

Resolution No. 2007-208

EXTRACTION OF MINUTES OF MEETING OF TOWN BOARD ADOPTING A RESOLUTION ADOPTING LOCAL LAW NO. 8 OF 2007 AMENDING CHAPTER 196 OF THE IRONDEQUOIT TOWN CODE WITH RESPECT TO STORMWATER MANAGEMENT FOR DESIGN AND MANAGEMENT OF POST-CONSTRUCTION STORMWATER POLLUTION PREVENTION MEASURES

At a regular meeting of the Town Board of the Town of Irondequoit, Monroe County, New York held at the Town Hall, 1280 Titus Avenue in said Town of Irondequoit on the 18th day of December, 2007 at 7:00 p.m. local time; there were

PRESENT:

Mary Ellen Heyman	Town Supervisor
Gail Bello	Town Board Member
Lydia V. Dzus	Town Board Member
Debbie Evans	Town Board Member
James C. Turner	Town Board Member
Woods Oviatt Gilman LLP	Attorneys to the Town

Town Board member **Bello** offered the following resolution and moved its adoption:

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

WHEREAS, the Town Board wishes to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in the watersheds within the Town of Irondequoit by establishing water quality and quantity policies to provide reasonable guidance for the regulation of stormwater runoff and to, in addition to the above, safeguard persons, protect property, prevent damage to the environment in Town of Irondequoit, and comply with the NYSDEC State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Municipal Separate Storm Sewer systems (MS4s), for the purpose of protecting local water resources from degradation; and

WHEREAS, it is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source

pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety; and

WHEREAS, the Town has complied with the requirements of the New York State Environmental Quality Review Act, and the applicable regulations promulgated thereunder (“SEQRA”).

NOW, THEREFORE, BE IT RESOLVED that Chapter 196 of the Code be amended pursuant to the provisions of the following Local Law:

LOCAL LAW No. 8 of 2007

**TOWN OF IRONDEQUOIT, NEW YORK
FOR**

**AMENDMENT TO CHAPTER 196 OF THE IRONDEQUOIT TOWN CODE WITH
RESPECT TO STORMWATER MANAGEMENT FOR DESIGN AND MANAGEMENT OF
POST-CONSTRUCTION STORMWATER POLLUTION PREVENTION MEASURES**

**BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF IRONDEQUOIT,
COUNTY OF MONROE, STATE OF NEW YORK AS FOLLOWS:**

1. **SEQRA.** The Town hereby determines that the proposed amendments to Chapter 196 of the Irondequoit Town Code, as hereinafter set forth, constitute an Unlisted Action under SEQRA. Based on its review of the Environmental Assessment Form, the Town determines that such proposed amendments do not present potential significant adverse environmental impacts. In light of these findings, the Town hereby issues a Negative Declaration under SEQRA for the proposed action.

2. **AMENDMENT TO CHAPTER 196.** Chapter 196 of the Code is hereby amended by adding thereto Article II to read as follows:

Chapter 196

STORMWATER MANAGEMENT

Article II.

Design and Management of Post-Construction Stormwater Pollution Prevention Measures

Section 196-16. Title.

This Article II of this Chapter 196 shall be known as and may be cited as the “Design and Management of Post-Construction Stormwater Pollution Prevention Measures Law of the Town of Irondequoit of 2007”.

Section 196-17. Introduction and Purpose.

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

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

Section 196-18. Definitions

Agricultural Activity - The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

Applicant - A property owner or agent of a property owner who has filed an application for a stormwater management permit.

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

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

Designated Agent - Individual(s) directed by the Town of Irondequoit to conduct site inspections and/or perform other municipal duties.

Erosion Control - Measures that minimize erosion.

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

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

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

Infiltration - The process of percolating stormwater into the subsoil.

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

Land Disturbance Activity - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one (1) acre, or activities disturbing less than one (1) acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules.

