PERINTON TOWN BOARD MEETING
1350 Turk Hill Road, Fairport, NY 14450
Wednesday, June 9, 2010

PRESENT:	Patricia S. Knapp	Deputy Supervisor
	Carolyn H. Saum	Councilperson
	Joseph H. LaFay	Councilperson
	Peg S. Havens	Councilperson
ABSENT:	James E. Smith	Supervisor

ALSO PRESENT: Robert Place, Esq., Town Attorney; Thomas C. Beck, Commissioner of Public Works; Jennifer A. West, Town Clerk; Jeffrey Myers, Commissioner of Recreation and Parks; Michael Doser, Director of Code Enforcement and Development; Carol S. Johnston, Deputy Town Clerk; Chris Fredette, Conservation Board; T.C. Lewis, Planning Board.

Deputy Supervisor Knapp 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 May 26, 2010 be approved as submitted by the Town Clerk.

Ayes: Knapp, Saum, LaFay, Havens
Nays: None
Unanimously approved

PUBLIC HEARING
SPECIAL USE PERMIT
ONE HOUR MARTINIZING
18-2 COURTNEY DRIVE

Deputy Supervisor Knapp opened the Public Hearing and asked the Clerk for proof of publication and affidavit of posting. Proof of publication for the Public Hearing was given in the Fairport East Rochester Post on May 28, 2010; affidavit of posting was also May 28, 2010.

Mr. Jay Birnbaum, one of the owners of the Courtney Commons Shopping Center, located at 12 Courtney Drive and Route 31 in the Town of Perinton, stated that he has applied for a Special Use Permit under Section 208-54 of the Zoning Law of the Town of Perinton. Mr. Birnbaum is proposing the opening of a 2,000 square foot Marinizing dry cleaning retail store in the space located at 18-2, which is on the corner of Courtney Commons Shopping Center by the Ravioli Shop and M&T bank location. Mr. Birnbaum introduced Todd and Sharon Sankes who would be the franchisee operators of Martinizing Dry Cleaning.

Mr. Birnbaum stated that the Martinizing dry cleaning will be done on premises and that dry cleaning is an environmentally sensitive situation. The martinizing process is safe and effective, per Mr. Birnbaum, and he has provided the Town Board and Conservation Board with documentation from Leader Professional Services, an environmental engineering firm located on Marsh Road in Pittsford. Mr. Birnbaum provided a list of solvents and other materials used in the martinizing process, which Leader Services has determined to be environmentally safe to the environment and the individuals working at the business location. Mr. Birnbaum also made the lease contingent upon approval from M&T Bank who is Mr. Birnbaum's mortgagee, knowing that in order for M&T to sign off they would seek approval of their environment engineers, the LCS Company and Mr. Birnbaum has provided the sign off proof from M&T Bank to the Town Board as well. A list of chemicals was also provided to the Department of Environmental Conservation in Albany and they have also confirmed their approval in writing.

Councilperson LaFay asked Mr. Birnbaum whether the martinizing dry cleaning business would be a drive-through business and Mr. Birnbaum said that it would not. Deputy Supervisor Knapp asked Mr. Birnbaum to define the word martinizing and Mr. Sankes stated that Henry Martin was the founder of the company in 1949 and created the word martinizing associated with the franchise.

Chris Fredette, of the Conservation Board stated that their Chairman, Ken Rainis would be looking at the new package of information provided by Bernard Birnbaum on June 3, 2010, which was provided after the last Conservation Board meeting. Ms. Fredette asked about the quantity of chemicals and whether there would be any secondary containment in case of spills. Mr. Birnbaum explained that if there were a spill, the chemicals involved are not dangerous and could be cleaned up with household tools and cleaning products. Town Attorney Place explained that a SEQR determination will need to be made after the Conservation Board makes its recommendations. He also asked when Mr. and Mrs. Sankes would like to open their business and Mr. Birnbaum stated as soon as possible. They will be looking to employ up to eight people in this business. Mr. Place stated that they also need to apply for a building permit and that the applicant could move forward with that process.

