

PERINTON TOWN BOARD MEETING  
1350 Turk Hill Road, Fairport, NY 14450  
Wednesday, January 9, 2008

PRESENT:	James E. Smith	Supervisor
	David C. Glossner	Councilperson
	Carolyn H. Saum	Councilperson
	Joseph H. LaFay	Councilperson
ABSENT:	Patricia S. Knapp	Councilperson

ALSO PRESENT: Robert Place, Esq., Town Attorney; Thomas C. Beck, Commissioner of Public Works; W. Scott Copp, Director, Building Department; Katherine Kramer, Assessor; Susan C. Roberts, Town Clerk; Karen L. Heim, Deputy Town Clerk; T. C. Lewis, Planning Board; S. Chris Fredette, Conservation Board.

Supervisor Smith called the meeting to order at 8:00 pm and introduced the Board and staff present.

Councilperson Saum made a motion, seconded by Councilperson LaFay, that the minutes of the Town Board meeting of December 26, 2007 and the Organizational Meeting of January 2, 2008, be approved as submitted by the Town Clerk.

Ayes: Smith, Glossner, Saum, LaFay  
Nays: None  
Unanimously approved.

PUBLIC HEARING  
EXTENSION #55 TO  
PERINTON CONSOLIDATED SEWER DISTRICT #8  
GARNSEY ROAD

Supervisor Smith opened the Public Hearing and asked for proof of publication and affidavit of posting of the legal notice. Proof of publication was given in the Fairport ER Post on December 26, 2007; affidavit of posting was also December 26, 2007.

Commissioner Beck said that Monroe County is rebuilding the section of Garnsey Road between Rtes 96 and 250, making this the appropriate time to construct a sewer line. The DPW is proposing construction of 2,755 linear feet of sewer main, 16 manholes and associated laterals from the Horizon Hill parking area to just west of Hardwood Hill Road. The district would provide sewer service to an established neighborhood which is now served by septic systems.

A neighborhood public information meeting was held on March 26, 2007; letters were sent to all residents of the proposed district on September 10, 2007. Work on both projects would begin in the Spring of 2008; the sewer construction would be completed by Fall 2008.

The proposal is a Type II action under the New York State Environmental Quality Review Act (SEQR) because, as per the Conservation Board memo of December 13, 2007, extensions of utility distribution facilities, including sewer connections, to render service in approved subdivisions are not subject to review. The Conservation Board has a long-standing policy of recommending approval of the extension of sewer service to areas served by septic systems. Septic systems are prone to failure, resulting in soil pollution and the possible contamination of groundwater, making sewers a better environmental option.

Many residents of the proposed district have expressed interest in hooking up to the sewer system. However, owners of two properties along Hidden Bridge, a private drive, have asked for more time to consider the proposal. Commissioner Beck asked the Board to delay its decision on establishing the district until the January 23, 2008 Town Board meeting to allow the owners of the property on Hidden Bridge more time to research their options.

Supervisor Smith asked if there were any questions from the audience about the proposed sewer district.

Hayward Allen, 264 Garnsey Road, asked if the cost sheet provided by the Town would be affected by the neighbors plan to find one contractor to provide connection construction for all the involved properties. Commissioner Beck said it would not. He said the Town constructed the sewer line; connecting to that sewer line was the concern of the homeowners. He cautioned Mr. Allen that it might be difficult to find a contractor who would offer a flat fee for all the connections since the terrain varied greatly from house to house.

Mr. Allen asked when the sewer would be completed; when would homeowners be able to connect to the sewer. Commissioner Beck said the sewer line should be completed by late Fall 2008.

Supervisor Smith said that the Public Hearing would remain open until the January 23, 2008 meeting to allow the property owners on Hidden Bridge time to research the connection options available to them.

#### ORDER FOR HEARING CONSERVATION EASEMENTS 2008

Katherine Kramer, Assessor, reported that, pursuant to the Conservation Easement Law, Chapter 103 of the Code of the Town of Perinton, owners of various parcels of real property in the Town of Perinton have made proposals to the Conservation Board for Conservation Easements. Nine of the proposed easements are renewals; two proposals are for new easements. She said that all of the proposed easements have received favorable recommendations from the Perinton Conservation Board.

Assessor Kramer said that there were two types of easement: conservation and agricultural. Each provided a tax break for the property owner; the degree of relief depended on the length of the easement. If owners choose to break the easement they are required to pay back up to five years of back taxes plus a penalty amount. The penalty funds are deposited in the Town's Open Space Capital Reserve Fund which is then used to purchase open space.

She asked the Board to set a date for a Public Hearing to review the following proposed easements:

<u>Tax Acct #</u>	<u>Owner/Property Location</u>	<u>Acres</u>	<u>School/Yrs/Type</u>
140.04-1-11.4	Aldo Magliocchetti & Irene Matjiw County Line Road Fairport, NY 14450	9.00	Penfield/15/Conservation
154.01-1-51 154.01.1-52 154.01-1-54	James & Rebecca Krause 180, 182, 184 Wakeman Rd Fairport, NY 14450	27.55	Fairport/10/Conservation
167.13-1-7 167.13-1-11 167.13-1-12.1	Daniel & Pamela O'Neill 81 Aldrich Road Fairport, NY 14450	10.84	Fairport/10/Conservation
180.03-1-28.1	Colaruotolo Family	29.73	Fairport/10/Farming

	2287 Turk Hill Road Fairport, NY 14450		
180.04-1-51.11	Richard P. & Ann Wallace 220 Bluhm Road Fairport, NY 14450	25.49	Fairport/5/Conservation
181.03-1-37.1	Robert & Patricia McJury 495 Victor Road Fairport, NY 14450	7.83	Fairport/15/Conservation
181.03-1-37.2	Allison R. Beard 494 Victor Road Fairport, NY 14450	12.30	Fairport/15/Conservation
181.04-1-2	Leonard J. Sorbello 230 Pannell Road Fairport, NY 14450	30.40	Fairport/11/Farming
195.01-1-9.1	Carl V. & Mary Greene 639 Pannell Road Fairport, NY 14450	53.81	Victor/15/Conservation
195.01-1-14.1	Nancy M LaRouche 21 Ryan Road Macedon, NY 14502	16.98	Victor/15/Conservation
195.01-1-34.2	Gary L DeRue Victor Road Fairport, NY 14450	69.85	Victor/5/Farming

A motion was made by Councilperson Glossner, seconded by Councilperson LaFay, that February 13, 2008 at 8:00 pm at the Perinton Town Hall, 1350 Turk Hill Road, Fairport NY be set as the date, time and place for a Public Hearing to review the proposed 2008 Conservation Easements.

Ayes: Smith, Glossner, Saum, LaFay  
Nays: None  
Unanimously approved

**ORDER FOR HEARING  
AMENDMENT TO PARTS OF SECTION 115  
CODE OF THE TOWN OF PERINTON  
ENFORCEMENT PROCEDURES**

Building Director Copp said that the Codes Committee recommends amending Sections 115-3, 115-6, 115-7 A and 115-8, changing the penalties and procedures for first offenses thus reducing the charges from undefined misdemeanors to violations. He asked the Board to set a date for a Public Hearing to consider the following proposed changes:

*Deleted Text*  
*Added Text*

**Chapter 115, ENFORCEMENT PROCEDURES**

**§ 115-1. Title.**

This chapter shall be known and cited as the "Enforcement Procedures Law of the Town of Perinton."

**§ 115-2. Purpose.**

The purpose of this chapter is to promote and protect the public health, welfare and safety of the Town of Perinton by providing a uniform means of enforcing the various codes, local laws, ordinances and regulations of the Town of Perinton and of any other county or state codes, local laws, ordinances or regulations which may be enforced by town officers in the Town of Perinton exclusive of the incorporated Villages of Fairport and East Rochester.

**§ 115-3. Definitions.**

For the purpose of this chapter, certain terms and words used herein shall be defined as follows:

*CODES, LOCAL LAWS, ORDINANCES AND REGULATIONS -- The Abandoned Vehicle Law, Electrical Code, Excavation Law, Sign Law, Unsafe Buildings and Collapsed Structures Ordinance, New York State Uniform Fire Prevention and Building Code, Zoning Law and Subdivision Regulations of the Town of Perinton and other state or local codes, local laws, ordinances or regulations enforced by the Department.*

DEPARTMENT -- The Department of Public Works of the Town of Perinton.

NUISANCES -- Anything that is dangerous to human life or detrimental to health or welfare and shall include but not be limited to:

- A. A public nuisance as known at common law, statutory law and in equity jurisprudence.
- B. A property, including any building, structure, one-family dwelling, two-family dwelling, multiple dwelling, rooming house, commercial building, industrial building, storage building or vacant areas, or any combination thereof, that is in violation of any codes, local laws, ordinances and regulations.

**§ 115-6. Penalties for offenses.**

A. Any person who, having been served with a notice or order to remove any violation of either the code, local laws, ordinances or regulations of the Town of Perinton, or any nuisance, fails to comply therewith within the time fixed by the Department, shall be guilty of any offense punishable **by either 115-6 A(1) or 115-6 A(2) below.**

- (1) *By the imposition of a fine not exceeding \$350 or imprisonment for a period not exceeding six months, or both, for conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of five years, by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not exceeding six months, or both, and, for conviction of a third or subsequent offense, all of which were committed within a period of five years, by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not exceeding six months; or*

- (1) ***For conviction of the first offense, a violation, with a fine not exceeding three-hundred fifty dollars, (\$350.00) or imprisonment for a period not exceeding seven, (7),days, or both.***

***For conviction of the second offense, both of which are committed within a period of five (5) years, a misdemeanor, with a fine not less than three-hundred fifty dollars (\$350.00) nor more than seven-hundred dollars (\$700.00) or imprisonment for a period of time not to exceed six (6) months or both.***

***For a conviction of a third or subsequent offense, all of which were committed within a period of five years, a misdemeanor, with a fine***

*of not less than seven-hundred dollars (\$700.00) nor more than fifteen hundred dollars (\$1,500.00) or imprisonment for a period not exceeding six months (6) or both.*

- (2) By the imposition of a civil penalty in the above amounts, which said penalty may be assessed and recoverable against the violator in a small claims proceeding instituted by the town in the Town Justice Court, pursuant to the provisions of Article 18 of the Uniform Justice Court Act.

