

**ORANGE COUNTY DEPARTMENT OF PLANNING**

**DAVID CHURCH, AICP**  
COMMISSIONER

www.orangecountygov.com/planning  
planning@orangecountygov.com

124 MAIN STREET  
GOSHEN, NEW YORK 10924-2124  
TEL: (845) 615-3840  
FAX: (845) 291-2533

RECEIVED

OCT 22 2012

**County Reply – Mandatory Review of Local Planning Action  
as per NYS General Municipal Law § 239-1, m, & n**

**Local Referring Board:** Town of Warwick Town Board

**Applicant:** Town of Warwick Board

**Project Name:** Changes to Chapter 164, "Zoning" of the Town Code of the Town of Warwick

**Proposed Action:** Adoption of Local Law

**Reason for County Review:** Local Law pertaining to zoning or land use

**Date of Full Statement:** October 9, 2012

**Referral ID #:** WRT 26-12M

**Tax Map #:** townwide; various

**Local File #:** none provided

**Comments:**

The Department has received the above referenced local law and has found no evidence that significant intermunicipal or countywide impacts would result from its approval. We have no objections to the local law proposing zoning code and map changes as specified.

**County Recommendation: Local Determination**

**Date:** October 18, 2012

**Prepared by:** Megan Tennermann, Planner

  
**David Church, AICP**  
Commissioner of Planning

As per NYS General Municipal Law 239-m & n, within 30 days of municipal final action on the above referred project, the referring board must file a report of the final action taken with the County Planning Department. For such filing, please use the final action report form attached to this review or available online at [www.orangecountygov.com/planning](http://www.orangecountygov.com/planning).

# TOWN OF WARWICK

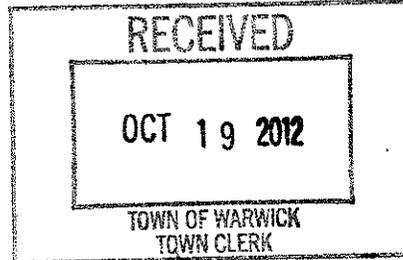


132 KINGS HIGHWAY  
WARWICK, NEW YORK 10990

PLANNING DEPT. (845) 986-1127  
EXT 261, 259  
FAX NO. (845) 987-9644  
ENGINEER EXT 275  
ATTORNEY EXT 239

*Oct. 19, 2012*  
~~January 13, 2010~~

Town of Warwick  
Town Board  
132 Kings Highway  
Warwick, New York 10990



Re: Planning Board Applicant, Verizon/Randall #3 -Escrow Refund Request

SBL# 19-1-47.2-1

Dear Town Board Members:

Enclosed is a letter from Planning Board applicant, Verizon Wireless/Randall#3, received October 17, 2012 requesting a refund on the remaining balance of their escrow in the amount of \$3,072.50. As of today's date, review of the applicant's project has been completed and final maps were signed on November 5, 2010. Please release the balance of the escrow back to the applicant. Please send check payable to Tectonic Engineering to Tectonic Engineering & Surveying Attn: Jennifer Mealey at 36 British American Boulevard, Suite 101 Lathem, N.Y. 12110.

Sincerely,

Eileen Astorino  
Asst. Secretary

cc: Joanne Wilcox, Bookkeeper  
Michael Sweeton, Supervisor  
Meg Quackenbush, Town Clerk  
John Hicks, Town Attorney  
Verizon Wireless, Applicant

Encl.

X

**Web Site Account**

---

**From:** "Brenda Astorino" <dpwclerk@warwick.net>  
**To:** "Meg Quackenbush" <townclk@warwick.net>  
**Cc:** "Jeff Feagles" <dpwcom@warwick.net>  
**Sent:** Tuesday, October 23, 2012 8:40 AM  
**Attach:** tbOct252012.xls  
**Subject:** Board report attached

Good Morning Meg,

Attached is the board report for this week's meeting. Please put on the agenda a motion to hire the following people as part time seasonal laborers:

Derek Mautz, Richard Cheney, Henry Kirsch, and Daryl DeFreest. Thank you and have a nice day!

