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MISCELLANEOUS
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Local Law No. 2 of the year 20 12

A Local Law

(insert Title)

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Be it enacted by the Town Board of the
(Name of Legislative Body)

- County
- City
- of LaFayette as follows:
- Town
- Village

**TOWN OF LAFAYETTE
LOCAL LAW NO. 2-2012**

A Local Law to Amend Stormwater Management Requirements and Controls in the Town of LaFayette

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

Section I.

Local Law 5 of 2007, titled “A Local Law to Establish Minimum Erosion/Sediment and Stormwater Management Requirements and Controls in the Town of LaFayette,” as previously amended by Local Law No. 2-2011, which pertains to Stormwater Management requirements in the Town of LaFayette, is hereby repealed in its entirety.

Section II.

A new local law, titled “Erosion/Sediment Control and Stormwater Management,” shall be enacted, which shall read, in its entirety, as follows:

EROSION/SEDIMENT CONTROL AND STORMWATER MANAGEMENT

Article I General Provisions

Section 1. Findings of Fact.

It is hereby determined that:

- (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, or sediment transport and deposition;
- (2) This stormwater runoff contributes to increased flooding and quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- (3) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- (4) Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- (5) Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- (6) Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- (7) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff and sediment and erosion control from land development activities;
- (8) The regulation of stormwater runoff discharges from land development activities in order to control

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

- (9) Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

Section 2. Purpose.

The purpose of this Local Law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in Section 1 hereof. This Local Law seeks to meet those purposes by achieving the following objectives:

- (1) Meet the requirements of minimum measures 4 and 5 of the current SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), as amended or revised;
- (2) Require land development activities to conform to the substantive requirements of the current NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities, as amended or revised;
- (3) Minimize increases in stormwater runoff from land development activities in order to reduce flooding, turbidity, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- (4) Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- (5) Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- (6) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly designed, maintained and eliminate threats to public safety.

Section 3. Statutory Authority.

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

Section 4. Definitions.

The terms used in this Local Law or in documents prepared or reviewed under this Local Law shall have the meaning as set forth in this section.

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

APPLICANT – a property owner or agent of a property owner who has filed an application for a land development activity.

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

CHANNEL – a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING – any activity that removes the vegetative surface cover.

DEDICATION – the deliberate appropriation of property by its owner for general public use.

DEPARTMENT – the New York State Department of Environmental Conservation

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

DEVELOPER – a person who undertakes land development activities.

EROSION CONTROL - a measure that prevents sediment from being transported from a site.

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

GRADING – excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS COVER – those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

INDUSTRIAL STORMWATER PERMIT – a State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION – the process of percolating stormwater into the subsoil.

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

LAND DEVELOPMENT ACTIVITY – construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale that will ultimately disturb one or more acres of land, even though multiple separate and distinct land development activities may take place at different times on different schedules.

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

MAINTENANCE AGREEMENT – a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

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

PHASING – clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

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

PROJECT – land development activity

QUALIFIED PROFESSIONAL – a person that is knowledgeable in the principles and practices of stormwater management and treatment, such as a licensed Professional Engineer, Registered Landscape Architect or other Department endorsed individual(s). Individuals preparing SWPPPs that require the post-construction stormwater management practice component must have an understanding of the principles of hydrology, water quality management practice design, water quantity control design, and, in many cases, the principles of hydraulics in order to prepare a SWPPP that conforms to the Department's technical standard. All components of the SWPPP that involve the practice or engineering, as defined by the NYS Education Law (see Article 145), shall be prepared by, or under the direct supervision of, a professional engineer licensed to practice in the State of New York.

RECHARGE – the replenishment of groundwater.

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

SENSITIVE AREAS – cold water fisheries, shellfish beds, swimming beaches, water supply reservoirs, habitats for threatened, endangered or special concern species.

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 – A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

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

START OF CONSTRUCTION - the first land disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets and sidewalks; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings.

STOP WORK ORDER – an order issued which requires that all construction activity on a site be stopped.

STORMWATER – rainwater, surface runoff, snowmelt and drainage

STORMWATER HOTSPOT – a land use or activity that generates concentrations of hydrocarbons, trace metals or toxicants in violation of NYS Water Quality Standards.

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

STORMWATER MANAGEMENT FACILITY – one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER - an employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

STORMWATER MANAGEMENT PRACTICES (SMPs) – measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (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.