**B.** *Any person who, having been served with a notice or order to remove any violation of the New York State Uniform Fire Prevention and Building Code and/or the New York State Energy Conservation Construction Code fails to comply therewith within the time fixed by the Department, shall be guilty of any offense punishable by either 115-6 B(1) or 115-6 B(2) below :*

- (1) *For conviction of the first offense, a violation, with a fine not exceeding five-hundred fifty dollars, (\$550.00) or imprisonment for a period not exceeding seven, (7), days, or both.*

*For conviction of the second offense, both of which are committed within a period of five (5) years, a misdemeanor, with a fine not less than seven-hundred fifty dollars (\$750.00) nor more than one thousand dollars (\$1,000.00) or imprisonment for a period of time not to exceed six (6) months or both.*

*For a conviction of a third or subsequent offense, all of which were committed within a period of five years, a misdemeanor, with a fine of not less than one thousand dollars (\$1,000.00) nor more than fifteen hundred dollars (\$1,500.00) or imprisonment for a period not exceeding six months (6) or both.*

- (2) *By the imposition of a civil penalty in the above amounts, which said penalty may be assessed and recoverable against the violator in a small claims proceeding instituted by the town in the Town Justice Court, pursuant to the provisions of Article 18 of the Uniform Justice Court Act.*

**B C.** Each week's continued violation shall constitute a separate, additional violation for which separate and additional fines or civil penalties in the above amounts may be imposed or recovered.

**C D.** The term "person" as used in this section shall include the owner, occupant, mortgagee or vendee in possession, operator, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation, directly or indirectly, in control of the premises or part thereof.

**D E.** Amendment. This section expressly amends and supersedes any inconsistent provision of any other zoning law, rule or offense theretofore adopted by the Town of Perinton, Monroe County, New York, and also any inconsistent provision of Article 16 of the Town Law of the State of New York.

#### **§ 115-7. Procedure for enforcement.**

**A.** When nuisance or violation declared. Whenever the Supervisor or his designee shall declare that any property, including the buildings, structures, signs or other appurtenances thereon, shall be in violation of any of the codes, rules, regulations, ordinances or local laws of the Town of Perinton, *the New York State Uniform Fire Prevention and Building Code, the New York State Energy Conservation Construction Code* or constitute a nuisance, he shall *as a courtesy* issue a notice of violation of *an appearance ticket or order to remedy* to the property owner or occupier in control of or in possession of such property, specifying the code, rule,

regulation, ordinance or local law being violated and the facts constituting such violation *either in person or by first class mail. Where such nuisance or violation constitutes an immediate threat to the health, safety and welfare of the public a verbal order to remedy immediately shall suffice as notice. If an individual or property is a persistent violator, more than once in twenty four months, no courtesy notice will be issued.*

**§ 115-8. Service of notice and orders *appearance ticket.***

Any notice, order or appearance ticket issued pursuant to this chapter shall be served upon the alleged violator in person, or upon a person of suitable age and discretion on such property, and if not in person, such notice, order or appearance ticket shall be posted in a conspicuous place upon the premises affected and a copy thereof mailed to the alleged violator or party to be charged by first class mail on the same day, to the affected premises or, if not appropriate, then to the last known address of the party to be charged.

A motion was made by Councilperson Glossner, seconded by Councilperson Saum, that 8:00 pm, February 13, 2008 at the Perinton Town Hall, 1350 Turk Hill Road, Fairport, NY 14450 be set as the date, time and place for a Public Hearing to consider the proposed changes to Section 115 of the Code of the Town of Perinton.

Ayes: Smith, Glossner, Saum, LaFay

Nays: None

Unanimously approved

ORDER FOR HEARING  
AMENDMENT TO SECTION 119  
CODE OF THE TOWN OF PERINTON  
EROSION AND SEDIMENT CONTROL

Building Director Copp said that the Codes Committee recommends replacing all of Section 119, Erosion and Sediment Control, except sections 119-1, 119-2 and 119-3, with text which complies with requirements of the New York State Pollutant Discharge Elimination System Regulations and the Municipal Separate Storm Sewer Permit General Permit. These State regulations have been set up to reduce pollutants in any stormwater runoff from construction activities that result in a land disturbance of one acre or more. The proposed text has been developed by the Stormwater Coalition of Monroe County and accepted by New York State as equivalent to its model code. He asked the Board to set a date for a Public Hearing to consider the following proposed changes:

*Deleted text*

*Added text*

Chapter 119, EROSION AND SEDIMENT CONTROL, ***CONSTRUCTION & POST CONSTRUCTION STORMWATER POLLUTION PREVENTION and ILLICIT DISCHARGE CONNECTION***

**§ 119-1. Purpose; objectives.**

It is the purpose of this chapter to protect public health, safety and welfare in the Town of Perinton by regulating site preparation and construction activities, including excavation, filling, grading and stripping, so as to prevent problems related to erosion, silt, sediment and drainage. The objective of this chapter is to prevent the adverse effects of site preparation, construction and development and thereby:

- A. Preserve the quality of the natural environment from pollution of water areas and watercourses; unnecessary destruction of trees and other vegetation; excessive exposure of soil to erosion; unnecessary modification of natural topography or unique geological features; and failure to restore sites to an attractive natural condition.

B. Protect people and properties from increased runoff, erosion and sediment; increased threat to life and property from flooding or stormwaters; increased slope instability and hazards from landslides; and modifications to the groundwater adversely affecting water wells and surface water levels.

C. Protect the Town and other governmental bodies from undertaking programs, at public expense, of repairing roads and other public facilities damaged by erosion or runoff; providing flood protection facilities; stabilizing slopes; and dredging, cleaning or widening watercourses.

D. Ensure that site preparation, construction and development of any parcel of land is consistent with and in sequence with a planned program for erosion and sediment control.

#### **§ 119-4. Introduction**

*This chapter is broken into three main sections Construction Stormwater Pollution and Erosion and Sediment Control (119-6), Design and Management of Post-Construction Stormwater Pollution Prevention Measures(119-7) and Illicit Discharge Connection Stormwater Ordinance(119-8).*

#### **§ 119-5. Definitions.**

The following definitions shall apply to this chapter:

*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 disturbance activity.*

*Best Management Practices (BMPs) – Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance systems. BMPs also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal or drainage from raw materials storage.*

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

*Clearing - Any activity which removes the vegetative surface cover.*

*Clean Water Act – The federal Water Pollution Control Act (33 U.S.C. §1251 et seq.) and any subsequent amendments thereto.*

*Construction Activity – Activities subject to SPDES Construction Permits. Currently these include construction projects resulting in land disturbance of 1 acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition*

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

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

*Discharger - Any individual, association, organization, partnership, firm, corporation or other entity discharging stormwater to the municipal storm sewer.*

***Earthwork - Construction activities including clearing, grading, excavating, soil disturbance or placement of fill that result in land disturbance.***

***Erosion Control - Measures that minimize erosion.***

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

***Final Stabilization - All soil-disturbing activities at the site have been completed and a uniform perennial vegetative cover with density of 80% has been established or equivalent measures such as the use of mulches or geotextiles have been employed on all unpaved areas and areas not covered by permanent structures.***

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

***Hazardous Materials – Any material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.***

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

***Illegal Discharge – Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in section 119-6 D(3) of this ordinance and any stormwater discharges to the sanitary sewer except as permitted by the Town of Perinton.***

***Illicit Connections – An illicit connection is defined as either of the following:***

***Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater and wash water to enter the storm drain system and any connection to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by a government agency; or***

***Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by the Town of Perinton***

***Any stormwater discharge to a sanitary sewer unless approved by the Town of Perinton***

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

***Industrial Activity – Activities subject to SPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).***

***Industrial Wastes - any liquid, gaseous or solid substance or a combination thereof which is an undesired by-product waste resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources, except garbage.***

***Infiltration - The process of percolating stormwater into the subsoil.***

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

**Land Disturbance Activity** - Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than 25,000 square feet, or activities disturbing less than 25,000 square feet of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules.

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

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

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

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

**New York State Stormwater Management Design Manual** - the 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.

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

**Non-Stormwater Discharge** – Any discharge to the storm drain system that is not composed entirely of stormwater.

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

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

**Person** - Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner’s agent.

**Phasing** - Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.

**Pollutant** – Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordnances and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**Premises** – Any building, lot, parcel of land or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**Private Sewage Disposal System** – A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwaters of New York State,

*except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.*

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

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

*Sanitary Sewer - A sewer, which transports sewage and to which storm, surface and ground waters are not intentionally admitted.*

*Sediment Control - Measures that prevent eroded sediment from leaving the site.*

*Sewage - A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm water as may be inadvertently present. The admixture of sewage with industrial wastes as defined above or other wastes also shall be considered "Sewage" within the meaning of this definition.*

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

*Site - A parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.*

*Site Plan Approval - The examination and subsequent authorization to proceed with a project based upon a drawing prepared to specifications and containing necessary elements, which show the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.*

*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.*

*Special Conditions –*

- 1. Discharge Compliance with Water Quality Standards. The condition that applies where a municipality has been notified that the discharge of stormwater authorized under their Municipal Separate Storm Sewer (MS4) Permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the Town of Perinton must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.*
- 2. 303(d) Listed Waters. The condition in the Town of Perinton's MS4 Permit that applies where the Town of Perinton discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.*

3. **Total Maximum Daily Load (TMDL) Strategy.** *The condition in the Town of Perinton MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the Town of Perinton discharges. If the discharge from the Town of Perinton did not meet the TMDL stormwater allocation prior to September 10, 2003, the Town of Perinton was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.*

4. **The condition in the Town of Perinton's MS4 Permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which the Town of Perinton discharges.** *Under this condition the Town of Perinton must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If the Town of Perinton is not meeting the TMDL stormwater allocations, the Town of Perinton must, within six (6) months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.*

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

**Start of Construction** - *The first land disturbance activity associated with a development, including: land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.*