Brenda

## **INTRODUCTORY LOCAL LAW**

### **A LOCAL LAW TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW SECTION 3-C**

Be it enacted by the Town of Warwick in the County of Orange, State of New York as follows:

#### **Section 1. Legislative Intent**

It is the intent of this Local Law to override the limit on the amount of real property taxes that may be levied by the Town of Warwick, County of Orange, State of New York (hereinafter "Warwick") pursuant to General Municipal Law § 3-c, and to allow Warwick to adopt a town budget for (a) town purposes and (b) any other special or improvement district governed by the Town Board for the fiscal year 2013 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law § 3-c.

#### **Section 2. Authority**

This local law is adopted pursuant to subdivision 5 of General Municipal Law § 3-c, which expressly authorizes the Town Board of the Town of Warwick to override the tax levy limit by the adoption of a local law approved by vote of sixty percent (60%) of the Town Board.

#### **Section 3. Tax Levy Limit Override**

The Town Board of the Town of Warwick is hereby authorized to adopt a budget for the fiscal year 2013 that requires a real property tax levy in excess of the limit specified in General Municipal Law, §3-c.

#### **Section 4. Severability.**

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

#### **Section 5. Effective date.**

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

TOWN OF WARWICK  
INTRODUCTORY LOCAL LAW  
AMENDING THE CODE OF THE TOWN OF WARWICK

A Local Law amending Chapters 164 of the Code of the Town of Warwick in relation to various sections thereof as specified below.

Be it enacted by the Town Board of the Town of Warwick, Orange County, New York, as follows:

Section 1 – Section 164-40M of the Code, Table of Use Requirements more specifically Attachment 1:18 thereof shall be amended to add “CB” zone in the third paragraph of “Notes” and to add “CB” zone in fifth paragraph “Notes”.

These respective paragraphs will now read:

“All uses in the TN-O, DS, CB and LB Districts shall be subject to Section 164-46J(53), (129), and (145).” and

“All uses in the DS and CB District shall be subject to Section 164-46J(73) through (76), (126), (128) and (129).” respectively.

Section 2 – Section 164 of the Code, specifically the Zoning Map thereof shall be amended to include a certain parcel of land known as Section 14, Block 3, Lot 1 in the LB Zone instead of its current listing in the adjacent SL Zone.

Section 3 – Section 164 of the Code, specifically the AP-O District thereof, shall be amended to include a certain parcel of land known as Section 31, Block 2, Lot 91.2 in the AP-O Qualifying Area.

Section 4 – Section 164-73. C. Filing deadline. shall be amended to substitute “January 1, 2014” in place of the current “January 1, 2013” therein.

Section 5 – Section 164-73. D. Construction deadline. shall be amended to substitute “three years” in place of the current “two years” therein.

Section 6. – This Local Law will take effect upon the filing of same with the New York State Secretary of State.

(Use this form to file a local law with the Secretary of State.)

## Town of Warwick

PROPOSED Local Law No. \_ Of the Year 2012

A local law to replace in its entirety Section 164-47.10 of the Code of the Town of Warwick entitled "Stormwater Management."

Be it enacted by the Town Board of the Town of Warwick as follows:

### SECTION 1. AMENDMENTS TO THE TOWN CODE

A new § 164-47.10 is added to replace § 164-47.10 in its entirety as follows:

#### § 164-47.10 Stormwater Management

- A. **Purposes and Findings.** The purpose of this Stormwater Management regulation is to establish minimum requirements for the control of stormwater runoff, to prevent soil erosion and sedimentation of surface waters, and to protect and safeguard the general health, safety and welfare of Town residents in accordance with the following findings:
- (1) Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and/or sediment transport and deposition.
  - (2) This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other species.
  - (3) Clearing and grading during construction increases soil erosion and increases loss of native vegetation necessary for terrestrial and aquatic habitat.
  - (4) Improper design and construction of stormwater management facilities and practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation.
  - (5) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow.
  - (6) Substantial economic losses can result from these adverse impacts on the waters of the Town.
  - (7) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities.
  - (8) The regulation of stormwater runoff discharges from land development activities,