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

TRAINED CONTRACTOR – an employee from the contracting (construction) company that has received four (4) hours of Department endorsed training in proper erosion and sediment control practices from a Soil and Water Conservation District or other Department endorsed entity. After receiving the initial training, the Trained Contractor shall receive four (4) hours of training every three (3) years.

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

WATERWAY – a channel that directs surface runoff to a watercourse or to the public storm drain.

Section 5. Applicability

- A. This Local Law shall be applicable to all land development activities, as defined in this Local Law, within the portion of the Town of LaFayette designated as a regulated MS4 area by the Environmental Protection Agency (EPA), the New York State Department of Environmental Conservation (DEC) or any similar agency, as amended from time to time.
- B. The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may (1) review the plans, (2) upon approval by the Town Board of the Town of LaFayette, engage the services of a Qualified Profession to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or (3) accept the certification of a qualified professional that the plans conform to the requirements of this law.

An owner or operator of a land development activity that is subject to the requirements of this Local Law must first develop a SWPPP in accordance with all applicable requirements of this Local Law and then have its SWPPP reviewed and accepted by the Stormwater Management Officer prior to submitting the Notice of Intent (NOI) to the Department. The owner or operator shall have the “MS4 SWPPP Acceptance” form signed by the Stormwater Management Officer and then submit that form along with the NOI to the address referenced under “Notice of Intent (NOI) Submittal” in the applicable SPDES permit.

- C. All land development activities subject to review and approval by the applicable board of the Town of LaFayette under subdivision, site plan, and/or special permit regulations shall be reviewed subject to the standards contained in this local law
- D. All land development activities not subject to review as stated in subsection C above shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this law.

Section 6. Exemptions

The following activities may be exempt from review under this law.

- A. Agricultural activity as defined in this Local Law.
- B. Silvicultural activity except that landing areas and log haul roads are subject to this Local Law.
- C. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- D. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- E. Cemetery graves.
- F. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- G. Emergency activity immediately necessary to protect life, property or natural resources.
- H. 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.
- I. Landscaping and horticultural activities in connection with an existing structure.
- J. Any part of a subdivision if a plat for the subdivision has been approved by the Town of LaFayette on or before the effective date of this Local Law.
- K. Land development activities for which a building permit has been approved on or before the effective date of this Local Law

Article II
Stormwater Pollution Prevention Plans

Section 7. Stormwater Pollution Prevention Plan Requirement

No application for approval of a land development activity shall be reviewed until the appropriate board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this local law.

Section 8. Contents of Stormwater Pollution Prevention Plans.

1. All SWPPPs shall provide the following background information and erosion and sediment controls:
 - (1) Background information about the scope of the project, including location, type and size of project.
 - (2) Site map/construction drawing(s) for the project, including a general location map with a scale no smaller than 1"=100 ft.; contour intervals with a minimum of 25 feet. 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; 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); locations or known presence of agricultural tile drains or other existing features that cause artificial drainage of the site and their impact on the hydrology.
 - (3) Description of the soil(s) present at the site;
 - (4) 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 New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
 - (5) 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;
 - (6) Description and volume 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;

- (7) 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;
- (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- (9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
- (10) Temporary practices that will be converted to permanent control measures;
- (11) 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;
- (12) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
- (13) Name(s) of the receiving water(s);
- (14) Delineation of SWPPP implementation responsibilities for each part of the site;
- (15) 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;
- (16) Any existing data that describes the stormwater runoff at the site;

A description and location of any stormwater discharges associated with industrial activity other than construction at the site, including but not limited to, stormwater discharges from asphalt plants and concrete plants located on the construction site;

Identification of any elements of the design that are not in conformance with the requirements in the most current version of the technical standard, New York State Standards and Specifications for Erosion and Sediment Control. Include the reason for the deviation or alternative design and provide information which demonstrates that the deviation or alternative design is equivalent to the technical standards;

Identification of any elements of the design that are not in conformance with The New York State Stormwater Management Design Manual (hereinafter the "Design Manual"). Include the reason for the deviation or alternative design and provide information which demonstrates that the deviation or alternative design is equivalent to the technical standards; and

A detailed summary (including calculations) of the sizing criteria that was used to design all post-construction stormwater management practices. At a minimum the summary shall address the required design criteria from the applicable chapter of the Design Manual, including the identification of and justification for any deviations from the Design Manual, and identification of any design criteria that are not required based on the design criteria or waiver criteria included in the Design Manual.

2. Land development activities as defined in Section 1 of this Article and meeting Condition “A”, “B” or “C” below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Subsection C below as applicable:
 - a. **Condition A** - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department’s most recent 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.
 - b. **Condition B** - Stormwater runoff from land development activities disturbing five (5) or more acres.