**State Pollutant Discharge Elimination System (SPDES) Stormwater Discharge Permit** - *A permit issued by NYSDEC (under authority delegated pursuant to 33 U.S.C. § 1342 (b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual or general area-wide basis.*

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

**Storm Drainage System** - *Publicly-owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels (i.e. ditches), reservoirs and other drainage structures.*

**Stormwater** - *Any surface flow, runoff or drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.*

**Stormwater Management** - *The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.*

**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 Pollution Prevention Plan** - *A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems and/or receiving Waters to the Maximum Extent Practicable.*

**Stormwater Runoff** - *The 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, wells, 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.*

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

*303(d) List – A list of all surface waters in the State for which beneficial uses of the water (drinking, recreation, aquatic habitat and industrial use) are impaired by pollutants, prepared periodically by the Department of Environmental Conservation as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of State surface water quality standards and are not expected to improve within the next two years.*

*Total Maximum Daily Load (TMDL) – The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.*

*Total Maximum Daily Load (TMDL) – The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.*

*Wastewater – Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.*

*Waters of the United States – Surface watercourse and water bodies as defined at 40 CFR § 122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.*

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

*Watercourse – Waters of the United States as defined at 40 CFR § 122.2.*

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

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

#### **§ 119-6. Ordinance for Construction Stormwater Pollution Prevention and Erosion and Sediment Control**

##### **A. Applicability**

*The provisions of this section shall be applicable to all land disturbance activities that will disturb  $\geq 25,000$  square feet of land unless exempted under section 119-6 D(3) of this ordinance. The ordinance also applies to land disturbance activities that are  $< 25,000$  square feet disturbance if such activities are part of a larger common plan of development or sale that will disturb  $\geq 25,000$  square feet, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules.*

## ***B. Compatibility with Other Permits and Ordinance Requirements***

***Compliance with this ordinance does not relieve the applicant of the obligation and responsibility to obtain separate coverage under the NYSDEC SPDES General Permit for Construction Activities if required. For projects also applying for coverage under the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity, the applicant shall submit a copy of the Stormwater Pollution Prevention Plan (SWPPP), a Notice of Intent (NOI) with a certification statement including the date demonstrating submission to the NYSDEC, a letter of permission from the NYSDEC granting approval to disturb five (5) acres or greater of land at one time (if applicable) and any related documents to the Town of Perinton for review and approval.***

***The requirements of this ordinance should be considered minimum requirements and where any provision of this ordinance imposes restrictions different from those imposed by any other federal, state, or local ordinance, rule or regulation, or other provision of law, the provisions that are more restrictive or impose more stringent requirements shall take precedence.***

***Construction activities that involve land disturbance may also require additional compliance measures detailed in other regulations and/or ordinances such as 119-7 and 119-8, the Ordinance for Design and Management of Post-Construction Stormwater Pollution Prevention Measures.***

## ***C. Standards for Construction Activities Covered Under this Ordinance***

***The Town of Perinton requires the use of technical standards for erosion and sediment controls. These are detailed in the Town of Perinton's Design Criteria and the New York State Department of Environmental Conservation's Standards and Specifications for Erosion and Sediment Control. For the design of water quality and water quantity controls (post-construction stormwater runoff control practices), the NYSDEC's technical standards are detailed in the New York State Stormwater Management Design Manual.***

***Where stormwater management practices are not in accordance with the aforementioned technical standards, the applicant or developer must demonstrate equivalence to these technical standards and the SWPPP shall be prepared by a licensed/certified professional.***

## ***D. Land Disturbance Activity Approval Process***

### ***1. Requirements of Application***

***a. Any applicant requesting site plan approval or a permit for land disturbance activity which would require the disturbance of  $\geq 25,000$  square feet of land shall also include with a submission a SWPPP that shall be reviewed and approved by the Town of Perinton prior to issuance of the final site plan approval or a permit.***

***b. No applicant shall be granted site plan approval or a permit which would require the disturbance of  $\geq 25,000$  square feet of land without the review and approval of a SWPPP by the Town of Perinton.***

***c. Furthermore, prior to the issuance of a permit or site plan approval all projects that would result in the disturbance of  $\geq 25,000$  square feet of land will be required to comply with all applicable provisions of the Ordinance for Design and Management of Post-Construction Stormwater Pollution Prevention Measures. As part of the SWPPP the applicant shall include a signed statement that all applicable requirements of the Ordinance for Design and Management of Post-***

*Construction Stormwater Pollution Prevention Measures have been met to the satisfaction of the Town of Perinton.*

*d. Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee as set by the Town Board.*

*e. Each application shall include a comprehensive and complete SWPPP that shall be prepared in accordance with section 119-6 D(5) of this ordinance.*

*f. Each application shall include a statement that any land clearing, construction, or development involving the movement of land shall be in accordance with the submitted SWPPP.*

*g. All land disturbance activities as defined in section 119-5 of this ordinance not subject to site plan or permit approval shall be required to submit a SWPPP to the Stormwater Management Officer designated by the Town of Perinton who shall approve the SWPPP if it complies with the requirements of this ordinance.*

## **2. Review & Approval of Application**

*Plans submitted for approval under these regulations must obtain Site Plan approval consistent with 208-53 of the Town Code.*

## **3. Exemptions from Ordinance**

*The following activities are exempt from review under this ordinance:*

*a. Any emergency activity which is immediately necessary for the protection of public health, property or natural resources.*

*b. Agricultural activity as defined in this ordinance.*

*c. Silvicultural activity except that landing areas and log haul roads are subject to this ordinance.*

*d. 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.*

*e. Repairs to any stormwater treatment practice deemed necessary by Town of Perinton.*

## **4. Financial Guarantees**

*The Town of Perinton may, at its discretion, require the applicant to submit a financial guarantee in a form acceptable to the Town of Perinton prior to issuance of site plan approval or a permit in order to insure that the stormwater pollution prevention and erosion and sediment control practices are implemented and maintained by the applicant as required by the approved SWPPP. The amount of the financial guarantee shall be the total estimated construction cost of the stormwater pollution prevention and erosion and sediment control practices approved, plus a contingency. The financial guarantee shall contain forfeiture provisions for failure to complete work specified in the SWPPP. The financial guarantee shall contain an automatic renewal clause unless it is determined by the Town of Perinton it will not be required. The financial guarantee shall be released in full only upon satisfaction of the requirements listed in section 119-6 G of this ordinance. At*

*its discretion, the Town of Perinton may allow for a partial release of the financial guarantee based on the completion of various development stages.*

#### **5. Stormwater Pollution Prevention Plan Requirements**

*The Town of Perinton shall designate a Stormwater Management Officer who shall accept and review all SWPPPs and forward such plans to the applicable municipal board. A consultant cannot be appointed as a Stormwater Management Officer. The Stormwater Management Officer may (1) review the plans, (2) upon approval by the Town Board engage the services of a New York State licensed professional engineer 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 licensed/certified professional that the plans conform to the requirements of this ordinance.*

*Prior to final approval of a land disturbance activity, a SWPPP shall be prepared by the applicant in accordance with the specifications outlined by the Town of Perinton and submitted to the Stormwater Management Officer designated by the Town of Perinton for review by the appropriate board. This plan must be prepared in accordance with sound engineering practices by a qualified professional as defined in Section II of this ordinance. The final plan must be signed by a New York State licensed professional engineer (PE), who will certify that the design of all stormwater pollution prevention and erosion and sediment control practices meet the requirements outlined in the Town of Perinton design criteria and the New York Standards and Specifications for Erosion and Sediment Control and shall be adequate to prevent transportation of sediment from the site to the satisfaction of Town of Perinton.*

*The requirements to have a SWPPP prepared by a qualified professional and to have the final plan signed and certified by a New York State licensed professional engineer (PE) are not applicable to land disturbance activities that meet technical standards and are five (5) acres or less occurring on a single family residence, which is not part of a larger common plan of development, or an agricultural property. In addition, these land disturbance activities must not discharge directly to a 303(d) impaired waterbody or must not be located in a Total Maximum Daily Load (TMDL) watershed.*

##### **a. Minimum Requirements:**

*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 and contact information that includes the name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the subject property or properties.*

*2. Site map/construction drawing(s) for the project, including a general location map and a 1" = 40' topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development. 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) including receiving waters (name of the water), streams, ponds, culverts, ditches, and wetlands as well as drainage patterns that could be affected by the construction activity; existing and final slopes; locations of utilities, roads, soils types, forest cover, and significant natural and manmade features not otherwise shown; locations of off-site material, waste, borrow or equipment storage areas, proposed concrete clean out basin(s) and construction entrance; and*

*location(s) of the stormwater discharges(s); and resources protected under other chapters of this code or by easements;*

*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, final grading and landscaping, and any other activity at the site that results in soil disturbance. Sequencing shall identify the expected date on which clearing will begin and the estimated duration of exposure of cleared areas. Consistent with the New York State Standards and Specifications for Erosion and Sediment Control, not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP and a letter of permission from the NYSDEC.*

*5. A description of the pollution prevention measures that will be used to control litter and prevent construction chemicals and construction debris from becoming a pollutant source in the stormwater discharges; a description of construction and waste materials expected to be stored on-site with updates as appropriate; a description of controls that will be implemented to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater; and a description of spill prevention and response measures.*

*6. A description of the 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 disturbance to project closeout, including who will be responsible for the maintenance and implementation of said features at the site and what practices will be employed to ensure that adequate vegetative cover is established and preserved. For temporary and permanent vegetative control measures, the seeding mixtures and rates, types of sod, method of seedbed preparation, depth of topsoil, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching shall be provided.*

*7. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;*

*8. Illustration of all necessary erosion and sediment control measures, including the siting and sizing of any temporary sediment basins and provide the dimensions, material specifications and installation details for each throughout all phases of construction and completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.*

*9. Identification of all temporary practices that will be converted to permanent control measures.*

*10. 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;*

*11. Identification of the parts or components of the SWPPP that require maintenance. Furthermore it shall also provide a*

*schedule of required maintenance and identify the party responsible for such work.*