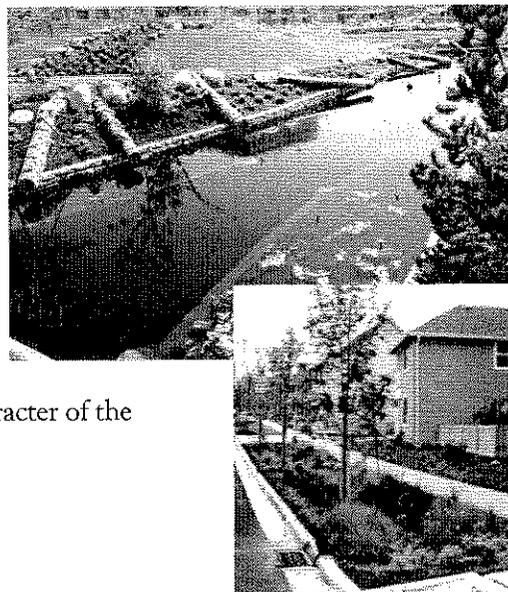
which control and minimize increases in stormwater runoff rates and volumes; soil erosion; stream channel erosion; and nonpoint source pollution associated with stormwater runoff, is in the public interest and will minimize threats to public health and safety.

- (9) Regulation of land development activities which include performance standards governing stormwater management and site design will produce development compatible with the existing functions of a particular site or an entire watershed, and thereby mitigate the adverse effects of erosion and sedimentation from development.
- (10) Conventional engineering design dictates using whatever solution is simplest to design, most efficient to build, and cheapest to maintain. While this may be a satisfactory means of addressing the need for stormwater management, it does little to reflect the important natural resource that water represents in the community and fails to reflect the scenic and rural context of the Town.

#### B. Objectives of Stormwater Management.

Establishing minimum stormwater management requirements and controls will address the findings of fact cited above by achieving the following objectives:

- (1) Require land development activities to conform to the substantive requirements of the New York State Department of Environmental Conservation (NYSDEC) State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities, as amended or revised;
- (2) 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 and associated wildlife habitats;
- (3) Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- (4) Control the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- (5) Manage stormwater runoff rates and volumes and reduce soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and ensure that these management practices are properly maintained and eliminate threats to public safety.
- (6) All stormwater should be treated as a valuable resource.
- (7) Ensure that stormwater management basins are always regarded as an aesthetic and environmental asset to the community, as opposed to just a necessity.
- (8) Stormwater design is an integral element of neighborhood design. Engineering elements must not detract from their surroundings nor from the character of the neighborhood.



- (9) Stormwater management should integrate appropriate art and landscape architecture designs so that Warwick can continue to be a thriving and livable rural community.

**C. Applicability.**

This section shall be applicable to all land development activities as defined herein. All land development activities, subject to review and approval by the Planning Board under Subdivision, Site Plan, and/or Special Permit regulations, shall be reviewed subject to the standards contained in this Section. The Town Board designates the Code Enforcement Officer for receipt of all stormwater pollution prevention plans (SWPPP) and directs the Code Enforcement Officer to forward such plans to the Planning Board and/or Town Engineer for review and approval unless the application is before the Planning Board, in which case the Planning Board will review the SWPPP directly.

There are three levels of stormwater management required, depending upon the area of disturbance and other criteria as listed in § 164-47.10.C(1)(a) to (c) below. Land development activities will require one of the three following SWPPPs:

- a. A Simple SWPPP for land development activities with less than one-acre of disturbance.
- b. An Intermediate SWPPP for:
  - i. Land development activities from one-acre to less than five acres of disturbance;
  - ii. Land development activities, regardless of size, that the Code Enforcement Officer or Planning Board determines could cause adverse impacts on water quality due to the presence of steep slopes of 15 percent or greater, soil characteristics such as those classified by the US Department of Agriculture as presenting a moderate erosion hazard, the layout of impervious surfaces, proximity to sensitive areas within 100 feet of the disturbance, or proximity to an existing stormwater structure or facility.
- c. A Complete SWPPP for:
  - i. Land development activities of five acres or more;
  - ii. Land development activities, regardless of size, that the Code Enforcement Officer or the Planning Board determines could cause adverse impacts on water quality due to the post-construction water quality or quantity, presence of steep slopes, soil characteristics, the layout of impervious surfaces, potential for pollutant generation on-site, proximity to sensitive areas, or proximity to a stormwater structure or facility;
  - iii. Land development activities that will create one-half (½) acre or more of contiguous impervious surfaces;
  - iv. Land development activities initially disturbing less than five acres of land that is part of a larger common plan of development or sale of the entire contiguous quantity of land in possession of, recorded as property of, or owned (in any form of ownership, including land owned as a partner, corporation, joint tenant, etc.) by the same

individual (and/or that individual's spouse), and comprises not only the area of land development activities initially sought, but also all contiguous lands owned by the individual (and/or that individual's spouse) in any form of ownership that may have a cumulative impact of five acres or more;

- v. Land development activities that have been determined to have a significant adverse environmental impact, as defined by the New York State Environmental Quality Review Act (SEQR) and as determined by the Town Planning Board or other designated lead agency as requiring appropriate mitigation measures to reduce or avoid such impacts, may be subject to a Complete SWPPP.