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

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

Licensed/Certified Professional - A person currently licensed to practice engineering in New York State, a registered landscape architect or a Certified Professional in Erosion and Sediment Control (CPESC).

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

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

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

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

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

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

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

Recharge - The replenishment of underground water reserves.

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

Silvicultural Activity - Activities that control the establishment, growth, composition, health and quality of forests and woodlands.

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

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

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

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

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

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

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

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

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

Section 196-19. Applicability

A. This article shall be applicable to land disturbance activities as defined in Section 196-18 and those activities meeting Condition “A”, “B”, “C” or “D” below shall include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Section 196-27 as applicable unless eligible for an exemption or granted a waiver by the Town of Irondequoit in accordance with Section 196-23:

Condition A - Stormwater runoff from land disturbance activities discharging a pollutant of concern to either an impaired water identified on the Department’s 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

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

Condition C - Stormwater runoff from land disturbance activity disturbing between one (1) acre and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

Condition D – Stormwater runoff from land disturbance activity that are smaller than one (1) acre if such activities are part of a larger common plan of development, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules.

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

C. When a site development plan is submitted that qualifies as a redevelopment project as defined in Section 196-18, decisions on permitting and on-site stormwater requirements shall be governed by special stormwater sizing criteria found in the current *New York State Stormwater*

Management Design Manual. Final authorization of all redevelopment projects will be determined after a review by the Town of Irondequoit. This applies to all redevelopment projects that are greater than or equal to one (1) acre.

D. The following activities may be exempt from the requirements of this article:

1. Any emergency activity which is immediately necessary for the protection of life, property or natural resources.
2. Agricultural activity as defined in this article.
3. Silvicultural activity except that landing areas and log haul roads are subject to this article.
4. 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.
5. Repairs to any stormwater treatment practice deemed necessary by the Town of Irondequoit.

Section 196-20. Compatibility with Other Permits and Code Requirements

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

Construction activities that involve land disturbance may also require additional compliance measures detailed in other articles of this chapter, other chapters of the Code and/or regulations.

Section 196-21. Legislative Authority

In accordance with Article 196 of the Town Law of the State of New York, the Irondequoit Town Board has the authority to enact laws for the purpose of promoting the health, safety, or general welfare of the Town of Irondequoit, including the protection and preservation of the property of its inhabitants. By the same authority, the Irondequoit Town Board may include in any such law provisions for the appointment of any municipal employees to effectuate and administer such law.

Section 196-22. Compliance

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

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

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

1. Stormwater Pollution Prevention Plan (SWPPP) (See Section 196-26)
2. Maintenance Easement(s) (See Section 196-27)
3. Maintenance Agreement(s) (See Section 196-27)
4. Any Applicable Fees (See Section 196-32)

D. The SWPPP shall be prepared to meet the requirements of Sections 196-25 through 196-27. The Maintenance Agreement shall be prepared to meet the requirements of Section 196-27 and applicable fees shall be those as set fourth in Section 196-32.

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

Section 196-23. Waivers and Mitigation Requirements

A. All person(s) shall comply with the requirements of this article, unless a written request is filed to waive the requirements in part or whole for land disturbance activities that disturb less than one (1) acre of land. Requests to waive any requirements of this article shall be submitted to the Town of Irondequoit for approval.

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

1. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter.
2. Alternative minimum requirements for on-site management of stormwater discharges have been established in a Stormwater Pollution Prevention Plan that has been approved by the Town of Irondequoit and the implementation of the plan is required by local law. These practices are encouraged in order to minimize the reliance on

structural practices. Credit in the form of reductions in the amount of stormwater that must be managed can be earned through the use of non-structural practices that reduce the generation of stormwater from the site. These non-structural practices are explained in detail in the manual, *Better Site Design: A Handbook for Changing Development Rules in Your Community*. Applicants wishing to obtain credit for use of non-structural practices must ensure that these practices are documented and remain unaltered by subsequent property owners.

3. Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.
4. The Town of Irondequoit finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.
5. Non-structural practices will be used on the site that reduce: a) the generation of stormwater from the site, b) the size and cost of stormwater storage and c) the pollutants generated at the site.

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

1. Deterioration of existing culverts, bridges, dams, and other structures;
2. Degradation of biological functions or habitat;
3. Accelerated streambank or streambed erosion or siltation;
4. Increased threat of flood damage to public health, life, property.

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

1. The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation (Dedication or Easement of Land, see Section 196-24.B below). These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat;

2. The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this chapter; and
3. Monetary contributions (Fee in Lieu-Of, see Section 196-24.A below) to a dedicated fund for stormwater management activities.

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

Section 196-24. Fee in Lieu-Of and Dedication or Easement of Land

A. Fee in Lieu-Of

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

B. Dedication or Easement of Land

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

Section 196-25. General Design and Performance Criteria for Stormwater Management

The applicant shall consult the Town of Irondequoit's Design Criteria, the *New York State Stormwater Management Design Manual* and the *New York Standards and Specifications for Erosion and Sediment Control* for standards and specifications related to stormwater management design criteria. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law. If there is a conflict between any of the standards, the more stringent standard shall apply. Where stormwater management practices are not in accordance with technical standards, the applicant or

developer must demonstrate equivalence to the technical standards set forth in this section (Section 196-25) and Section 196-26 and the SWPPP shall be prepared by a licensed/certified professional.

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

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

Section 196-26: Stormwater Pollution Prevention Plan Requirements

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

The applicant shall employ a “Responsible Individual” as defined in Section 196-18 who will oversee the implementation of the SWPPP on a daily basis. The applicant shall also employ the services of a qualified professional in erosion and sediment control who will inspect and document the effectiveness of all erosion and sediment control practices. The documentation will be kept in a site logbook. Inspection reports will be completed every seven (7) days and within twenty-four (24) hours of any storm event producing 0.5 inches of precipitation or more. A monthly summary of reports will be copied to the site logbook and delivered to Town of Irondequoit within five (5) days after the month's end.

B. All SWPPPs shall provide the following information:

1. All information listed in Section 196-10 of this chapter
2. Description of each post-construction stormwater management practice;
3. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses. A written description of the site plan and justification of proposed changes in natural conditions may also be required;
4. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms including calculations such as a description of the design storm frequency, intensity and duration; time of concentration; Soil Curve Numbers or runoff coefficients; peak runoff rates and total runoff volumes for each watershed area; infiltration rates, where applicable; culvert capacities; flow velocities; data on the increase in rate and volume of runoff for the design storms referenced in the *New York State Stormwater Management Design*

Manual, and documentation of sources for all computation methods and field test results;

5. Comparison of post-development stormwater runoff conditions with pre-development conditions;
6. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
7. The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures including a schedule to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
8. The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property. See Section 196-27 for additional information.
9. The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by the on-site stormwater management measure(s) in accordance with the specifications of this chapter. See Section 196-27 for additional information
10. The SWPPP shall be prepared by a qualified professional and the final plan must be signed by a New York State licensed professional engineer, who shall certify that the design of all stormwater management practices meet the requirements in this chapter.
11. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
12. The Town of Irondequoit may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.

13. The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect or by the soil and water conservation district and in compliance with landscaping specifications outlined in the *New York State Stormwater Management Design Manual*.
14. The applicant shall assure that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater design plan.

Section 196-27. Maintenance of Stormwater Management Facilities

A. Maintenance Easement/ Agreement

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

B. Maintenance after Construction

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

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 stormwater management practices shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section 196-18.