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

*13. Any existing data that describes the stormwater runoff at the site.*

*14. Assurance that all other applicable environmental permits have been acquired for the site prior to initial land disturbance. Copies of the applicable environmental permits shall be provided to the Town of Perinton. Assurance that the applicant or their "Responsible Individual" shall be on site at all times when earthwork takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.*

*15. Assurance that all contractors and subcontractors involved in soil disturbance and/or stormwater management practice installation and maintenance shall be identified in the SWPPP. All such contractors and subcontractors shall sign a copy of the following certification statement before undertaking any land disturbance activity at the site:*

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

*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. The certification statement must be included in the SWPPP.*

#### *E. Modifications to the Plan After Approval*

*Major amendments of the SWPPP shall be submitted to the Town of Perinton and shall be approved or disapproved.*

*The applicant shall amend the SWPPP whenever:*

*1. There is a significant change in design, construction, operation, or maintenance which may have a significant effect on the potential for the discharge of pollutants to the waters of the United States and which has not otherwise been addressed in the SWPPP; or*

*2. The SWPPP proves to be ineffective in providing the proper stormwater pollution prevention and erosion and sediment control as required by this ordinance. Amendments to the SWPPP may be reviewed by the Town of Perinton. A copy of the newly amended SWPPP must be provided to the Town of Perinton within 5 business days. Additionally, the SWPPP shall be amended to identify any new contractor or subcontractor that will implement any measure of the SWPPP. The Town of Perinton may request copies of signed contractor certification statements from new contractors/subcontractors working on the site. Field modifications of a minor nature may be authorized by Town of Perinton by written authorization to the applicant.*

## ***F. Inspections***

### ***1. Town of Perinton Inspections***

***The Town of Perinton or designated agent as defined in section 119-5 shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the applicant that the work fails to comply with the SWPPP. In addition, the Town of Perinton reserves the right to enter the work site at any reasonable time for purposes of inspection. The SWPPP and the records of any inspections completed by the owner or their agent shall be maintained at the site in the site logbook from the date of initiation of construction activities to the date of final stabilization. To obtain inspections, the applicant shall notify Town of Perinton at least forty-eight (48) hours before the following activities occur:***

- a. Start of construction.***
- b. Erosion and sediment control measures have been installed and stabilized.***
- c. Site clearing has been completed.***
- d. Rough grading has been completed.***
- e. Final grading has been completed***
- f. Close of the construction Season***
- g. Final landscaping***
- h. Closeout inspection***

***The above inspection timetable does NOT relieve the owner of the obligation under this or any other permit or regulation to conduct regular inspections as set forth in said permit and/or regulation.***

***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 earthwork shall be conducted on the site, except for site stabilization until the violations are corrected and approved by the Town of Perinton.***

### ***2. Property Owner/Developer Inspections***

***The applicant shall employ a “Responsible Individual” as defined in section 119-5 of this ordinance who will oversee the implementation of the SWPPP on a daily basis. The “Responsible Individual” shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. The applicant shall also employ the services of a qualified professional in erosion and sediment control who will inspect and document the effectiveness of all erosion and sediment control practices. The documentation will be kept in a site logbook. Inspection reports will be completed every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. A monthly summary of reports will be copied to the site logbook and delivered to Town of Perinton within 5 days after the month’s end.***

***The requirement to employ a qualified professional to inspect and document the effectiveness of all erosion and sediment control practices is not applicable to land disturbance activities five (5) acres or less occurring on a single family residence, which is not part of a larger common plan of development or on an agricultural property. In addition, these land disturbance***

*activities must not discharge directly to a 303(d) impaired waterbody or must not be located in a Total Maximum Daily Load (TMDL) watershed.*

## ***G. Duration, Maintenance and Closeout***

### ***1. Duration***

*For a project that requires a NYSDEC SPDES Permit, the SWPPP approved by the Town of Perinton shall be in effect until (i) the site has been finally stabilized, (ii) a Notice of Termination (N.O.T) is submitted to the NYSDEC in accordance with the general permit, and (iii) a final inspection has been completed by the Town of Perinton.*

*For projects that do not require a NYSDEC N.O.T., the SWPPP is in effect until a final inspection is conducted and the Town of Perinton has issued the applicant written approval.*

### ***2. Maintenance***

*The applicant shall at all times properly operate and maintain all stormwater management facilities and erosion and sediment control measures which are installed or used by the applicant to achieve compliance with the conditions of this ordinance. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent. The land disturbance 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.*

*At the end of the construction season when soil disturbance activities will be finalized or suspended until the following spring, it may be desirable to reduce the frequency of the required weekly site inspections to monthly inspections. In order to reduce inspection frequencies, the applicant must complete stabilization activities before proper installation is precluded by snow cover or frozen ground. If vegetation is used as a stabilization method, seeding, planting, and/or sodding must be scheduled to avoid fall frosts and to allow for proper germination/establishment. Installations and maintenance must be done according to the New York State Standards and Specifications for Erosion and Sediment Control.*

### ***3. Closeout***

*The applicant must satisfy the following project closeout requirements: Reestablish grade of all permanent stormwater facilities;*

- a. Inspect grading of all drainage structures and provide elevation as-builts to the Town of Perinton;*
- b. Establish perennial vegetative cover to a density of eighty (80) percent over one hundred (100) percent of the site;*
- c. Removal of all debris and temporary erosion and sediment control practices;*
- d. Provide a written certification by a New York State licensed/certified professional that the site has undergone final stabilization (as defined in section 119-5) and that all temporary erosion and sediment controls not needed for long-term erosion control have been removed.*
- e. Complete any other measure deemed appropriate and necessary by the Town of Perinton to stabilize the project site.*

## **H. Enforcement & Penalties**

### **1. Stop-Work Order**

*The Town of Perinton may issue a stop-work order for violations of this ordinance. Persons receiving a stop-work order shall halt all land disturbance activities, except those activities that address the violations leading to the stop-work order, provided approval to proceed with these corrections had been granted by the Town. The stop-work order shall be in effect until the Town of Perinton confirms that the land disturbance 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 Chapter 115 of this code.*

*The Town of Perinton may restrict any and all activity on a site in violation of this ordinance.*

## **119-7 Design and Management of Post-Construction Stormwater Pollution Prevention Measures**

### **A. Introduction / Purpose**

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

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

### **B. Applicability**

*1. This ordinance shall be applicable to land disturbance activities as defined in Section B of this ordinance and those activities meeting Condition "A", "B", "C" or "D" below shall include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in section 119-7 H as applicable unless eligible for an exemption or granted a waiver by the Town of Perinton in accordance with section 119-7 F of this ordinance:*

*Condition A - Stormwater runoff from land disturbance activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for*

*which pollutants in stormwater have been identified as a source of the impairment.*

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

*Condition C - Stormwater runoff from land disturbance activity disturbing between 25,000 square feet and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.*

*Condition D – Stormwater runoff from land disturbance activity that are smaller than 25,000 square feet disturbance if such activities are part of a larger common plan of development, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules.*

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

*3. When a site development plan is submitted that qualifies as a redevelopment project as defined in Section B of this ordinance, decisions on permitting and on-site stormwater requirements shall be governed by special stormwater sizing criteria found in the current New York State Stormwater Management Design Manual. Final authorization of all redevelopment projects will be determined after a review by Town of Perinton.*

*4. This applies to all redevelopment projects that are greater than or equal to 25,000 square feet.*

*5. The following activities may be exempt from the requirements of this ordinance:*

*a. Any emergency activity which is immediately necessary for the protection of life, property or natural resources.*

*b. Agricultural activity as defined in this ordinance.*

*c. Silvicultural activity except that landing areas and log haul roads are subject to this ordinance.*

*d. 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.*

*e. Repairs to any stormwater treatment practice deemed necessary by Town of Perinton.*

### ***C. Compatibility with Other Permits and Ordinance Requirements***

*This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective*

*standards for human health and/or the environment shall be considered to take precedence.*

*Construction activities that involve land disturbance may also require additional compliance measures detailed in other regulations and/or ordinances found in this Code.*

#### **D. Compliance**

*1. Person(s) shall not receive any of the building, grading or other land disturbance approvals or permits required for land disturbance activities without first meeting the requirements of this ordinance to the satisfaction of the Town of Perinton.*

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

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

- *Stormwater Pollution Prevention Plan (SWPPP)(See section 119-7 I)*
- *Maintenance Easement(s) (See section 119-7 J(1) )*
- *Maintenance Agreement(s) (See section 119-7 J(3) )*
- *Any Applicable Fees (See section 119-8 R )*

*4. The SWPPP shall be prepared to meet the requirements of section 119-7 H through section 119-7 J of this ordinance. The Maintenance Agreement shall be prepared to meet the requirements of section 119-7 J(3) of this ordinance, and applicable fees shall be those as set fourth in section 119-8 R of this ordinance.*

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

#### **E. Waivers and Mitigation Requirements**

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

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

*a. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.*

*b. Alternative minimum requirements for on-site management of stormwater discharges have been established in a Stormwater Pollution Prevention Plan that has been approved by the Town of Perinton and the implementation of the plan is required by local ordinance. These practices are encouraged in order to minimize the reliance on structural practices. Credit in the form of reductions in the amount of stormwater that must be managed*

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

*c. Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.*

*d. The Town of Perinton finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.*

*e. Non-structural practices will be used on the site that reduces:*

- 1) The generation of stormwater from the site,*
- 2) The size and cost of stormwater storage and*
- 3) The pollutants generated at the site.*

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

*a. Deterioration of existing culverts, bridges, dams, and other structures;*

*b. Degradation of biological functions or habitat;*

*c. Accelerated streambank or streambed erosion or siltation;*

*d. Increased threat of flood damage to public health, life, property.*

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

*a. The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation (Dedication or Easement of Land, see section 119-7 G(2) below). These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat,*

*b. The creation of a stormwater management facility or other drainage improvements on previously developed properties,*

*public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this ordinance,*

*c. Monetary contributions (Fee in Lieu-Of, see section 119-7 G(1) below) to a dedicated fund for stormwater management activities.*