#### D. Exemptions

The following activities shall be exempt from review under this Section:

- (1) Agriculture conducted in a manner consistent with the New York State Department of Agriculture and Markets' "Sound Agricultural Practices Guidelines," as amended from time to time by the Advisory Council on Agriculture.
- (2) Forestry conducted in a manner consistent with the "Timber Harvesting Guidelines" as defined and amended from time to time by the New York State Department of Environmental Conservation, except that landing areas and log haul roads are subject to this Subsection.
- (3) Routine maintenance activities that result in a disturbance of less than 10,890 square feet (0.25 acres) and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- (4) Repairs to any stormwater management practice or facility deemed necessary by the Code Enforcement Officer and/or Town Engineer.
- (5) Land development activities for which a building permit has been approved on or before February 18, 2010.
- (6) Cemetery graves excluding above-ground structures such as mausoleums.
- (7) Installation of fence, sign, telephone, and electric poles, and other kinds of posts or poles but not including installation of transmission equipment provided the area of disturbance is less than one-quarter (1/4) acre.
- (8) Emergency activity immediately necessary to protect life, property or natural resources.
- (9) 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.
- (10) Existing small residential lots in accordance with § 164-45.1 of the Zoning Law.
- (11) Renewable energy technologies involving solar or wind generation unless subject to § 164-46.B of the Zoning Law.
- (12) Interior alterations and minor exterior alterations of structures shall not require a SWPPP. Such minor interior or exterior alterations shall require only the approval of the Building Inspector and issuance of a Building Permit (see § 164-22.A, Designated Protection Area if applicable).

## E. Stormwater Pollution Prevention Plans.

No application for approval of a land development activity shall be deemed complete until the Code Enforcement Officer or Planning Board has received a SWPPP prepared in accordance with the standards and specifications herein. The Code Enforcement Officer or Planning Board may require a SWPPP regardless of the area of proposed disturbance where there exists a good reason in the nature of the land, including but not limited to topography, location, drainage, surface and groundwater resources, and other physical features of the site as well as the character of the surrounding community.

To determine which type of SWPPP is required, a Notice of Ground Disturbance Form must be completed by the Applicant.

1. **Notice of Ground Disturbance.** No land development activity which exceeds the thresholds in § 164-47.10.C shall be commenced until the Code Enforcement Officer or Planning Board has approved a SWPPP. The Applicant shall submit to the Code Enforcement Officer, on a form to be supplied, a Notice of Ground Disturbance. The Notice of Ground Disturbance shall include the following:
  - a. Contact information including: Owner and Applicant's name, Address, Project Address, Phone Numbers, email address, Tax Parcel Numbers.
  - b. A brief description of the project, including a sketch, which may be combined with other drawings required for a building permit, specifically showing existing drainage features and vegetation on the site.
  - c. A description of the proposed project phases.
  - d. The ground area in square feet and acres that will be disturbed for each phase or phases of the project. The areas to be measured include, but are not limited to, driveways, parking areas, buildings, grading and clearing, lawns, ditches, drainage structures, utilities, stockpiles, including the total project area of disturbance, total parcel acreage, area of existing impervious surface, total area of impervious surface expected at completion, and total contiguous impervious area.
  - e. A description of the distance(s) from the areas of ground disturbance on any part of the site to the edge of any stream, pond, lake, or wetland on or in the vicinity of the site.
  - f. Any mapped or other indicators of wetlands on the site or adjacent to the site.
  - g. A description of the slope(s) of the site (in numerical or descriptive format).
  - h. A description of any linear excavations greater than or equal to 500 feet long and 3 feet wide.
  - i. A description of any activities that may involve the fill or excavation of greater than 250 cubic yards of soil, equivalent to 25 dump truck loads.
  - j. A list of and brief description of any other permits required for the project.
  - k. Any additional details requested by the Code Enforcement Officer or Planning Board.
2. **Contents of a Simple SWPPP:**