Judith McNulty, 647 Thayer Road, stated that she hopes that the Conservation Board investigates whether there will be any odor from the chemicals involved in the dry cleaning business as their location is surrounded by Perinton Pizza and The Ravioli Shop and she is concerned about contamination issues. Mr. Birnbaum has provisions in his leases to prohibit odors from traveling to other store locations.

Ms. Fredette stated that she understood that the martinizing process does not use hydrocarbons and Mr. Sankes stated that they will be using a "green" silicone-based solvent which is used in shampoos and soaps.

The Conservation Board will meet on June 15, 2010 and the Public Hearing will be held open until the June 23, 2010 Town Board meeting to allow for their input.

ORDER FOR HEARING
AMENDMENT TO SECTION 204 OF THE
CODE OF THE TOWN OF PERINTON: WIND ENERGY

Director of Code Enforcement and Development, Mike Doser, stated that wind energy conversion device (WECD) code has been discussed for the last few years in conjunction with the Conservation Board. Interest in renewable energy will continue to grow as technology improves and systems become smaller, more advanced, efficient and cost effective. One renewable energy source that has shown residential and commercial potential is wind energy.

Mr. Doser reviewed the highlights of the proposed new code section 204 starting with the types of WECD. The small WECDs have a rated capacity of not more than 10 kilowatts and are not more than 65 feet high. An individual wind energy conversion device (IWECD) has a rated capacity of greater than 10 kilowatts and can be no more than 200 feet high. The Large WECD is greater than 200 feet high.

Mr. Doser stated that per the new code, WECDs would be permitted in all zoning districts with Special Use Permits from the Town Board, site plan approval from the Planning Board and a Building Permit from the Code Enforcement and Development Office. Although there are no minimum lot size requirements, the set back requirements would dictate acreage required. Small WECDs would need to be located on approximately one acre of land, IWECDs on 91 acres and LWECDs on 265 acres of land at a minimum.

Mr. Doser stated that noise would be limited to an increase of no more than 6 dBA above the ambient level measured at the property line. The proposed ordinance provides a mechanism to review the visual impact of proposed WECDs which is base on guidance from the NYSDEC. The IWECD and LWECD require simulated images of display comparing the landscape with proposed structures in place. Mr. Doser

explained that shadow flicker is another visual impact which can be described like a fan with a light going through it making it flicker. In the new code, the applicant would be required to submit a shadow flicker study to determine the visual impact of their particular situation. Mr. Doser added that if this new code moves on to the Public Hearing phase, Ken Rainis and Barbara Wagner of the Conservation Board will be present to provide more detail and answer the public questions.

The proposed changes to § Section 204 follow:

Added text

Deleted text

Chapter 204 Wind Energy Conversion

A. Purpose:

(1) The Town of Perinton recognizes the increased demand for alternative energy generating facilities and the need for the reduced pollution and less expensive power that wind turbine facilities can provide. Often these facilities require the construction of single or multiple wind turbines. The purpose of these regulations is to protect the community's interest in properly locating wind turbine towers in a manner consistent with sound land planning, while also allowing private and commercial providers to meet their power generating objectives.

B. Definitions:

Wind Energy Conversion Device ("WECD") – a machine that converts the kinetic energy in the wind into a usable form of electrical or mechanical energy, commonly known as a "wind turbine" or "windmill".

Small Wind Energy Conversion Device ("SWECD") – a WECD which has a rated capacity of not more than 10 KW, is not more than sixty five (65) feet in total height from the ground surface to the maximum height of any component of the system, and is intended to primarily reduce on-site consumption of utility power.

Individual Wind Energy Conversion Device ("IWECD") – a WECD which can have a rated capacity more than 10 kW, but is not more than two hundred (200) feet in total height from the ground surface to the maximum height of any component of the system, and which is intended to primarily reduce on-site consumption of utility power.

Large Wind Energy Conversion Device ("LWECD") –a WECD which primarily generates power on-site to be transferred to a transmission system for distribution to offsite customers or for sale to a distribution company. The definition of LWECD shall also include WECDs erected and used for private use if the maximum height of any system component is greater than two hundred (200) feet from the ground surface.

Wind Energy Conversion Facility ("WECF") – Any installation of one or more WECDs including all related infrastructure, electrical lines and substations, access roads and accessory structures.