*4. No waivers or mitigation plans will be considered for land disturbance activity that disturbs one (1) acre or greater of land, do not discharge to a 303(d) waterbody or are located in a Total Maximum Daily Load (TMDL) watershed. .*

#### ***F. Fee in Lieu-Of and Dedication or Easement of Land***

##### ***1. Fee in Lieu-Of***

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

##### ***2. Dedication or Easement of Land***

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

*3. No waivers or mitigation plans will be considered for land disturbance activity that disturbs one (1) acre or greater of land, do not discharge to a 303(d) waterbody or are located in a Total Maximum Daily Load (TMDL) watershed. .*

#### ***G. General Design and Performance Criteria for Stormwater Management***

*The applicant shall consult the Town of Perinton's Design Criteria, the New York State Stormwater Management Design Manual and the New York Standards and Specifications for Erosion and Sediment Control for standards and specifications related to stormwater management design criteria. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law. If there is a conflict between any of the standards, the more stringent standard shall apply. Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in this section and section 119-7 I of this ordinance and the SWPPP shall be prepared by a licensed/certified professional.*

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

*a. All site designs shall establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practicable to provide treatment for both water quality and quantity.*

*b. All stormwater runoff generated from new development shall not discharge untreated stormwater directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the Town of Perinton. In no case shall the impact on functional values be any greater than that allowed by the Army Corp of Engineers (C.O.E) or the NYSDEC responsible for natural resources.*

*c. An attempt shall be made to maintain annual groundwater recharge rates, by promoting infiltration through the use of structural and non-structural methods. At a minimum, an attempt shall be made for annual recharge from the post development site to mimic the annual recharge from pre-development site conditions.*

*d. In order to protect stream channels from degradation, a specific channel protection criteria shall be provided as prescribed in the Town of Perinton's Design Criteria and/or the New York State Stormwater Management Design Manual.*

*e. Stormwater discharges to critical areas with sensitive resources may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.*

*f. Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots", may require the use of specific structural stormwater treatment practices and pollution prevention practices.*

*g. Prior to design, applicants are required to consult with the Town of Perinton to determine if they are subject to additional stormwater design requirements.*

*h. The calculations for determining peak flows (WQv) as found in the New York State Stormwater Management Design Manual shall be used for sizing all stormwater management practices.*

#### ***H. Stormwater Pollution Prevention Plan Requirements***

*A SWPPP is required as part of the compliance with this ordinance. This plan must be prepared by a qualified professional and must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices and shall also include sufficient information (e.g., maps, hydrologic calculations, etc) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The plan must be signed by a New York State licensed professional engineer (PE), who will verify that the design of all stormwater management practices meet the submittal requirements*

*outlined in the New York State Stormwater Management Design Manual. No building or grading permit or site plan approval shall be issued until a satisfactory Stormwater Pollution Prevention Plan, or a waiver thereof, has undergone a review and been approved by the Town of Perinton after determining that the plan or waiver is consistent with the requirements of this ordinance.*

*1. The applicant shall employ a “Responsible Individual” as defined in Section 119-5 of this ordinance who will oversee the implementation of the SWPPP on a daily basis. The applicant shall also employ the services of a qualified professional in erosion and sediment control who will inspect and document the effectiveness of all erosion and sediment control practices. The documentation will be kept in a site logbook. Inspection reports will be completed every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. A monthly summary of reports will be copied to the site logbook and delivered to Town of Perinton within 5 days after the month's end.*

*2. All SWPPPs shall provide the following information:*

*a. All information listed in Section 119-7H of the Ordinance for Construction Site Stormwater Pollution Prevention and Erosion and Sediment Control.*

*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. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses. A written description of the site plan and justification of proposed changes in natural conditions may also be required;*

*d. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms including calculations such as a description of the design storm frequency, intensity and duration; time of concentration; Soil Curve Numbers or runoff coefficients; peak runoff rates and total runoff volumes for each watershed area; infiltration rates, where applicable; culvert capacities; flow velocities; data on the increase in rate and volume of runoff for the design storms referenced in the New York State Stormwater Management Design Manual, and documentation of sources for all computation methods and field test results;*

*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. The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures including a schedule to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.*

- h. The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property. section 119-7 J of this ordinance for additional information.*
- i. The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by the on-site stormwater management measure(s) in accordance with the specifications of this ordinance. See section 119-7 J of this ordinance for additional information.*
- j. The SWPPP shall be prepared by a qualified professional and the final plan must be signed by a New York State licensed professional engineer, who shall certify that the design of all stormwater management practices meet the requirements in this ordinance.*
- k. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.*
- l. The Town of Perinton may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.*
- m. The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect or by the soil and water conservation district and in compliance with landscaping specifications outlined in the New York State Stormwater Management Design Manual.*
- n. The applicant shall assure that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater design plan.*

## ***I. Maintenance of Stormwater Management Facilities***

### ***1. Maintenance Easement***

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

## **2. Maintenance after Construction**

*The owner or operator of permanent stormwater management practices installed in accordance with this ordinance shall ensure they are operated and maintained to achieve the goals of this ordinance. 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 ordinance.*
- b. Written procedures for operation and maintenance and training new maintenance personnel.*
- c. Discharges from the stormwater management practices shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with section 119-5 of this ordinance.*

## **3. Maintenance Agreements**

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

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

## **4. Requirements of Maintenance Agreements**

*All stormwater management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs to ensure compliance with the requirements of this ordinance and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be identified in writing, along with the schedule and methods to be employed to complete the maintenance. The maintenance repairs and restoration schedule are to be approved by the Town of Perinton prior to commencing the work and the Town of Perinton shall inspect the facility upon completion of the work. The inspection and maintenance requirement may be increased by the Town of Perinton as deemed necessary to ensure proper functioning of the stormwater management facility.*

## **5. Records of Installation and Maintenance Activities**

*Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all*

*maintenance and repairs, and shall retain the records for at least five (5) years. These records shall be made available to the Town of Perinton during inspection of the facility and at other reasonable times upon request.*

#### **6. Maintenance Guarantees for Privately Owned Stormwater Facilities**

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

#### **J. Inspection and Right of Entry**

*The Town of Perinton or designated agent shall make inspections at any reasonable time for purposes of inspecting the construction of the stormwater management facilities. Inspections may include but are not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices. The applicant must notify the Town of Perinton in advance before the commencement of construction. If any violations are found, the property owner shall be notified of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the Town of Perinton.*

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

#### **K. As-Built Plans and Project Closeout**

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

## ***L. Landscape Alterations***

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

## ***M. Enforcement & Penalties***

### ***1. Failure to Maintain Practices.***

***If a responsible party fails or refuses to meet the requirements of the maintenance agreement, the Town of Perinton, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition.***

***a. In the event that the stormwater management facility becomes a danger to public safety or public health, the Town of Perinton shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have five (5) days to affect maintenance and repair of the facility in an approved manner. After proper notice, the Town of Perinton may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.***

***b. In the event that the stormwater management facility becomes an imminent danger to public safety or public health, the Town of Perinton shall have the ability to enter the property to perform all necessary work to place the facility in proper working condition. The Town of Perinton may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.***

### ***2. Violations***

***Any development activity that is commenced or is conducted contrary to this ordinance may be restrained by injunction or otherwise enforced in accordance with Chapter 115 of the Town of Perinton Code***

### ***3. Notice of Violation***

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

- a. The name and address of the owner 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 development activity into compliance with this ordinance 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.*

#### **4. Stop-Work Orders**

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

#### **5. Civil and Criminal Penalties**

*Violations of these provisions shall be enforced pursuant to Chapter 115 of the Town Code, Enforcement.*

#### **6. Holds on Occupation Permits**

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

#### **7. Performance Bond/Security**

*The Town of Perinton may, at its discretion, require the submittal of a performance security or bond prior to approval in order to insure that the stormwater practices are installed as required by the approved Stormwater Pollution Prevention Plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved by the Town of Perinton, plus 25%. The performance security shall contain forfeiture provisions for failure to complete work specified in the Stormwater Pollution Prevention Plan. The installation performance security shall be released in full only upon submission of "as built plans" and written certification by a New York State licensed professional engineer that the stormwater practice has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The Town of Perinton will make a final inspection of the stormwater practice to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security based on the completion of various development stages can be done at the discretion of the Town of Perinton.*

### **119-8 Illicit Discharge Connection Stormwater Ordinance**

#### **A. Purpose/Intent**

*The purpose and intent of this Ordinance is to ensure the health, safety and general welfare of citizens, and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. §1251 et seq.) by (i) reducing pollutants in storm water discharges to the maximum extent practicable; (ii) prohibiting non-storm water discharges to the storm drain system.; and (iii) prohibiting stormwater discharges to sanitary sewers.*

## **B. Applicability**

*This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Town of Perinton. The ordinance also applies to stormwater entering the sanitary sewers.*

## **C. Responsibility for Administration**

*The Town of Perinton shall administer, implement and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Town of Perinton may be delegated in writing by the Commissioner of Public Works to persons or entities acting in the beneficial interest of or in the employ of the agency.*

## **D. Ultimate Responsibility**

*The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore, this ordinance does not intend or imply that compliance by any person will ensure that there will not be contamination, pollution nor unauthorized discharge of pollutants.*

## **E. Powers and Authority of Inspectors**

*The Town of Perinton bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, records examination and copying, observation, measurements, sampling, and testing pertinent to discharge or potential to discharge, and for repair and maintenance to the municipal storm sewer system.*

*1. Information and data on a non-domestic source obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction, unless the non-domestic source specifically requests and is able to demonstrate to the satisfaction of the Town of Perinton that the release of such information would divulge information, processes or methods of production entitled to protection as confidential information according to the criteria set forth in 40 CFR 2.208 and 2.302, as may be amended from time to time.*

*2. When requested by the person furnishing a report, the portions of a report which might disclose confidential information shall not be made available for inspection by the public. Storm water constituents and characteristics will not be recognized as confidential information.*

*3. Information accepted by the Town of Perinton as confidential shall be made available upon request to any agency meeting the requirements of Section 308 of the Clean Water Act, including officers, employees or authorized representatives of the United States concerned with carrying out the Clean Water Act, bound by the confidentiality rules in 40 CFR Part 2, as may be amended from time to time.*