- a. Notice of Ground Disturbance.
  - b. The Applicant will provide to the Code Enforcement Officer or Planning Board for review a generalized plan describing the erosion and sediment control measures to be used to minimize the impacts of the land development activity appropriate for the site, based upon the guidelines in the NYSDEC Erosion Control Manual or as developed by the Town for this purpose. Measures may include:
    - i. Stabilized construction entrance;
    - ii. Stabilization of exposed soil;
    - iii. Protection of adjacent properties, waterways, and natural areas;
    - iv. Management of concentrated flow areas; and
    - v. Maintenance during construction
3. **Contents of an Intermediate SWPPP:**
- a. All items included in the Simple SWPPP
  - b. Existing Pre-Construction Conditions
    - i. Site map, at a scale no smaller than one inch equals fifty feet (1"=50'), must include the following:
      - 1. Project parcel and surrounding areas within 200-feet of the parcel;
      - 2. Existing conditions for drainage including topography, culverts, ditches, surface waters and wetlands (including names and classifications for both, if applicable), sub-watershed boundaries, and existing vegetation;
      - 3. Existing buildings, structures, utilities, and pave areas;
      - 4. Contour lines in sufficient detail to represent site topography.
    - ii. Description of the existing soil(s), vegetative surface cover, and site impervious cover present.
    - iii. Assessment of the site limitations and development constraints with regard to factors including, but not limited to, slope, soil erodibility, depth to bedrock (if shallow), depth to seasonal high water, soil infiltration capacity, and proximity to surface waters and wetlands.
    - iv. Any existing data that describes the stormwater runoff at the site.
  - c. Better Site Design Practices
    - i. Description of the "Better Site Design" practices to be used for this project as described by the NYSDEC and identified below in no particular order:
      - 1. Preservation of Undisturbed Areas
      - 2. Preservation of Buffers
      - 3. Reduction of Clearing and Grading

4. Locating Sites in Less Sensitive Areas
5. Open-Space Design
6. Roadway Reduction
7. Sidewalk Reduction
8. Driveway Reduction
9. Cul-de-Sac Reduction
10. Building-Footprint Reduction
11. Parking Reduction
12. Vegetated Buffer/Filter Strips
13. Open Vegetated Channels
14. Bioretention
15. Infiltration
16. Rooftop Runoff Reduction Mitigation
17. Stream Daylighting for Redevelopment Projects
18. Tree Planting

ii. The Town requires that projects disturbing between one and two acres must apply at least two of these practices; projects disturbing between two and three acres must complete at least three of these practices; projects between three and four acres must complete at least four of these practices; and projects disturbing between four and five acres must complete at least five of these practices, the determination of which is to be made by the Planning Board during review of the project.

iii. Where the Planning Board finds that compliance with the standards herein would cause unusual hardship or extraordinary difficulties due to exceptional conditions of topography, access, location, shape, or other physical features of the site, the minimum requirements of these regulations may be waived or modified in accordance with § 164-74.1 of the Zoning Law.

d. Proposed Construction and Post-Construction Conditions

i. Construction map(s) for the project may be combined with the existing conditions site map, but only if all required features can be shown clearly. At a minimum, the map(s) must show the following for the total site area: all improvements; areas of disturbance; areas that will not be disturbed; post-development topography; proposed changes to drainage patterns; locations of on-site and off-site material, waste, borrow, equipment storage area; and location(s) where stormwater from the site will discharge to water bodies or existing manmade drainage structures. The names of downstream receiving waters must be identified.

- ii. If the project will create a new or increased concentrated discharge to a man-made drainage structure maintained by a private adjacent landowner, drainage district or drainage district association, written consent of that landowner, drainage district or drainage district association shall be provided in the form of a drainage easement, which shall be recorded on the plan and shall remain in effect with transfer of title to the property. No other discharge of concentrated flow to a neighboring private property is permitted.
  - iii. Identify on-site storage location for the SWPPP and all relevant records and certifications, including inspection records, post-construction maintenance requirements and the entity responsible for such maintenance.
  - iv. 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. No more than three acres may be exposed by site preparation at any one time. If the applicant determines that this three acre limit is insufficient, the applicant must provide a basis for the contention.
- e. Erosion and Sediment Control Plan, including:
- i. Description of 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.
  - ii. 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.
  - iii. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins.
  - iv. A site map/construction drawing(s) specifying the location(s), size(s), and length(s) of each erosion and sediment control practice. This site map can be incorporated into the construction map described above.
  - v. Identification of erosion control facilities, if any, that will be converted from temporary to permanent control measures.
  - vi. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice will remain in place. Erosion and sediment control measures must be constructed prior to beginning any other land disturbances. The devices must be maintained and must not be removed until the disturbed lands areas are stabilized.
  - vii. Delineation of SWPPP implementation responsibilities for each part of the site.

