and Developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site Stabilization until all violations are corrected and all work previously completed has received approval by the SMO.

B. Stormwater Management Practice inspections.

The SMO is responsible for conducting inspections of SMPs. All Applicants are required to submit "as built" plans for any SMPs located on-site after final construction is completed. The plan must show the final design specifications for all Stormwater Management facilities and must be certified by a professional engineer.

C. Inspection of Stormwater Facilities after Project completion.

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

D. Submission of reports.

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

E. Right-of-entry for inspection.

To the maximum extent permitted by law, when any new Stormwater Management Facility is installed on private property or when any new connection is made between private property and the public storm water system, the Landowner shall grant to the Village the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in subsection B.

§ 57-12. Performance guarantee.

A. Construction Completion Guarantee.

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

B. Maintenance. guarantee.

Where Stormwater Management and erosion and Sediment Control facilities are to be operated and maintained by the Developer or by a corporation that owns or manages a commercial or industrial facility, the Developer, prior to construction, may be required to provide the Village with a cash escrow, a maintenance bond, or an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all Stormwater Management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the Developer or Landowner fails to properly operate and maintain Stormwater Management and erosion and Sediment Control facilities, the Village may draw upon the escrow, bond, or account, from time to time, to cover the costs of proper operation and maintenance, including engineering and inspection costs. To the extent that such escrow, bond, or letter of credit, because of such draw, is no longer sufficient to ensure the proper operation and maintenance of the facilities, the Village may require an additional escrow, bond, or letter of credit.

C. Record keeping.

The Village may require entities subject to this Chapter to maintain records demonstrating compliance with this Chapter.

§ 57-13. Fees for services.

All persons undertaking Land Development Activities regulated by this Chapter shall reimburse the Village for costs of review of SWPPPs, inspections, or SMP maintenance performed by the Village or performed by a third party for the Village in accordance with such resolutions as may be adopted from time to time by the Board of Trustees.

§ 57-14. Enforcement and penalties.

A. Notice of violation.

When the SMO or other designee of the Board of Trustees determines that a Land Development Activity is not being carried out in accordance with the requirements of this Chapter, he or she shall issue a written notice of violation to the Landowner. The notice of violation shall contain:

- (1) The name and address of the Landowner, Developer 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 Land Development Activity into compliance with this Chapter 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 days of service of notice of violation.

B. Stop Work Orders.

The SMO or other designee of the Board of Trustees, shall issue a Stop Work Order for violations of this Chapter. Persons receiving a Stop Work Order shall be required to halt all Land Development Activities, except those activities that address the violations leading to the Stop Work Order. The Stop Work Order shall be in effect until the Village 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 Chapter.

C. Violations.

Any Land Development Activity that is commenced or is conducted contrary to this Chapter, may be restrained by injunction or otherwise abated in a manner provided by law.

D. Penalties.

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Chapter shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed 15 days, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed 15 days, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed 15 days, or both. Violations of this Chapter shall be not be deemed misdemeanors. Each week's continued violation shall constitute a separate additional violation.

E. Withholding of certificate of occupancy.

If any Building or Land Development Activity is installed or conducted in violation of this Chapter the SMO may prohibit the issuance of, suspend or revoke a certificate of occupancy of said Building or land, subject to appeal by the aggrieved party to the Board of Trustees.

F. Restoration of lands.

Any violator may be required to restore land to its undisturbed condition or to such other condition as shall best protect the property and the adjacent properties from the problems of erosion and sediment deposits off the land that may be required by virtue of the actions of the violator, all in the discretion of the Board of Trustees. In the event that restoration is not undertaken within a reasonable time after notice, the Board of Trustees may either:

- (1) direct that the remediation and/or restoration work be performed with Village personnel and/or third party contractors and the cost thereof shall constitute a lien, charge, and levy upon the real property where upon the violation exists until it is paid or otherwise satisfied or discharged and shall be collected by the Village Treasurer. Such charge shall include, among other things, administrative, legal, and actual expenses incurred by the Village, and shall be collected in the same manner provided by law for the collection of delinquent taxes; or
- (2) seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property, at the cost and expense, including those of the litigation and the fees of witnesses and attorneys, of the violator.

§ 57-15. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§ 57-16. Remedies not exclusive.

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state, or Chapter and it is within the discretion of the authorized enforcement agency to seek cumulative remedies."

§ 57-17. Severability.

If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this Chapter 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 Chapter.

Chapter 158: SUBDIVISION OF LAND

[HISTORY: Adopted by the Board of Trustees of the Village of Muttontown as indicated in Part histories. Amendments noted where applicable.]

ARTICLE III Review and Approval of Plats

§ 158-11. Preliminary layout procedure.