*4. While performing the necessary work on private properties referred to in section 119-7 E paragraph "1", the Town of Perinton shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the authorized representative(s), and the Town of Perinton shall indemnify the company against loss or damage to its property by Town of Perinton employees and against liability claims and demands for personal injury or property damage asserted against the company by Town of Perinton employees and growing out of the inspection and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.*

*5. Unreasonable delays in allowing the Town of Perinton access to the premises or other interference with the activities of the Town of Perinton shall be a violation of this Ordinance. Access to property and/or records of a non-domestic source may not be refused on the basis that the Town of Perinton refuses to sign any waiver, access agreement, or similar document.*

*6. If the Town of Perinton has been refused access to a building, structure or property or any part thereof, and if the Town of Perinton has demonstrated probable cause to believe that there may be a violation of this Ordinance or that there is a need to inspect as part of a routine inspection program of the Town of Perinton to verify compliance with this Ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town of Perinton will make an application to a court of competent jurisdiction for a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant application shall specify what, if anything, may be searched and/or seized on the property described. If granted by the court, such warrant shall be served at reasonable hours by the Town of Perinton in the company of a uniformed officer of the law enforcement agency with jurisdiction over the property. In the event of an emergency affecting public health and safety, inspections may be made without the issuance of a warrant.*

#### ***F. Prohibition of Illegal Discharges***

*1. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including, but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. Such activities include failing private sewage disposal systems as defined in Section II, improper management of animal waste or any other activity that causes or contributes to violations of the municipality's MS4 SPDES permit authorization.*

*2. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.*

#### ***3. Prohibition Exceptions***

*The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:*

*a. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated and non-sediment laden pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated – typically less than one PPM chlorine), fire fighting activities and any other water source not containing pollutants. Regardless of exemption, Best Management Practices should be implemented to reduce impacts from the above activities.*

*b. Discharges specified in writing by the Town of Perinton as being necessary to protect public health and safety.*

*c. Dye testing is an allowable discharge, but requires a verbal notification to the Town of Perinton prior to the time of the test.*

*d. The prohibition shall not apply to any non-stormwater discharge permitted under SPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the New York State Department of Environmental Conservation, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system by the Town of Perinton*

#### ***G. Prohibition of Illicit Connections***

- 1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.*
- 2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.*
- 3. A person is considered to be in violation of this ordinance if the person connects a pipe or line conveying sewage to the municipal separate storm sewer system (MS4) or allows such a connection to continue.*

#### ***H. Waste Disposal Prohibitions***

*No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drainage system, or water of the U.S., any refuse, rubbish, yard/lawn waste, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.*

#### ***I. Prohibition Against Failing Private Sewage Disposal Systems***

*No person shall construct or maintain any cesspool, sewage disposal system, pipe or drain so as to expose or discharge the sewage contents or other deleterious liquids or matter therefrom to the atmosphere or on the ground surface or into any storm sewer or drain or as to endanger any watercourse or body of water unless a permit for such discharge shall have been issued therefore by the Monroe County Department of Health or by the State Department of Health or the State Department of Environmental Conservation, and such discharge shall be made in accordance with the requirements thereof. Owners or operators of private sewage disposal systems shall operate, maintain and inspect such systems in accordance with the Monroe Sanitary Code.*

#### ***J. Prohibition of Stormwater Discharge to Sanitary Sewer***

*Stormwater shall not be discharged into the sanitary sewer without written permission to do so from the Town of Perinton.*

#### ***K. Suspension Due to Illicit Discharges in Emergency Situations***

*The Town of Perinton may, without prior notice, suspend discharge access into the MS4 to a person when such a suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and*

*substantial danger to the environment; to the health or welfare of persons; to the storm drainage system including but not limited to pipes, manholes, outfall structures and storm laterals; or the Waters of the United States. If the violator fails to comply with a suspension order, the Town of Perinton may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States or to minimize danger to persons.*

#### ***L. Suspension Due to the Detection of Illicit Discharge***

*Any person discharging to the MS4 in violation of this ordinance may have their MS4 access suspended or terminated if such action would abate or reduce an illicit discharge. The Town of Perinton will notify a violator of the proposed suspension or termination of its MS4 access. The violator may petition the Town of Perinton to reconsider the suspension or termination of MS4 access by requesting a hearing.*

*It shall be unlawful for any person to reinstate MS4 access to premises suspended or terminated pursuant to this Section, without the prior approval of the Town of Perinton.*

#### ***M. Industrial or Construction Activity Discharges***

*Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town of Perinton prior to discharge or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.*

#### ***N. Monitoring of Discharges***

##### ***1. Applicability***

*This section applies to all facilities that the Town of Perinton must inspect to enforce any provision of this Law, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Law.*

##### ***2. Access to Facilities***

*a. The Town of Perinton shall be permitted to enter and inspect, at any time, facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Town of Perinton.*

*b. Facility operators shall allow the Town of Perinton ready access to all parts of the premises for the purpose of inspection, sampling and examination of the private storm drainage system. Persons or facility operators must supply copies, if requested by Town of Perinton of all records kept under the conditions of the SPDES stormwater discharge permit. Persons or facility operators must also identify the performance of any additional duties as defined by state and federal law.*

*c. The Town of Perinton shall have the right to place or position on any permitted facility such devices as are necessary in the opinion of the Town of Perinton to conduct monitoring and/or sampling of the facility's discharge to the storm sewer system.*

*d. The Town of Perinton has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated as necessary and recommended by the manufacturer to ensure their accuracy.*

*e. Any temporary or permanent obstruction to the facility which allows for unsafe access or difficulty in monitoring, inspecting or sampling of the storm drainage system shall be promptly removed by the discharger at the written or verbal request of the Town of Perinton and shall not be replaced. All costs associated with clearing such access restrictions shall be borne by the discharger in full.*

*f. Unreasonable delays, as determined by the Town of Perinton, in allowing the Town of Perinton access to a facility, which is permitted under the New York State Department of Environmental Conservation SPDES Program, for the purposes of conducting any activity authorized or required by the permit is considered a violation of said Program and of this ordinance.*

*g. If the Town of Perinton has been refused access to any part of the premises from which a discharge or conveyance to the storm sewer system exists, and the Town of Perinton is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to further inspect and/or sample the private stormwater system to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town of Perinton may seek issuance of a search warrant from any court of competent jurisdiction.*

## ***O. Requirements to Prevent, Control and Reduce Stormwater Pollutants by the Use of Best Management Practices***

### ***1. Best Management Practices***

*Town of Perinton will adopt requirements identifying Best Management Practices (BMPs) for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system or Waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the maximum extent practicable, shall be deemed compliant with the provisions of this section. Appropriately designed structural/non-structural BMPs shall be included as part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the SPDES permit.*

### ***2. Private Sewage Disposal Systems***

*Where individual sewage treatment systems are contributing to the Town of Perinton being subject to the Special Conditions as defined in section 119-5 of this Ordinance, the owner or operator of such individual sewage treatment system shall be required to maintain and operate the system as follows:*

*a. Private sewage disposal systems should be operated, maintained and inspected in accordance with the Monroe County Sanitary Code.*

*b. Septic tank additives shall not be used.*

*c. Repair or replace private sewage disposal systems as follows:*

- (1) In accordance with Monroe County sewage system design standards.*
- (2) No person shall alter, repair or extend a private sewage disposal system unless a permit is obtained from the Monroe County Health Director or his authorized representative.*

*P. Watercourse Protection*

*1. No person shall alter a storm water conveyance system on private or publicly owned land such that it alters the storm water conveyance system from its intended use.*

*2. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property in a manner which prevents illicit discharges, and keeps the watercourse free of trash, debris, yard/lawn waste, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.*

*Q. Notification of Spills*

*Notwithstanding other requirements of law, as soon as any person (i) responsible for a facility or operation or (ii) responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in the illegal discharges of pollutants into stormwater, the public or private storm drain system or Waters of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of any such release. In the event a release of hazardous materials occurs, said person shall immediately notify 911, the NYSDEC Region 8 Spill Response Team and/or call the NYS Spill Hotline @ 1-800-457-7362 within the time frame established by law as well as notify the Town of Perinton of the occurrence. In the event of a release of non-hazardous materials, said person shall notify the Town of Perinton in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town of Perinton at 1350 Turk Hill Road, Fairport, NY 14450 post-marked within three business days of the date of the in person or phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least five years.*

*R. Fees*

*Applications submitted under the provisions of 119-6, 119-7 and 119-8 shall be accompanied by the appropriate fee, as approved by the Town Board.*

*S. Severability*

*The provisions and sections of this ordinance shall be deemed to be separable and if the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance 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 ordinance.*

*119-7. Submission of application.*

*A. Concurrent with the submission of other required plans for the preliminary phase of site plan approval or subdivision approval, the applicant shall submit to the Perinton Planning Board an application prepared by a licensed architect or engineer, consisting of a proposed sediment control plan and a sequence of operations schedule, including such documentation, support, calculations and details as determined by the Planning Board and its advisors to be necessary or appropriate.*

*B. Innovative designs by the applicant's engineers and/or developers is encouraged in creating the sediment control plan, with the emphasis on the ability of the plan to satisfy the objectives of this chapter.*

*C. The Town Planning Board may modify the requirements concerning materials to accompany the application by waiving or adding such requirements as it deems appropriate to the nature and scope of the proposed activity and property.*

*§ 119-8. Approval procedure; inspections; suspension or revocation of permit.*

*A. Upon the applicant's filing the proposed sediment control plan with the Planning Board, the approval procedure shall be within the time constraints and procedures set forth for final approval of the overall project, such that if the project is for the subdivision of land, then § 182-14B, D and E shall apply, and if for site plan review, § 208-53G shall apply. Both references refer to the Code of the Town of Perinton, as amended from time to time.*

*B. It shall be the responsibility of the Commissioner of Public Works to inspect the sites as frequently as necessary to assure compliance with the terms of approved permits and the provisions of this chapter.*