- viii. Maintenance schedule to ensure continuous and effective operation of all erosion and sediment control practices.
    - f. Construction Site Waste Management Plan, including:
      - i. Description of the pollution prevention measures that will be used to prevent litter, construction chemicals, and construction debris from becoming a pollutant source in stormwater runoff.
      - ii. Description of the type, quantities/sizes, and disposal methods for construction and waste materials expected to be stored on-site and off-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.
- (4) Contents of Complete SWPPP:
- a. All items included in the Intermediate SWPPP.
  - b. Site map/construction drawing(s) for the project at the scale required by Article VII or the Subdivision Regulations, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; mapped habitats; 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).
  - 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 General State Pollutant Discharge Elimination System (SPDES) Permit, any project disturbing one acre or more shall be subject to a SWPPP, as defined in Subsection 164-47.10.E.
  - 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, including the use of pervious pavers or pervious pavement, which is encouraged and in some cases required by this Zoning Law;
  - 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.
  - p. Any existing data that describes the stormwater runoff at the site.
- (5) Land development activities, as defined herein and meeting Condition "A" or "B" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Schedule A herein, as applicable:

**Condition A** - Stormwater runoff from land development activities involving disturbance of one quarter (¼) up to five acres or discharging a pollutant of concern to Greenwood Lake, an impaired water identified on the Department of Environmental Conservation'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 development activities involving disturbance of five or more acres during the course of the project, inclusive of the construction of single-family residences and construction activities at agricultural properties.

- (6) SWPPP Requirements for Condition A and B:
- a. All information required herein;
  - b. Description of each post-construction stormwater management practice;
  - 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 recorded on the plan 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 Schedule B herein;
- j. For Condition A, the SWPPP shall be prepared by a licensed landscape architect or a certified professional engineer, and shall be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements herein.
- k. The New York SPDES General Permit for Stormwater Runoff from Construction Activities, as amended or revised, requires that SWPPPs be prepared by a licensed professional for land development activities discharging a pollutant of concern to an impaired water identified on the New York State Department of Environmental Conservation's 303(d) list of impaired waters, or to a Total Maximum Daily Load (TMDL)-designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

**F. Other Permits.**

The applicant shall assure that all other applicable permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

**G. Contractor Certification.**

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."* The certification shall 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. The certification statement(s) shall become part of the SWPPP for the land development activity. 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.

- (1) 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 Subsection, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:
    - i. The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its

successor, hereafter referred to as the Design Manual).

- ii. New York State Standards and Specifications for Erosion and Sediment Control, (NYS DEC, most current version or its successor, hereafter referred to as the Erosion Control Manual).
- b. Equivalence to Technical Standards. Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth herein 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 of New York.

#### H. Maintenance, Inspection and Repair of Stormwater Facilities

- (1) **Maintenance and Inspection During Construction.** The applicant or developer of the land development activity or their representative 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 Zoning Law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- (2) **Inspection Documentation.** For land development activities as defined herein and as required by New York State regulations, meeting Condition A or B, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every month and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site logbook. The Planning Board may require inspection by the Town Engineer and an improvement bond may be required to ensure completion of all stormwater management facilities.
- (3) **Inspections Required.** The Town Code Enforcement Officer may require such inspections as necessary to determine compliance with this Section, and may either approve that portion of the work completed, or notify the applicant wherein the work fails to comply with the requirements of this law and the SWPPP. as approved. To obtain inspections, the applicant shall notify the Code Enforcement Officer in person at least 48 hours before any of the following:
  - a. Start of construction
  - b. Installation of sediment and erosion control measures
  - c. Completion of site clearing
  - d. Completion of rough grading
  - e. Completion of final grading
  - f. Close of the construction season
  - g. Completion of final landscaping
  - h. Successful establishment of landscaping in public areas. If any violations are found, the applicant and developer shall be notified in writing of the nature of the

violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Code Enforcement Officer.