C. Maintenance Agreements

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

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

D. Requirements of Maintenance Agreements

All stormwater management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs to ensure compliance with the requirements of this chapter and accomplishment of its purposes. These needs may include, but not be limited to: removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be identified in writing, along with the schedule and methods to be employed to complete the maintenance. The maintenance repairs and restoration schedule are to be approved by the Town of Irondequoit prior to commencing the work and the Town of Irondequoit shall inspect the facility upon completion of the work. The inspection and maintenance requirement may be increased by the Town of Irondequoit as deemed necessary to ensure proper functioning of the stormwater management facility.

E. Records of Installation and Maintenance Activities

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

F. Maintenance Guarantees for Privately Owned Stormwater Facilities

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

G. Performance Bond/Security

The Town of Irondequoit may, at its discretion, require the submittal of a letter of credit, cash or performance bond from an appropriate financial or surety institution which names the Town as the sole beneficiary prior to approval in order to insure that the stormwater practices are installed as required by the approved Stormwater Pollution Prevention Plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved by the Town of Irondequoit, plus four percent (4%) for inspection and ten percent (10%) for contingencies. The performance security shall contain forfeiture provisions for failure to complete work specified in the Stormwater Pollution Prevention Plan. The installation performance security shall be released in full only upon submission of "as built plans" and written certification by a New York State licensed professional engineer that the stormwater practice has been installed in accordance with the approved plan and other applicable provisions of this chapter. The Town of Irondequoit will make a final inspection of the stormwater practice to ensure that it is in compliance with the approved plan and the provisions of this chapter. Provisions for a partial pro-rata release of the performance security based on the completion of various development stages can be done at the discretion of the Town of Irondequoit.

Section 196-28. Inspection and Right of Entry

The Town of Irondequoit or designated agent shall make inspections at any reasonable time for purposes of inspecting the construction of the stormwater management facilities. Inspections may include, but are not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices. The applicant must notify the Town of Irondequoit in advance before the commencement of construction. If any violations are

found, the property owner shall be notified of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the Town of Irondequoit.

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

Section 196-29. As-Built Plans and Project Closeout

All applicants are required to submit actual “as built” plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a New York State licensed professional engineer. A final inspection by the Town of Irondequoit is required before the release of any performance securities can occur.

Section 196-30. Landscape Alterations

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

Section 196-31. Enforcement & Penalties

A. Failure to Maintain Practices

If a responsible party fails or refuses to meet the requirements of the maintenance agreement, the Town of Irondequoit, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the Town of Irondequoit shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have thirty six (36) hours to affect maintenance and repair of the facility in an approved manner. After proper notice, the Town of Irondequoit may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the County of Monroe.

B. Violations

Any 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.

C. Notice of Violation

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

1. The name and address of the owner or applicant;
2. The address when available or a description of the building, structure or land upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the development activity into compliance with this chapter and a time schedule for the completion of such remedial action and a statement to the effect that the failure to commence any such remedial action within ten (10) days following the date of service of such notice of violation shall result in the commencement of enforcement proceedings;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6. A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

D. Stop-Work Orders

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

E. Civil and Criminal Penalties

In addition to or as an alternative to any penalty provided herein or by law, any failure to comply with any provision or requirement of this article II, or of any statement, plan, application, approval, permit or certification provided pursuant to the provisions of this article, shall be deemed a violation punishable by a fine not exceeding \$350.00 or imprisonment for a period of not to exceed fifteen

(15) days, or both, for conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than \$350.00 nor more than \$700.00 or imprisonment for a period of not to exceed fifteen (15) days, or both; and, upon conviction of a third or each and every subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than \$700.00 nor more than \$1,000.00 or imprisonment for a period not to exceed fifteen (15) days, or both. Each week's continued violation shall constitute a separate, additional violation. In addition to any other penalty authorized by this section, any person, partnership, limited liability company, association, corporation or other entity convicted of violating any of the provisions of this chapter shall be required to bear the expense of such restoration.

F. Holds on Occupation Permits

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

Section 196-32. Severability

The provisions and sections of this chapter shall be deemed to be separable and 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.

Section 196-33. Fees; Costs and Expenses.