Condition C - Stormwater runoff from single family residential subdivisions with 25% or greater impervious cover at total site build-out and not located in one of the Total Maximum Daily Load (TMDL) designated watersheds and not directly discharged to one of the Department’s most recent 303(d) list of impaired waters.

3. SWPPP Requirements for Condition A, B and C:
 - a. All information in Subsection A of this Section;
 - b. Description of each post-construction stormwater management practice;

Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;

Map showing watershed area used for hydrological and hydraulic analyses;

All references for data;

Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;

Comparison of post-development stormwater runoff conditions with pre-development conditions;

Dimensions, material specifications and installation details for each post-construction stormwater management practice;

Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;

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;

Inspection and maintenance plan binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article III of this Local Law. Said plan shall include inspection and maintenance schedules and actions to ensure continuous and effective operation of each post-construction stormwater management practice and said plan shall identify the entity that will be responsible for the long term operation and maintenance of each practice; and

The SWPPP shall be prepared by a qualified professional and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this Local Law.

Section 9. Other Environmental Permits

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

Section 10. Contractor Certification

- B. 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 hereby certify that I understand and agree to comply with the terms and conditions of the SWPPP and agree to implement any corrective actions identified by the qualified inspector during a site inspection. I also understand that the owner or operator must comply with the terms and conditions of the most current version of the New York State Pollutant Discharge Elimination System (“SPDES”) general permit for stormwater discharges from construction activities, and that it is unlawful for any person to cause or contribute to a violation of water quality standards. Furthermore, I understand that certifying false, incorrect or inaccurate information is a violation of the referenced permit and the laws of the State to New York and could subject me to criminal, civil and/or administrative proceedings.”
- C. The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- D. The certification statement(s) shall become part of the SWPPP for the land development activity.

- E. 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.

Section 11. 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 local law, 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:
- a. The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)
 - b. New York Standards and Specifications for Erosion and Sediment Control, (Empire State Local Law of the Soil and Water Conservation Society, 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 in Section 11(A) and the SWPPP shall be prepared by a qualified professional that is knowledgeable in the principles and practices of stormwater management and treatment.
- 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 or cause a violation of New York State water quality standards.

Section 12. Maintenance, Inspection and Repair of Stormwater Facilities

- A. Maintenance and Inspection During Construction
- (1) 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 local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
 - (2) Prior to the commencement of construction activity, the owner or operator must identify the contractor(s) and subcontractor(s) that will be responsible for installing, constructing, repairing, replacing, inspecting and maintaining the erosion and sediment control practices

included in the SWPPP and the contractor(s) and subcontractor(s) what will be responsible for constructing the post-construction stormwater management practices included in the SWPPP. The owner or operator shall have each of the contractors and subcontractors identify at least one person from their company that will be responsible for implementation of the SWPPP. This person must be a Trained Contractor. The owner or operator shall ensure that at least one Trained Contractor is on site in a daily basis when soil disturbance activities are being performed.

- (3) For construction sites where soil disturbance activities are on-going, the qualified inspector shall conduct a site inspection at least once every seven (7) calendar days.

For construction sites where soil disturbance activities are on-going and the owner or operator has received authorization to disturb greater than five (5) acres of soil at any one time, the qualified inspector shall conduct at least two (2) site inspections every seven (7) calendar days. The two (2) inspections shall be separated by a minimum of two (2) full calendar days.

For construction sites where soil disturbance activities have been temporarily suspended (e.g. winter shutdown) and temporary stabilization measures have been applied to all disturbed areas, the qualified inspector shall conduct a site inspection at least once every thirty (30) calendar days. The owner or operator shall notify the Stormwater Management Officer in writing prior to reducing the frequency of inspections.

For construction sites where soil disturbance activities have been shut down with partial project completion, the qualified inspector can stop conducting inspections if all areas disturbed as of the project shutdown date have achieved final stabilization and all post-construction stormwater management practices required for the completed portion of the project have been constructed in conformance with the SWPPP and are operational. The owner or operator shall notify the Stormwater Management Officer in writing prior to the shutdown. If soil disturbance activities are not resumed within two (2) years from the date of shutdown, the owner or operator shall have the qualified inspector perform a final inspection and certify that all disturbed areas have achieved final stabilization, and all temporary, structural erosion and sediment control measures have been removed, and that all post- construction stormwater management practices have been constructed in conformance with the SWPPP by signing the “Final Stabilization” and “Post-Construction Stormwater Management Practice” certification statements on the Notice of Termination.