*C. If at any time during the effective period of a permit the terms of the permit are violated, the Commissioner of Public Works may suspend or revoke the permit and may require that the security be forfeited to the Town.*

*§ 119-9. Performance bond.*

*A. After the approval of the application and before the issuance of any permit, the applicant and each owner of record of the premises other than the applicant shall jointly make, execute and file with the Town Clerk a performance bond to cover the cost and maintenance of such improvements, together with security acceptable to the Town Board. At the option of the applicant, the security may be separate or combined with the general security required for developmental work on the site. The Town Planning Board may grant a waiver of such security if it deems the proposed activities to be of minor scope and to be consistent with the provisions of this chapter.*

*B. The party or parties filing the security guarantee that either upon termination of the permit or the operation, whichever may come first, the project shall be in conformity with both the approved specific requirements of the permit and the provisions of this chapter. In the event of default of such or violation of this chapter, such credit shall be forfeited to the Town. The Town shall return to the applicant any amount that is not needed to cover the costs of restoration, maintenance, administration and any other expenses incurred by the Town as a result of the applicant's default. Such credit shall continue in full force and effect until a certificate of compliance shall have been issued by the Commissioner of Public Works after such consultation with any agencies or individuals as he deems necessary to ensure that all provisions of this chapter and of the permit have been met.*

*§ 119-10. Requirements prior to commencement of work.*

*No developmental work on the site may commence until the following is satisfied:*

*A. The sequence of site preparation has been followed and the phase permitting development has been reached.*

*B. A certificate of compliance has been issued verifying that the work and sequence has been performed in accordance with the approved sediment control plan and in conformity with this chapter.*

*§ 119-11. Penalties for offenses. EN*

*Any person found guilty of a violation of the provisions of this chapter shall be punishable pursuant to Chapter 115, Enforcement Procedures.*

A motion was made by Councilperson LaFay, seconded by Councilperson Saum, that 8:00 pm, February 13, 2008 at the Perinton Town Hall, 1350 Turk Hill Road, Fairport, NY 14450 be set as the date, time and place for a Public Hearing to consider the proposed changes to Section 119 of the Code of the Town of Perinton.

Ayes: Smith, Glossner, Saum, LaFay

Nays: None

Unanimously approved

ORDER FOR HEARING  
AMENDMENTS TO PARTS OF SECTION 208  
CODE OF THE TOWN OF PERINTON  
INDUSTRIAL & LIMITED COMMERCIAL ZONING

Building Director Copp said that the Building Department has had several inquiries regarding the construction of mini-warehouses in industrially zoned districts. The current zoning language appears to allow such construction; he said the Codes Committee is proposing the amendment to Section 208-40 to clarify that use.

In addition, the committee would like to propose a maximum size limit to individual buildings in Limited Commercial districts and a maximum size limit to mini-warehouse units or compartments.

He asked the Board to set a date for a Public Hearing to consider the following proposed changes:

*Deleted text*

*Added text*

**208-8 Definitions:**

**MINIWAREHOUSE** -- Any structure having separate compartments or units *less than 400 square feet each* adapted to or used for the storage of goods, materials and/or merchandise for compensation. [Added 2-8-1984 by L.L. No. 1-1984]

**§ 208-40. Industrial District.**

- A. Uses permitted. The following uses shall be permitted in the Industrial District:
- (1) Customary and ordinary industrial uses which are conducted wholly within the enclosed walls of a building, including warehousing, are permitted. Those uses of lands, buildings, structures or processes which may or shall be noxious, injurious or in any way harmful to persons or property by reason of the production or emission of dust, smoke, refuse, odor, gas fumes, noise, radiation, vibrations or similar circumstances or conditions are expressly prohibited. [Amended 2-8-1984 by L.L. No. 1-1984]
  - (2) Hotels or motels. (See § 208-45.) [Amended 2-12-1992 by L.L. No. 1-1992]
  - (3) All uses first permitted in a Restricted Business District.
  - (4) A solid waste facility may be permitted upon obtaining a permit from the Zoning Board of Appeals as provided in § 208-21 of this chapter, provided that it meets the following criteria: [Added 8-28-1991 by L.L. No. 6-1991]
    - (a) The parcel is greater than 100 acres in size.

- (b) The facility and related improvements are set back greater than 100 feet from any property line.
  - (c) Appropriate measures are taken to minimize the visual impact of any operational activities and equipment and drop-off facilities are provided along adjacent public roads.
- (5) Veterinary office, provided that there is no outside keeping of animals and adequate soundproofing is provided so that the ambient sound level at the property boundaries is not elevated more than 10 decibels on the A-weighted scale as measured at a fast response with an instrument satisfying the requirements of American National Standards Institute (ANSI) S1.2-1983. [Added 2-12-1992 by L.L. No. 1-1992]

(6) Adult uses. [Added 7-26-1995 by L.L. No. 5-1995]

(7) *Miniwarehouses*

**§ 208-43. Limited Commercial District.** [Added 3-28-1990 by L.L. No. 2-1990]

A. Intent. The intent of this district is as follows:

- (1) To limit the possible uses in such an area to lower-intensity commercial uses in smaller structures than the General Commercial District allows.
- (2) To provide areas within the Town for location of commercial uses serving the day-to-day convenient shopping and personal service needs of a neighborhood area and to assure the compatibility of such areas with nearby residential development.

B. Uses permitted. The following uses shall be permitted in the Limited Commercial District:

- (1) All uses first permitted in Restricted Business District with the exception of banks, hotels and motels, provided that such uses do not exceed 6,000 square feet in area, and are part of an existing or proposed commercial site.
- (2) The following uses, when conducted within a completely enclosed building. Such uses are not to exceed 2,500 square feet in total area ***and individual buildings are not to exceed 10,000 square feet in size.***

A motion was made by Councilperson Saum, seconded by Councilperson Glossner, that 8:00 pm, February 13, 2008 at the Perinton Town Hall, 1350 Turk Hill Road, Fairport, NY 14450 be set as the date, time and place for a Public Hearing to consider the proposed changes to Section 208 of the Code of the Town of Perinton.

Ayes: Smith, Glossner, Saum, LaFay  
 Nays: None  
 Unanimously approved

RELEASE CONSERVATION EASEMENT  
 ALDRICH ROAD

Assessor Katherine Kramer reported that Anthony Bingo & Son has requested the release of the conservation easement encumbering the property bearing tax account number 181.01-1-4.21. The company has satisfied the financial obligations to the Town needed to enable the Board to approve the release: back taxes in the amount of \$9,380.60 and penalties in the amount of \$2,346.75. She asked the Board to approve the easement release.

Ms. Kramer said that the Town was first approached by Mr. Bingo regarding the conservation release in October. At that time he submitted a check in the amount of \$12,422.26; since that time the associated fees and penalties have decreased by \$694.91. She asked that the Board also approve a refund to Anthony Bingo & Son for that amount.

A motion was made by Councilperson Glossner, seconded by Councilperson LaFay, that the conservation easement on land bearing tax account number 181.01-1-4.21 be released, that the back tax money be conveyed to the appropriate agencies, that the penalty money of \$2,346.75 be transferred to the Capital Reserve Fund for Open Space Acquisition and that Anthony Bingo & Son be refunded the \$694.91 overpayment made to the Town in October.

Ayes: Smith, Glossner, Saum, LaFay

Nays: None

Unanimously approved

REZONING DECISION  
RESIDENTIAL B TO RESTRICTED BUSINESS &  
SPECIAL USE PERMIT  
1135 FAIRPORT ROAD

Supervisor Smith said the Order for Hearing for the rezoning proposal was held on November 14, 2007. The Public Hearing for both proposals was held on December 12, 2007. The request was then sent to the Monroe County Department of Planning & Development and the Perinton Planning and Conservation Boards for their comments.

Monroe County said that the rezoning proposal needed to be consistent with the Town of Perinton's Comprehensive Plan.

In a memo dated January 3, 2008, the Planning Board supported the rezoning. The proposal conforms to the guidelines offered in the Fairport-Baird-Whitney Roads Subarea Report to the Town of Perinton 2000 Comprehensive Plan. It eliminates a curb cut on Fairport Road and will improve the appearance of the Fairport Road corridor. The applicant is proposing a minimum 50 foot landscape buffer along the entire western edge of the property to protect the neighboring residential properties.

The Conservation Board, in a memo dated January 7, 2008, supports the rezoning of the property. A septic system will be replaced with sewers and a storm water management plan put in place, both important to preserve the water quality of nearby Irondequoit Creek. In addition, a curb cut to Fairport Road will be eliminated and the landscaping will be improved, enhancing the visual aspect of the area.

The Conservation Board recommends a Negative Declaration for purposes of SEQR (New York State Environmental Quality Review).

Robert Cantwell, BME Engineers, reviewed the ways the proposal was consistent with the Fairport/Baird/Whitney Roads Subarea Report to the 2000 Town of Perinton Comprehensive Plan.

Supervisor Smith asked about using a residential design for the new building at 1135 Fairport Road. Mr. Cantwell said that the developer wishes to have the facades of 1135 and 1150 similar enough that motorists will realize they are part of the same site with combined parking.

Councilperson Saum made a motion, seconded by Councilperson LaFay, that, as per the Conservation Board memo of January 7, 2008, the proposed rezoning and Special Use Permit be given a Negative Declaration under SEQR.

Ayes: Smith, Glossner, Saum, LaFay  
Nays: None  
Unanimously approved

Councilperson Glossner offered the following motion, seconded by Councilperson Saum:

I move that we approve rezoning the property at 1135 Fairport Road from Residential B to Restricted Business and a Special Use Permit for Public Buildings and Grounds based on the referral from Monroe County Planning Dept. with comment from NYS DOT endorsing the removal of a road cut on Fairport Road.; the referral from the Perinton Conservation Board dated January 7, 2008, which recommended the rezoning and the referral from the Perinton Planning Board dated January 3, 2008 which recommended the rezoning.