LEQ(60) dBA - the constant sound pressure level in dBA that, over the period of an hour, represents the energy equivalent of the actual sound pressure level in dBA measured over the same period.

A Pure Tone is defined to exist if the one-third octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two contiguous one third octave bands by five dBA for center frequencies of five hundred Hz and above, by eight dBA for center frequencies between one hundred and sixty (160) Hz and four hundred (400)

Hz, or by fifteen dBA for center frequencies less than or equal to one hundred and twenty-five (125) Hz.

C. Permitted and Prohibited Uses:

(1) A SWECD may be constructed and operated within all zoning districts, with a Special Use Permit from the Town Board, Site Plan approval from the Planning Board and a building permit.

(2) An IWECD may be permitted within non-residential districts or within RT 1-2-5, RT 2-5 and Residential Sensitive districts with a Special Use Permit from the Town Board, Site Plan approval from the Planning Board and a building permit.

(3) An LWECD may be permitted in Industrial, RT 1-2-5, RT 2-5 and Residential Sensitive districts, with a Special Use Permit from the Town Board, Site Plan approval from the Planning Board and a building permit.

(4) No WECFs shall be located within a Limited Development District.

(5) No WECD shall be installed in any location along the major axis of an existing microwave communications link where its operation has a likely potential to produce electromagnetic interference in the link's operation.

(6) No WECD shall be installed in any location where its proximity to existing fixed broadcast, retransmission or reception antenna (including residential reception antenna) for radio, television, wireless phone or other wireless communication systems would produce electromagnetic interference with signal transmission or reception.

(7) WECDs with a maximum component height greater than 400 feet above the ground surface shall not be permitted in any zoning district.

D. Additional Standards:

(1) No Special Use Permit shall be granted for a WECD facility unless it is determined by the Town Board that the proposed use meets all of the following criteria, in addition to the Site Plan and Special Use Permit review criteria found in sections 208-53 and 208- 54 of the Town of Perinton Code.

(2) No experimental, homebuilt or prototype wind turbines shall be allowed without acceptable documentation from a New York State licensed professional engineer estimating the probable radius of tower collapse and probable blade or ice throw distance in the event of failure, a submittal of the complete design specifications and calculations and an acceptance by the Town Board of setbacks which the Town Board may require to be greater than the minimums established elsewhere in the code.

(3) Setbacks

(a) Each SWECD shall be set back, as measured from the center of the SWECD, a minimum distance of:

[1] 1.5 times the maximum height of any SWECD component above ground surface from: any other SWECD, overhead utility lines, public roads, any onsite dwelling or other onsite building or structures that can be occupied, or any agricultural building, with the exception that SWECD designed for installation on the roof of a building shall have the setback to that building waived, provided that the facility is designed and stamped by a New York State licensed professional engineer. A New York State licensed professional engineer or their designated representative must observe the design and installation of the SWECD and provide documentation to the Town that the installation was performed in accordance with the design.

[2] Three (3) times the maximum height of any SWECD component above ground surface from any neighboring property line.

(b) Each IWECD shall be set back, as measured from the center of the IWECD, a minimum distance of:

[1] 1.5 times the maximum height of any IWECD component above ground surface from any: onsite dwelling or other onsite building or structure than can be occupied, agricultural building, overhead utility lines, or public roads;

[2] 1000 feet from any adjacent property line;

[3] 100 feet from state or federal wetlands.

(c) Each LWECD shall be set back, as measured from the center of the LWECD, a minimum distance of:

[1] 1.5 times the maximum height of any LWECD component above ground surface from any onsite dwelling or other onsite building or structure than can be occupied, agricultural building, overhead utility lines, or public roads

[2] 1700 feet from any adjacent property line;

[3] 100 feet from state or federal wetlands.

(4) No WECD tower shall be lit except to comply with Federal Aviation Administration requirements. Minimum security lighting for ground level facilities shall be allowed, but the distribution of light off the property shall be limited to 1/2 footcandle at the property boundary. Security lighting shall be designed to minimize light pollution, including the use of light hoods, low glare fixtures, and directing lights at the ground.