- B. Maintenance Easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of LaFayette to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of LaFayette.
- C. Maintenance after Construction. The owner or operator of permanent stormwater management practices installed in accordance with this law shall ensure they are operated and maintained to achieve the goals of this law. Proper operation and maintenance also includes as a minimum, the

following:

- (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.
- (2) Written procedures for operation and maintenance and training new maintenance personnel.
- (3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section 11(C).

D. Maintenance Agreements

- (1) The Town of LaFayette shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be in a form acceptable to the Town.
- (2) The Town of LaFayette, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility and creation of a drainage district, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Section 13. Amendments, Ownership Changes and Termination

1. The owner or operator must keep the SWPPP current so that it at all times accurately documents the erosion and sediment control practices that are being used or will be used during construction and all post-construction stormwater management practices that will be constructed on the site. At a minimum, the owner or operator shall amend the SWPPP:
 - a. whenever the current provisions prove to be ineffective in minimizing pollutants in stormwater discharges from the site;
 - b. Whenever there is a change in design, construction or operation at the construction site that has or could have an effect on the discharge of pollutants; and
 - c. To address issues or deficiencies identifies during an inspection by the qualified inspector, the Department or other regulatory authority.
2. The owner or operator shall notify the Stormwater Management Officer in writing of any planned amendment or modifications to the post-construction stormwater management practice component of the SWPPP. Unless otherwise notified by the Stormwater Management Officer, the owner or operator shall have the SWPPP amendments or modifications reviewed and accepted by the Stormwater Management Officer prior to commencement of construction of the post-construction stormwater management practice.

3. When property ownership changes or when there is a change in operational control over the construction plans and specifications, the original owner or operator must notify the new owner or operator, in writing, of the requirement to obtain permit coverage by submitting a NOT to the Department. Once the new owner or operator obtains permit coverage, the original owner or operator shall then submit a completed Notice of Termination (NOT) with the name and permit identification number of the new owner or operator to the Department. If the original owner or operator maintains ownership of a portion of the construction activity and will disturb soil, they must maintain their coverage under the permit.
4. Prior to termination of any SPDES permit obtained in accordance with this Local Law, the owner or operator shall have the Stormwater Management Officer sign the “MS4 Acceptance” statement on the NOT. Prior to signing this statement, the Stormwater Management Officer shall determine that it is acceptable for the owner or operator to submit the NOT in accordance with the requirements of the applicable SPDES permit. The Stormwater Management Officer can make this determination by performing a final site inspection themselves or by accepting the qualified inspector’s final site inspection certificate(s).

Article III
Administration and Enforcement

Section 14. Construction Inspection.

1. Erosion and Sediment Control Inspection. The Town of LaFayette Stormwater Management Officer may require such inspections as necessary to determine compliance with this Local Law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this Local Law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of LaFayette enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:
 - 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 Stormwater Management Officer.

2. Stormwater Management Practice Inspections. The Town of LaFayette Stormwater Management 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 Qualified Professional.
3. Inspection of Stormwater Facilities After Project Completion.
 - a. Inspection programs shall be established on any reasonable basis, including but not limited to:
 - i. routine inspections;
 - ii. random inspections;
 - iii. inspections based upon complaints or other notice of possible violations;
 - iv. 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
 - v. joint inspections with other agencies inspecting under environmental or safety laws.
 - b. Inspections may include, but are not limited to:
 - i. reviewing maintenance and repair records;
 - ii. sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and
 - iii. evaluating the condition of drainage control facilities and other stormwater management practices.
4. Submission of Reports. The Town of LaFayette Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this Local Law.

5. **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 Town of LaFayette the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph A of this Section 14.

Section 15. Performance Guarantee

1. **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 Town of LaFayette in its approval of the Stormwater Pollution Prevention Plan, the Town of LaFayette 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 LaFayette as the beneficiary. The security shall be in an amount to be determined by the Town of LaFayette 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 LaFayette, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Town of LaFayette. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.
2. **Maintenance Guarantee.**
 - a. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by an entity that owns or manages a commercial or industrial facility, the developer or entity, prior to construction, may be required to provide the Town of LaFayette 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 entity landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of LaFayette may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.
 - b. In addition to or in lieu of the foregoing, where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by an entity that owns or manages a commercial or industrial facility, the developer or entity landowner prior to construction, may be required to enter into an Agreement with the Town of LaFayette setting forth maintenance and operation requirements for said stormwater management and erosion and sediment control facility and enforcement alternatives, in a form acceptable to the Town. If said stormwater management and erosion and sediment control facilities are not properly operated and maintained in accordance with said Agreement or approved plans, the