The applicant shall pay to the Town of Irondequoit at the time it submits its application a one-time fee to be established from time to time by the Town Board to cover administrative costs associated with the review and consideration of SWPPs, SMPs and permits issued pursuant to Section 196-8.D. In addition to the foregoing fee:

A. The applicant shall reimburse the Town of Irondequoit for all reasonable and necessary engineering, administrative and legal expenses incurred by the Town in connection with the review, inspection and consideration of a stormwater application, regardless of whether such application is approved or denied in whole or in part.

B. Simultaneous with the filing of an application and prior to the commencement of any construction or site work activities, the applicant shall deposit with the Town Supervisor a sum of money determined by the Town Board to cover the costs to be incurred by the Town for engineering, inspection and legal expenses. Such deposit shall be held in a separate, non-interest bearing account in the name of the Town, and the Town Supervisor shall keep a separate record of all such moneys deposited; on whose behalf the moneys were deposited; and the project for which the sums were deposited.

C. Upon receipt and approval by the Town Board of itemized vouchers from an engineer and/or attorney for services rendered on behalf of the Town pertaining to the application, construction or site work activities, the Town Supervisor shall cause such vouchers to be paid out of the moneys so deposited and shall furnish copies of such vouchers to the applicant at the same time such vouchers are submitted to the Town.

D. The Town Board shall review and audit all such vouchers and shall approve payment of only such engineering and legal fees which the Town Board determined to have been reasonable and necessarily incurred by the Town in connection with the review, consideration and approval of any application. For purposes of the foregoing, a fee or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by engineers or attorneys to the Town for services performed in connection with the approval or construction of a similar development. In this regard, the Town Board may take into consideration, among other things: the size, type and number of facilities and of the construction and/or site work activities to be performed; the topography of the land on which such construction and/or site work activities are to be conducted and/or facilities to be located; soil conditions; surface water' drainage conditions; the nature and extent of facilities to be constructed; and any special conditions or considerations that the Town Board may deem relevant. A fee or part thereof is necessarily incurred if it was charged by the engineer or attorney for a service which was rendered in order to protect the health, safety or other vital interests of the residents of the Town or to protect public or private property from damage and other factors, to assure the proper and timely implementation of the purposes and provisions of this article, to protect the legal interests of the Town, including, but not limited to, the avoidance of claims and liability, and such other interests as the Town Board may deem relevant.

E. If at any time during or after processing of such application or during or after construction or site work activities there shall be insufficient moneys on hand to the credit of the applicant to pay the approved vouchers in full, or if it shall reasonably appear to the Town Supervisor that such moneys will be insufficient to meet vouchers yet to be submitted, the Town Supervisor shall cause the applicant to deposit additional sums as the Supervisor deems necessary or advisable to meet such expenses or anticipated expenses.

F. In the event that the applicant fails to deposit such funds or such additional funds, the Town Supervisor shall notify any and all applicable Town officers and boards of such failure, and any review, approval, permit or certificate may be withheld by such appropriate officer and/or board until such moneys are deposited.

G. The issuance of any final approval, permit or certificate of occupancy shall not occur unless and until all fees incurred by the Town have been paid in full. Any amounts remaining on account to the credit of the applicant after such final approval, permit or certificate shall be returned to such applicant.

3. EFFECTIVE DATE. This local law shall be effective upon filing in the office of the Secretary of State of New York and with the Town Clerk of the Town of Irondequoit and otherwise in accordance with and pursuant to the Town Law of the State of New York.

4. HISTORY. Adopted: December 18, 2007

This resolution shall take in accordance with the provisions of Section 264 of the Town Law of the State of New York.

Seconded by Town Board member **Evans** and duly put to vote, which resulted as follows:

Town of Supervisor Heyman	voting	Aye
Town Board Member Bello	voting	Aye
Town Board Member Dzus	voting	Aye
Town Board Member Evans	voting	Aye
Town Board Member Turner	voting	Aye