(5) No advertising signs shall be posted on any part of a WECF. No brand names, logo, or advertising shall be placed or painted on the tower, rotor, generator, or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a SWECD or IWECD generator housing in an unobtrusive manner.

(6) At least one sign shall be posted on the WECD tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery.

(7) WECFs shall be finished with an unobtrusive, non-reflective, matte finished color or camouflage scheme.

(8) Noise

(a) The sound pressure level generated by a WECD shall not exceed a 6 A-weighted decibel (dBA) increase over ambient noise level measured at the adjacent property lines. Ambient noise shall be measured as the lowest LEQ(60) dBA observed over a 24-hour period, during which windspeed is below the cut-in speed of the proposed WECD. Multiple sets of 24-hour measurements may be combined to obtain a set of 24-hour measurements for which the wind speed is below the WECD cut-in speed, provided that the lowest ambient noise level of the data set is picked for each individual hour.

(b) The WECD operating sound pressure level used for comparison to the ambient noise level shall be the maximum sound pressure level generated by the WECD.

(c) For IWECDs and LWECDs, independent measurements and certification shall be provided before and after construction demonstrating compliance

with this requirement according to a noise study whose methods are approved by the Town as part of the Special Use Permit.

(d) For SWECDs, a noise assessment based on manufacturer's noise data as certified by the Small Wind Certification Council or other documentation acceptable to the Town and conducted in conformance with the guidance provided by the New York State Department of Environmental Conservation's Program Policy "Assessing and Mitigating Noise Impacts" DEP-00-1 shall be provided unless the Town requests additional measurements. For this assessment ambient noise levels can be measured, or can be assumed to be LEQ(60) 25 dBA in residential zoning districts and LEQ(60) 50 dBA in other zoning districts. Regardless of the results of such analysis, SWECDs are required to comply after construction and during operation with the requirements of paragraph 8(a) of this subsection.

(e) In the event audible noise due to WECD operations contains a steady Pure Tone, such as a whine, screech, or hum, the noise generated by the WECD, as measured at the adjacent property lines, shall not exceed the ambient noise level.

(f) Ambient noise levels shall be measured at adjacent property lines. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone.

(g) The noise limits specified in this Section 8 shall apply to the combined noise levels generated by all WECDs constructed on a single parcel or by a single owner.

(9) No WECDs shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

(10) The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet, unless a fence enclosure is provided to limit unauthorized or accidental access to the spinning rotors.

(11) Power transmission lines from the WECD or other components of a WECF to on-site substations or the property boundaries shall be underground to the maximum extent practicable.

(12) A digital viewshed map showing the impact of topography upon the visibility of the project from locations throughout the region, to a distance of five (5) miles from the center of the project shall be provided for LWECDs. The viewshed map shall be constructed in accordance with the New York State Department of Environmental Conservation guidance document "Assessing and Mitigating Visual Impacts – DEP-00-2". The scale used shall depict a 3 mile radius no smaller than 2.7 inches, and the base map shall be a published topographic map showing cultural features and other landmarks.

(13) Color photographs, at least 8 inches by 10 inches, taken from locations selected by the Town within a three mile radius of the boundaries of the facility site shall be provided for all WECDs (not including SWECD). Said photographs shall simulate the appearance of the as-built aboveground site facilities as such would appear from said locations. The number of photographs to be submitted shall be determined by the Town, but in no event less than the number of proposed individual wind turbines plus three. All WECDs shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g. public parks, roads, and trails). To the greatest extent feasible, WECFs shall use natural landforms and vegetation for screening from public viewing areas and neighboring residential areas.

(14) WECD Towers shall have either: (1) Tower-climbing apparatus located no closer than 12 feet from the ground; (2) A locked anticlimb device installed on

the tower; (3) tower-climbing apparatus located internally to the tower and accessible only through a locked door; or (4) A gated and locked, protective fence at least six feet high.

(15) No IWECD or LWECD shall be supported with guy wires. IWECDs and LWECDs shall be of a monopole design.