The Town Board held an Order for Hearing on November 14, 2007 relative to the rezoning, and a Public Hearing on December 12, 2007 relative to the rezoning and the Special Use Permit. There were no negative comments at the hearing regarding this proposal. The proposal is consistent with the Fairport-Baird-Whitney Roads Subarea Report to the 2000 Comprehensive Plan in that it will remove a road cut on Fairport Road and improve the appearance of the Fairport Road corridor. That plan identified Irondequoit Creek as a future zoning demarcation point.

The use of the building for a Fitness Club is consistent with uses in the neighborhood and will act as an amenity to residential properties in this area. The property is bounded by a golf course (recreation facility) and commercial zoning to the north, Amtrak railroad to the south and commercial and restricted business to the east. The residential property to the west can be buffered by this application.

The Board has reviewed Section 208-54 D and finds this application to be in compliance.

A condition of this rezoning shall be that the buffering on the west line shall adequately shield the residential properties to the west.

Ayes: Smith, Glossner, Saum, LaFay  
Nays: None  
Unanimously approved

#### MEMBERSHIP CHANGES BUSHNELL'S BASIN FIRE ASSOCIATION

A motion was made by Councilperson Glossner, seconded by Councilperson LaFay, that the following changes in the membership of the Bushnell's Basin Fire Association be approved:

Non-resident Active to Exempt	Jon Jones 21 Charter Oaks Pittsford, NY 14534
Active Resident to Non-Resident Active	Jeff Gulik 41 Brookside Drive Fairport, NY 14450

Ayes: Smith, Glossner, Saum, LaFay  
Nays: None  
Unanimously approved

## AWARD DPW EQUIPMENT BIDS

Commissioner Beck said that, on December 21, 2007, bids were opened for DPW replacement equipment. He asked the Board to approve the following purchases:

**ITEM 1: ONE NEW 2008 25 CUBIC YARD PACKER BODY WITH HYDRAULICS INSTALLED ON OWNER-SUPPLIED CHASSIS.**

Commissioner Beck said the body would be mounted on a 10 wheel cab and chassis being acquired from New York State bid contract. He said the low bid, from Hacker's Packers Inc., did not meet bid specifications in several areas, most importantly, in the type of steel used in the body walls. For that reason he recommended the bid be awarded to the second low bidder, Cyncon Equipment Inc., 7494 West Henrietta Road, Rush, NY 14543 for a Heil F5000-25 for a bid of \$59,716.00.

**ITEM 2: ONE NEW 2008 3-CUBIC YEARD, FOUR-WHEEL DRIVE ARTICULATED FRONT END LOADER WITH BUCKETS AND LOADRITE SCALE SYSTEM**

Commissioner Beck said the two lowest bidders for this item took exception to several items in the bid specifications. The third lowest bid met advertised bid specifications in all significant areas. Therefore, he recommended the bid be awarded to Five Star Equipment, 60 Paul Road, Rochester NY 14624 for a John Deere 544J for a bid of \$119,947.00 with Option #1 for an additional \$8,773.00, bringing the total bid to \$128,720.00.

**ITEM #3: TWO NEW 2008 SUPER DUTY 4X2 SIX-WHEEL CAB AND CHASSIS**

Two bids were received for this item. The low bid, which met all specifications, was from Van Bortel Ford. Commissioner Beck recommended the bid be awarded to Van Bortel Ford Inc., 7325 Rte 96, Victor, NY 14564 for a Ford F550 4x2 for a bid of \$32,323.00 each.

**ITEM #4: ONE NEW LONG BOX ¾ TON HEAVY DUTY TWO WHEEL DRIVE CREW CAB PICKUP TRUCK WITH LIFT GATE**

Two bids were received for this item. The low bid, which met all specifications, was from Van Bortel Ford. Commissioner Beck recommended the bid be awarded to Van Bortel Ford Inc., 7325 Rte 96, Victor, NY 14564 for a F250 Crew Cab 4x2 for a bid of \$22,871.25

**ITEM #5: ONE NEW TRAILER MOUNTED HYDROSEEDER**

Commissioner Beck said the hydro-seeder was a new piece of equipment which would be used by both the Highway and Sewer Departments. It would allow the DPW to restore work areas on private property in a more timely and less expensive manner than relying on a contractor to do the work. He recommended the bid be awarded to the low bidder, with all three options (electric rewind wheel, additional 200' of hose and a turret gun with one straight and one fan nozzle) included. The low bidder was Skyworks Equipment Rental LLC, 63 Pixley Industrial Extension, Rochester NY 14624 for a Kincaid 550 Agitator for \$16,500.00; Option #1 \$2,700.00, Option #2 \$750.00 and Option #3 \$790.00.

A motion was made by Councilperson LaFay, seconded by Councilperson Saum, that the DPW equipment bids be awarded as recommended by Commissioner Beck.

Ayes: Smith, Glossner, Saum, LaFay  
Nays: None  
Unanimously approved

## APPROVE ENGINEERING CONTRACT

Commissioner Beck said that, in 2007, the Town of Perinton entered into a contract with New York State Department of Transportation (NYSDOT) to realign the intersections of Fairport and O'Connor Roads with Jefferson Avenue. The Town will receive federal aid to assist in offsetting the cost of the project; State aid may also be available.

It is necessary to select an engineering consultant who will be responsible for design of the new highway improvements. The Town contacted fifteen consultants, who have already been approved to work on federally funded projects, and asked them to submit a proposal, in letter format, showing their knowledge of the project and their methods of approach. A Town committee reviewed those proposals, narrowing the list to three engineering firms. It then interviewed representatives of each firm.

As a result of those interviews the committee selected Erdman Anthony. The company had overall knowledge of the project, has done extensive past work on such projects and has prior involvement with the Fairport Road Corridor Study.

Erdman Anthony has developed a scope of work and negotiated a price for its contract. Those have been reviewed by NYSDOT and found to be reasonable when compared to similar projects. Mr. Beck asked the Board to approve the contract with Erdman Anthony.

Councilperson Saum made a motion, seconded by Councilperson LaFay, that the Board approve an engineering contract with Erdman Anthony, at a price not to exceed \$230,000, for the realignment of Fairport Road, O'Connor Road and Jefferson Avenue.

Ayes: Smith, Glossner, Saum, LaFay

Nays: None

Unanimously approved

## DPW REDEVELOPMENT PROJECT CHANGE WORK ORDERS

Commissioner Beck said that LeChase Construction, Project Manager for the DPW Redevelopment Project, has recommended the following change work orders.

Building Innovation Group, Interiors, Acoustical & Wall Finishes, has two change work orders. The first deleted a fry riglet in the front entry way and created an opening for paper towel dispensers in the restrooms. Total cost of the changes is \$434.00. The second change work order is for setting anchor bolts for the center columns in the Administration Building in the correct location, at a cost of \$940.00.

Christa Construction, Masonry, has a two-part change work order. The first part, in the amount of \$3,528.00, is for repairing existing block piers in the existing vehicle storage building. The second, in the amount of (\$940.00), is credit for locating the anchor bolts for the center columns in the Administration Building in the wrong place. It is an offset for the cost of having the bolts reset.

Landmark Enterprises, Site Work, has three change work orders. The first, in the amount of \$596.00, is for the removal of a small amount of salt that was lodged behind the plywood push walls in the old salt storage building. The second, in the amount of \$5,762.99 is for the addition of a storm sewer lateral on the north side of the Administration Building. The lateral was left off the plans and specifications for the building. The third, in the amount of \$943.00, is for the installation of a vapor recovery pipe on the existing diesel fuel tank, which was not required when the tank was installed but is required now.

Commissioner Beck said that the total of these change work orders was \$11,263.00; he said the DPW Redevelopment Project was still within budget.

A motion was made by Councilperson Glossner, seconded by Councilperson Saum, that the above change work orders be approved as recommended by LeChase Construction. Each is the result of a change in conditions and was not foreseen in the original plans.

Ayes: Smith, Glossner, Saum, LaFay

Nays: None

Unanimously approved

AWARD OF BIDS  
CONTRACTS #14 & 15  
DPW REDEVELOPMENT PROJECT

Commissioner Beck said that, when bids were solicited for the DPW Redevelopment Project, none were received for Contracts 14 & 15. The contracts were written with the requirement that the vendor supply the equipment installed. This is not common practice; generally installation of the cranes, hoists and lifts would be included in the building contracts.

The bid specifications were rewritten with the installation portion removed. Bids were opened on November 27, 2007. Two bids were received, one for cranes and hoists and one for vehicle lifts. Each met advertised specifications; both were below project budget amounts.

Commissioner Beck recommended that the bid for Contract #14, Cranes and Hoists, be awarded to Alois Materials Handling Inc., 660 West Metro Park, Rochester NY 14623, for a Base bid \$68,300.00 and a two-year maintenance contract for \$600.00, and that the bid for Contract #15, Vehicle Lifts, be awarded to Filtrec Corporation, 5440 Lockwood Road, Auburn NY 13021 for a base bid of \$204,900.00 with a two-year maintenance contract for \$1,230.00. He asked the Board for authorization to advertise for bids for the associated installation work.

A motion was made by Councilperson Glossner, seconded by Councilperson Saum, that the bids for cranes and hoists and vehicle lifts be awarded as recommended by Commissioner Beck and that the Commissioner be authorized to advertise for bids for the associated installation work.

Ayes: Smith, Glossner, Saum, LaFay

Nays: None

Unanimously approved

A motion was made by Councilperson Saum, seconded by Councilperson LaFay, that the reports from the Finance Director, Town Clerk and the Building Department for the month of December and the Court Clerk's report for 2007 be approved.

Ayes: Smith, Glossner, Saum, LaFay

Nays: None

Unanimously approved

A woman in the audience asked about the remediation efforts at the Hess Station on Fairport Road, the site of the realigned intersection of Fairport/O'Connor Roads and Jefferson Avenue.

Commissioner Beck said it was being monitored by NYSDEC but was going very slowly. He said there had been efforts by the Hess Company to slow seepage

west, toward the 7-11 store. The contamination to the east of the site had to be evaluated to see whether it was generated by the Hess Station or the business to the east.

There being no further business before the Board and no further questions from the audience, the meeting was adjourned at 9:00 pm.

Respectfully submitted,

Susan C. Roberts  
Town Clerk