- (4) **Inspections by Code Enforcement Officer.** The Code Enforcement Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit “as built” plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities, and must be certified by a professional engineer.
- (5) **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 Code Enforcement Officer and/or Town Engineer to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Section. The easement shall be recorded by the grantor in the office of the Orange County Clerk after approval by the Town Attorney or Deputy Attorney. The Town may require the formation of a drainage district or a back-up drainage district, if warranted.
- (6) **Maintenance after Construction.** The owner or operator of permanent stormwater management practices installed in accordance with this law shall ensure they are operated and maintained to achieve the goals of this Section. Proper operation and maintenance also includes, as a minimum, the following:
  - a. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this Section.
  - b. Written procedures for operation and maintenance and training new maintenance personnel.
  - c. Discharges from the SMPs shall not exceed design criteria, or cause or contribute to water quality standard violations.
  - d. The Planning Board may require a maintenance bond to fund the inspection of stormwater management facilities.
  - e. 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; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants, or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage

control facilities and other stormwater management practices.

- (7) **Maintenance Agreements.** The Town Board shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the Orange County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this Section entitled Sample Stormwater Control Facility Maintenance Agreement. The Town Board, 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 Section and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.
- (8) **Submission of Reports.** The Planning Board may require monitoring and reporting from entities subject to this Section as are necessary to determine compliance with this Section.
- (9) **Right-of-Entry for Inspection.** When any new stormwater management facility is installed on private property, or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Code Enforcement Officer and/or Town Engineer the right to enter the property at reasonable times, and in a reasonable manner, for the purpose of inspection as specified in Subsection (8) herein.

#### **I. 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 Planning Board in its approval of the Stormwater Pollution Prevention Plan, the Planning Board may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution, which guarantees satisfactory completion of the project and names the Town of Warwick as the beneficiary. The security shall be in an amount to be determined by Planning Board, 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 Town of Warwick, provided that such period shall not be less than one year from the date of 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 Code Enforcement Officer and/or Town Engineer. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

#### **J. 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 facility, the developer, prior to construction, may be required to provide the Planning Board or Code Enforcement Officer with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control

facilities, the Town of Warwick may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

**K. Record keeping.**

- (1) The Planning Board may require entities subject to this Section to maintain records demonstrating compliance with this Section.

Definitions to be added to § 164-22 Terms Defined:

SWPPP, COMPLETE- A Stormwater Pollution Prevention Plan that includes all requirements for erosion and sediment control and post construction water quality and quantity controls, involving disturbance of five or more acres of land.

SWPPP, INTERMEDIATE- A Stormwater Pollution Prevention Plan that includes all requirements for erosion and sediment control, but does not require post construction water quality and quantity controls, involving disturbance of one or more acres but less than five acres of land.

SWPPP, SIMPLE - A Stormwater Pollution Prevention Plan that includes an erosion and sediment control plan appropriate for small areas of disturbance of less than 1 acre of land.

LAND DEVELOPMENT ACTIVITY - Any activity other than conservation, agriculture conducted in a manner consistent with the New York State Department of Agriculture and Markets' "Sound Agricultural Practices Guidelines" as amended from time to time, or forestry conducted in a manner consistent with the "Timber Harvesting Guidelines" and "Best Management Practices for Water Quality" as published and amended from time to time by the New York State Department of Environmental Conservation, which materially affects the existing condition of land or improvements, including but not limited to the following; exemptions are identified in §164-47.10.D of the Zoning Law:

- A. Removal of trees or other natural vegetative cover;
- B. Excavation or deposit of earth or other fill, including alteration of the banks of any stream or body of water;
- C. Construction, reconstruction, alteration or demolition of any building, structure or other improvement;
- D. Dumping or parking of any object or material, whether mobile, liquid or solid; and
- E. Commencement of any use of the land and improvements thereto and any change in the type or intensity of such use.

## SECTION 2. EFFECTIVE DATE

This Local Law shall take effect immediately after it is filed with the Secretary of State as provided in section twenty-seven of the Municipal Home Rule

Law.

QuickTime™ and a  
decompressor  
are needed to see this picture.

QuickTime™ and a  
decompressor  
are needed to see this picture.