(16) The applicant shall conduct an assessment of potential shadow flicker due to any WECD in the area defined as a circle centered on the location of the WECD up to and including a distance of 10 times the WECD blade diameter. The study shall identify locations where shadow flicker may be caused by the WECD and the expected durations of the flicker at these locations. The assessment shall identify areas where shadow flicker has the potential to interfere with the use of residences or other habitable structures and describe measures that shall be taken to mitigate the effects of shadow flicker.

(17) For LWECDs, a preconstruction study shall be conducted to establish the likely impacts on birds, bats, and other wildlife as well as possible mitigations. The applicant shall provide surveys of the biological resources, migration patterns and determination of the protection status in an area where turbines are being considered. Data shall be commensurate with the size of the proposed project and reflect loss of habitat and vegetation, including potential bird and bat collisions with any LWECD components.

(18) WECD construction or ground disturbance involving land in agricultural districts shall comply with the New York State Department of Agriculture and Markets' publication titled Guidelines for Agricultural Mitigation for Wind Power Projects.

E. Liability Insurance:

(1) Prior to issuance of a Building Permit for a WECD and continuing after construction until such facility is removed from the site, on an annual basis the applicant shall provide documentation satisfactory to the Town of the existence of liability insurance coverage with reasonable limits as set by the Town Board in consultation with the Town's insurance advisor, for property damage, injury or death resulting from the construction, placement, use, maintenance or operation of a WECD by the owner of the site.

F. Removal of Obsolete WECD Facilities:

(1) Upon approval of a Special Use Permit for the construction of a LWECD, the applicant shall provide and maintain a performance letter of credit issued by a surety provider licensed in New York State in a form acceptable to the Town or such other security acceptable to the Town for the removal of the LWECD and associated facilities and property restoration in an amount acceptable to the Town Board.

(2) When a Special Use Permit is renewed or modified, the Town Board may adjust the required amount of the letter of credit to adequately cover increases in the cost of removal of the LWECD and property restoration.

(3) The owner of the site shall notify the Town in writing thirty (30) days prior to the discontinuance of the use of such facility. Failure to notify the Town and/or remove the obsolete or unused WECD or facility in accordance with these regulations shall be a violation of this law and shall be enforced in accordance with Chapter 115 of the Town Code. Unused WECD and accessory structures shall be removed from any site within six months of the discontinuance of the use thereof.

Deputy Supervisor Knapp asked that the Board set a date for a Public Hearing to discuss the proposed addition of Chapter 204 to the Code of the Town of Perinton.

A motion was made by Councilperson Havens, seconded by Councilperson LaFay, that 8:00 pm on July 28, 2010 at the Perinton Town Hall, 1350 Turk Hill Road, Fairport NY be set as the time, date and place for a Public Hearing to discuss the proposed addition of Chapter 204 to the Code of the Town of Perinton.

Ayes: Knapp, Saum, LaFay, Havens
Nays: None
Unanimously approved

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

Director of Code Enforcement and Development, Mike Doser, stated the main purpose of this modification to the code is to remove the half-acre disturbance threshold that would require a Stormwater Pollution Prevention Plan (SWPPP), and reinstate a one-acre threshold for a SWPPP. Mr. Doser stated that these are minor changes to update the code to current standards for erosion and sediment control and revisions to the entire chapter 119 appear as follows:

The proposed changes to § Section 119 follow:

Added text

Deleted text

§ 119-1 Title.

A. This chapter shall hereafter be known and cited as the "Sediment Control Law of the Town of Perinton."

§ 119-2 Purpose; objectives. [Amended 2-13-2008 by L.L. No. 2-2008]

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***, and flooding***. The objective of this chapter is to prevent the adverse effects of site preparation, construction and development and thereby:

A. Protect 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* ***stormwater***; 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.

§ 119-3 Legislative authority.

In accordance with Article 9 of the Town Law of the State of New York, the Perinton Town Board has the authority to enact laws for the purpose of promoting the health, safety or general welfare of the Town of Perinton, including the protection and preservation of the property of its inhabitants. By the same authority, the Perinton Town Board may include in any such law provisions for the appointment of any municipal officers or employees to effectuate and administer such law.