Town shall give the developer and/or entity landowner thirty (30) days written notice to comply with the operation and maintenance provisions of the said Agreement or approved plans. If the developer and/or entity landowner shall fail to so comply with the operation and maintenance provisions of the said Agreement or approved plans within said thirty (30) day period, the Town may take such remedial steps as are necessary to bring said facility into compliance with the said operation and maintenance requirements of said Agreement or approved plans and the cost of such remedial measures shall be assessed as a lien on the property and shall be charged to the landowner's tax bill.

Section 16. Record keeping.

The Town of LaFayette shall require entities subject to this law to maintain records demonstrating compliance with this Local Law.

Section 17. Enforcement and Penalties

1. Notice of Violation. When the Town of LaFayette determines that a land development activity is not being carried out in accordance with the requirements of this Local Law, it may issue a written notice of violation to the landowner. The notice of violation shall contain:
 - a. the name and address of the landowner, developer or applicant;
 - b. the address when available or a description of the building, structure or land upon which the violation is occurring;
 - c. a statement specifying the nature of the violation;
 - d. a description of the remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the completion of such remedial action;
 - e. a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
 - f. 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.
2. Stop Work Orders. The Town of LaFayette may issue a stop work order for violations of this Local Law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the Town of LaFayette confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this Local Law.

3. Violations . Any land development activity that is commenced or is conducted contrary to this Local Law, may be restrained by injunction or otherwise abated in a manner provided by law.
4. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
5. Withholding of Certificate of Occupancy. If any building or land development activity is installed or conducted in violation of this local law the Stormwater Management Officer may prevent the occupancy of said building or land.
6. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of LaFayette may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

Section 18. Fees for Services.

Any person undertaking land development activities regulated by this law shall reimburse the Town for all expenses and costs associated with compliance with these requirements, including, but not limited to, engineering and legal expenses.

Section 19. Severability.

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

Section 20. Effective Date.

This Local Law shall be effective upon filing with the office of the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 20 12 of the ~~(County)~~(City)(Town)(Village) of LaFayette was duly passed by the Town Board on September 10 20 12, in accordance with the applicable (Name of Legislative Body) provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the ~~(County)~~(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20 _____, in accordance with applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the ~~(County)~~(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____ (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the ~~(County)~~(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____ (Elective Chief Executive Officer*)

Such local law was subject to permissive referendum and no valid petition such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

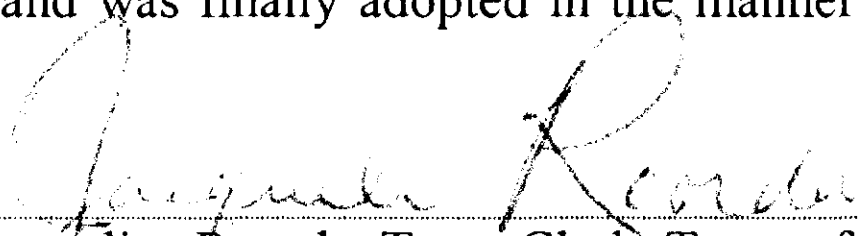
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting Thereon at the (special/general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the town of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide and appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.



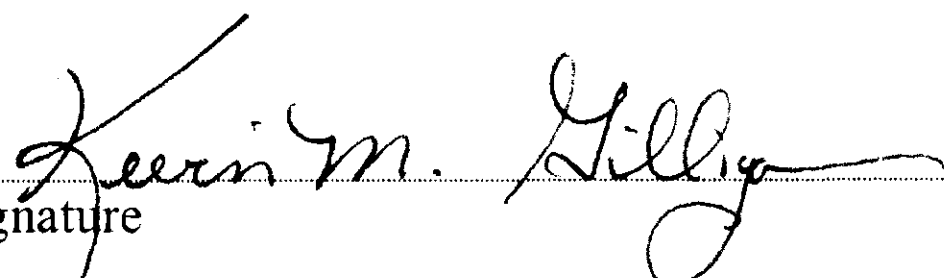
Jacqueline Roorda, Town Clerk, Town of LaFayette
Date: September 10, 2012

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ONONDAGA

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



Signature
Kevin M. Gilligan, Esq., Town Attorney
Title
Town of LaFayette
Date: September 10, 2012