- A. Application and fee. If the subdivider shall request the consideration of the Board of a preliminary layout, 10 copies of the preliminary layout, which shall in all respects comply with these regulations, shall be presented to the Village Clerk at least 10 days prior to the meeting of the Board at which it is requested to be considered. The preliminary layout shall be accompanied by a fee, payable to the Village of Muttontown, in the amount appearing in the fee schedule established by the Village Board. Upon receipt of the preliminary layout and payment of the fee, the Village Clerk shall forthwith deliver the preliminary layout to the Board.
- B. Stormwater Pollution Prevention Plan (SWPPP). A SWPPP consistent with the requirements of Chapter 57 (Stormwater Management and Erosion and Sediment Control) shall be required for preliminary subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards of Chapter 57. The approved preliminary subdivision plat shall be consistent with the provisions of Chapter 57. *Editor's Note: Added April 10, 2007 by L.L. no. 1-2007.*
- C. Study of preliminary layout. It is recommended that the subdivider or his representative attend the Board meeting when the preliminary layout is considered. The Board will study the practicability of the preliminary layout, taking into consideration the requirements of Article III. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- D. Staking of proposed streets and field trip. To facilitate study of the preliminary layout in the field, the Board may require the subdivider to stake certain roads at intervals of 50 feet along their center lines. Each stake shall be marked for ready identification on the preliminary layout and shall show approximate height of proposed cut and fill at that point. The Board will schedule a field trip to the site of the proposed subdivision, which the subdivider should attend.
- E. Action on preliminary layout. The Planning Board shall follow the procedures of Village Law § 7-728, Subdivision 5, to approve, approve with conditions or disapprove the preliminary layout. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

- F. Notation of action. The action of the Board shall be noted on two copies of the preliminary layout, referenced and attached to any changes or conditions required. One copy shall be returned to the subdivider and the other copy retained by the Board.
- G. Effect of authorization. Authorization shall be deemed a tentative approval of the design submitted on the preliminary layout as a guide to the subdivider in the preparation of the subdivision plat.

§ 158-12. Subdivision plat procedure.

- A. Subdivision plat requirements. The subdivision plat shall conform substantially to the preliminary layout as tentatively approved by the Board and to the requirements of § 158-37. If desired by the subdivider, the subdivision plat may constitute only that portion of the approved preliminary layout which he proposes to record and develop at the time; provided, however, that such portion conforms to all requirements of these regulations and provided, further, that such portion abuts at least one street duly placed upon the Official Map, which street shall be improved to the satisfaction of the Board.
- B. Stormwater Pollution Prevention Plan (SWPPP). A SWPPP consistent with the requirements of Chapter 57 (Stormwater Management and Erosion and Sediment Control) and with the terms of preliminary plan approval shall be required for final subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards of Chapter 57. The approved final subdivision plat shall be consistent with the provisions of Chapter 57. *Editor's Note: Added April 10, 2007 by L.L. no. 1-2007.*
- C. Number of copies and time for submitting application. Ten copies of the subdivision plat, together with 10 copies of the construction plans and all other items required by these regulations, shall be prepared as specified in § 158-37 and shall be submitted to the Board within six months after the date of authorization of preparation of the subdivision plat. Otherwise such authorization shall expire, unless an extension of time is applied for and granted, in writing, by the Board.
- D. Application and submission date. Application for approval of the subdivision plat shall be submitted by the owner or by his duly authorized agent, in writing, to the Board at least 10 days prior to the meeting at which it is to be considered. The subdivision plat shall be deemed to be officially submitted on the date of the meeting of the Board at which the subdivider shall have submitted the required application, together with the subdivision plat, construction plans and all other items required by these regulations, including formal offers of cession in form as required by § 158-31B.
- E. Endorsement of State Department of Health and public districts. Proposed water supply and sewerage service facilities in the subdivision shall be approved by the New York State Department of Health, pursuant to § 1116 of the Public Health Law, and by any water, water supply, drainage, improvement or sewer district having jurisdiction. Application for approval of plans for water supply and sewerage facilities may be filed with the Nassau County Department of Health. Endorsement of approval shall be obtained by the subdivider and submitted to the Board with the application for approval of the subdivision plat.
- F. Endorsement of Commissioner of Public Works. Pursuant to § 334-a of the Real Property Law, the Board will not consider approval of a subdivision plat unless the Commissioner of Public Works of Nassau County has endorsed on the plat a statement that he has approved the plans for grades of the streets shown on such map and the drainage thereof. In the event that separate and distinct plans for grading and drainage are required by said Commissioner, a copy of such plans shall be submitted to the Board with the application for approval of the subdivision plat.
- G. Approval by other planning authorities. Pursuant to Section 1610 of the County Government Law of Nassau County, the planning authority of each incorporated village adjacent to the Village of Muttontown and the Nassau County Planning Commission, where adjacent territory is unincorporated, have the power and authority to approve plats within the village and within 300 feet of the boundary thereof. When a proposed subdivision lies wholly or partially within 300 feet of the village boundaries, the subdivider shall obtain the approval of the planning authority of the adjacent incorporated village and/or of the unincorporated territory, as the case may be, before the Board approves the subdivision plat. *Editor's Note: Original Sec. 320.7, Public hearing, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- H. Action on subdivision plat. The Planning Board shall follow the procedures of Village Law § 7-728, Subdivision 6, to approve, approve with conditions or disapprove the subdivision plat. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- I. Revision of subdivision plat. The subdivider will be given a copy of the Board's resolution, and, in the

event that modifications are required, he shall revise the subdivision plat and construction plans to conform thereto.

This local law is effective upon filing with the Secretary of State.

Final adoption by the Board of Trustees of the Incorporated Village of Muttontown.

I hereby certify that the local law annexed hereto, designated as Local Law 1 of 2007 of the Village of Muttontown was duly passed by the Board of Trustees on April 10, 2007, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript thereof and of the whole of such original local law, and was finally adopted by the Board of Trustees of the Incorporated Village of Muttontown.

Vivien Van Wagner
Village Clerk/Treasurer

Village of Muttontown
Date: April 10, 2007

Seal

Certification by the Village Attorney

STATE OF NEW YORK
COUNTY OF NASSAU

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Steven G. Leventhal
Village Attorney
Village of Muttontown

Date: April 10, 2007