§ 119-4 Organization of provisions. [Amended 2-13-2008 by L.L. No. 2-2008]

This chapter is broken into three main sections: Construction stormwater pollution and erosion and sediment control (§ 119-6), Design and management of postconstruction stormwater pollution prevention measures (§ 119-7) and Illicit discharges and connections to storm sewer (§ 119-8).

§ 119-5 Definitions. [Amended 2-13-2008 by L.L. No. 2-2008]

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 one 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 section.
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 nonstormwater discharge to the storm drain system, except as exempted in § 119-6D(3) of this chapter 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 nonstormwater 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;
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; or
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 122.26(b)(14).
INDUSTRIAL WASTES -- Any liquid, gaseous or solid substance or a combination thereof which is an undesired byproduct 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 -- ***A*** *Construction* ***construction*** activity ***or land disturbance 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 stormwater 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."
NONSTORMWATER 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; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordinances 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 and 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 groundwaters 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 stormwater 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
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.
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.
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 water body 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.
The condition in the Town of Perinton's MS4 permit that applies if a TMDL is approved in the future by EPA for any water body 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 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 (e.g., 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 nonstructural 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 man-made 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 water body 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 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 greater than or equal to *25,000 square feet* ***one (1) acre (43,560 square feet)*** of land unless exempted under § 119-6D(3) of this section. The ordinance also applies to land disturbance activities that are less than *25,000 square feet* ***one (1) acre (43,560 square feet)*** disturbance if such activities are part of a larger common plan of development or sale that will disturb greater than or equal to *25,000 square feet* ***one (1) acre (43,560 square feet),*** even though multiple separate and distinct land disturbance activities may take place at different times on different schedules.
For any land development that increases parking spaces by 6000 square feet and/or increases the amount of impervious surface on a property by 15,000 square feet, but is not required to obtain coverage under the NYSOEC SPDES General Permit for Construction Activities, the provisions of the most recent Irondequoit Creek Watershed Collaborative "Packet for Developers" shall be applicable.

B. Compatibility with other permits and section requirements.
   (1) Compliance with this section 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 acres or greater of land at one time (if applicable) and any related documents to the Town of Perinton for review and approval.
   (2) The requirements of this section should be considered minimum requirements and where any provision of this section imposes restrictions different from those imposed by any other federal, state, or local law, rule or regulation, or other provision of law, the provisions that are more restrictive or impose more stringent requirements shall take precedence.
   (3) 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, Design and management of postconstruction stormwater pollution prevention measures and Illicit discharges and connections to storm sewer, respectively.

C. Standards for construction activities covered under this section.
   (1) 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 (postconstruction stormwater runoff control practices), the NYSDEC's technical standards are detailed in the New York State Stormwater Management Design Manual.
   (2) 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***/subdivision*** approval or a permit for land disturbance activity which would require the disturbance of greater than or equal to *25,000 square feet* ***one (1) acre (43,560 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***/subdivision*** approval or a permit which would require the disturbance of greater than or equal to *25,000 square feet* ***one (1) acre (43,560 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***/subdivision*** approval, all projects that would result in the disturbance of greater than or equal to *25,000 square feet* ***one (1) acre (43,560 square feet)*** of land will be required to comply with all applicable provisions of the Ordinance for Design and Management of Postconstruction Stormwater Pollution Prevention Measures. As part of the SWPPP the applicant shall include a signed statement that all applicable requirements of § 119-7, Design and management of postconstruction 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 § 119-6D(5) of this section.
   (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 § 119-5 of this section 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 section.
(2) Review and 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 this section. The following activities are exempt from review under this section:
   (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 section.
   (c) Silvicultural activity, except that landing areas and log haul roads are subject to this section.
   (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 § 119-6G of this section. 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.

(a) 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 section.

(b) 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 § 119-5 of this chapter. 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.

(c) 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 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 water body or must not be located in a total maximum daily load (TMDL) watershed.

(d) 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 topographic base map of the site at a scale of one inch equals 40 feet 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 man-made features not otherwise shown; locations of off-site material, waste, borrow or equipment storage areas, proposed concrete cleanout 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 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.

[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.

[15] Assurance that the applicant or his or her "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.

[16] Contractors and subcontractors.

(a) 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."

(b) 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.
   (1) Major amendments of the SWPPP shall be submitted to the Town of Perinton and shall be approved or disapproved.
   (2) The applicant shall amend the SWPPP whenever:
      (a) 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
      (b) The SWPPP proves to be ineffective in providing the proper stormwater pollution prevention and erosion and sediment control as required by this section. 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 five 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 § 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 his or her 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.
      (a) To obtain inspections, the applicant shall notify Town of Perinton at least 48 hours before the following activities occur:
         [1] Start of construction.
         [2] Erosion and sediment control measures have been installed and stabilized.
         [3] Site clearing has been completed.
         [4] Rough grading has been completed.
         [5] Final grading has been completed.
         [6] Close of the construction season.
         [7] Final landscaping.
         [8] Closeout inspection.
      (b) 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.
      (c) 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.
      (a) The applicant shall employ a "responsible individual" as defined in § 119-5 of this section 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 seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. A monthly summary of reports will be copied to the site logbook and delivered to Town of Perinton within five days after the month's end.
      (b) 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 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 water body or must not be located in a total maximum daily load (TMDL) watershed.

G. Duration, maintenance and closeout.
   (1) Duration.
      (a) For a project that requires a NYSDEC SPDES Permit, the SWPPP approved by the Town of Perinton shall be in effect until.
         [1] The site has been finally stabilized;
         [2] A notice of termination (N.O.T.) is submitted to the NYSDEC in accordance with the general permit; and
         [3] A final inspection has been completed by the Town of Perinton.
      (b) 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.
      (a) 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 section. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%. 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.
      (b) 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:
      (a) Reestablish grade of all permanent stormwater facilities;
      (b) Inspect grading of all drainage structures and provide elevation as-built to the Town of Perinton;
      (c) Establish perennial vegetative cover to a density of 80% over 100% of the site;
      (d) Removal of all debris and temporary erosion and sediment control practices;
      (e) Provide a written certification by a New York State licensed/certified professional that the site has undergone final stabilization (as defined in § 119-5) and that all temporary erosion and sediment controls not needed for long-term erosion control have been removed.
      (f) Complete any other measure deemed appropriate and necessary by the Town of Perinton to stabilize the project site.

H. Enforcement and penalties.
   (1) Stop-work order.
      (a) The Town of Perinton may issue a stop-work order for violations of this section. 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.
      (b) The Town of Perinton may restrict any and all activity on a site in violation of this section.

§ 119-7 Design and Management of Postconstruction Stormwater Pollution Prevention Measures.

A. Introduction, purpose.

(1) 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 waterborne pollutants. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

(2) The purpose of this section 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.

(3) No new development project or proposed re-development project shall discharge stormwater into adjacent culverts, channels, or waterbodies at a rate greater than what occurs under natural undeveloped conditions.

B. Applicability.

(1) This section shall be applicable to land disturbance activities as defined in § 119-5 of this chapter and those activities meeting Condition A, B, C or D below shall include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in § 119-7H as applicable unless eligible for an exemption or granted a waiver by the Town of Perinton in accordance with § 119-7F of this section:

(a) Condition A: Stormwater runoff from land disturbance activities discharging a pollutant of concern to either an impaired water identified on the ***NYSDEC's*** *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.

(b) Condition B: Stormwater runoff from land disturbance activities disturbing ***one (1)*** *five* or more acres ***of land during the course of the project, inclusive of residential subdivision projects, but exclusive of the construction of a single family home and construction activities at agricultural properties.***

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

(c) Condition *D* ***C:*** Stormwater runoff from land disturbance activity that are smaller than *25,000 square feet* ***one (1) acre (43,560 square feet) of*** 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.

(d) Condition D: For any land development that: (1) increases parking spaces by 6000 square feet and/or increases the amount of impervious surface on a property by 15,000 square feet, but is not required to obtain coverage under the NYSDEC SPDES General Pennit for Construction Activities, the provisions of the most recent Irondequoit Creek Watershed Collaborative, "Packet for Developers," shall be applicable.

(2) All plans, documents and information required by this section 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 postconstruction 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 § 119-5 of this chapter, 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* ***one (1) acre (43,560 square feet)****.*

(5) The following activities may be exempt from the requirements of this section:

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

(b) Agricultural activity as defined in this section.

(c) Silvicultural activity, except that landing areas and log haul roads are subject to this section.

(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 section requirements.

(5) This section is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, stature, or other provision of law. The requirements of this section should be considered minimum requirements, and where any provision of this section 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.

(6) 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.

(5) 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 section to the satisfaction of the Town of Perinton.

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

(7) Unless otherwise accepted by this section, the following items shall be submitted prior to the issuance of a permit or site plan approval:

(a) Stormwater pollution prevention plan (SWPPP) (see § 119-7*I* ***H****);*

(b) Maintenance ***of Stormwater Management Facilities*** *easement(s)* [see § 119-7*J(1)* ***I (1-4)****];*

(c) Maintenance agreement(s) [see § 119-7J*(3)* **(6)**];

(d) Any applicable fees (see § 119-8R).

(8) The SWPPP shall be prepared to meet the requirements of § 119-7H through J of this section. The maintenance agreement shall be prepared to meet the requirements of § 119-7J(3) of this section, and applicable fees shall be those as set forth in § 119-8R of this section.

(9) The SWPPP and all other documents required by this section 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 postconstruction 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 section, 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 section 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 section.

(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 law. These practices are encouraged in order to minimize the reliance on structural practices. Credit in the form of reductions in the amount of stormwater that must be managed can be earned through the use of nonstructural practices that reduce the generation of stormwater from the site. These nonstructural 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 nonstructural 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) Nonstructural 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 (see Subsection F(2), dedication or easement of land). 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 section;

(c) Monetary contributions (see Subsection F(1), fee in lieu-of) to a dedicated fund for stormwater management activities.

(4) No waivers or mitigation plans will be considered for land disturbance activities that disturb one acre or greater of land, do not discharge to a 303(d) water body 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 activities that disturb one acre or greater of land, do not discharge to a 303(d) water body 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 section. 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 Subsection I of this section and the SWPPP shall be prepared by a licensed/certified professional. The following design and performance criteria shall be addressed for stormwater management at all sites:

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

(2) All stormwater runoff generated from new development shall not discharge untreated stormwater directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the Town of 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.

(3) An attempt shall be made to maintain annual groundwater recharge rates by promoting infiltration through the use of structural and nonstructural methods. At a minimum, an attempt shall be made for annual recharge from the post development site to mimic the annual recharge from predevelopment site conditions.

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

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

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

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

(8) The calculations for determining peak flows (WQv***, CPv. Qp. & Qf***) as found in the New York State Stormwater Management Design Manual shall be used for

sizing all stormwater management practices. ***When determining WQv, the run-off event number "p" shall be 1.0 inch. based on the recommendations of the Irondequoit Creek Watershed Collaborative.***

H. Stormwater pollution prevention plan requirements. A SWPPP is required as part of the compliance with this section. 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 meets 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 section.

(1) The applicant shall employ a responsible individual as defined in § 119-5 of this chapter who will oversee the implementation of the SWPPP on a daily basis. The applicant shall also employ the services of a qualified professional in erosion and sediment control who will inspect and document the effectiveness of all erosion and sediment control practices. The documentation will be kept in a site logbook. Inspection reports will be completed *every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more* ***following the guidelines and frequency identified in the most current version of YSDEC SPDES General Permit for Stormwater Discharges from a Construction Activity.*** *A monthly summary of* ***All inspection*** reports will be *copied to the site logbook and delivered* ***sent (faxed, mailed or e-mailed)*** to the Town of Perinton***: Department of Public Works (attention: Town Engineer)*** within *five* ***3*** days ***of the date inspected*** *after the month's end.*

(2) All SWPPPs shall provide the following information:

(a) All information listed in Subsection H of this section for construction site stormwater pollution prevention and erosion and sediment control;

(b) Description of each postconstruction stormwater management practice;

(c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction 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 postdevelopment stormwater runoff conditions with predevelopment conditions;

(f) Dimensions, material specifications and installation details for each postconstruction 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 ***providing Property Dedication or*** securing all the *maintenance* ***access*** easements needed ***for private stormwater management facilities*** on a permanent basis. *These* ***Any property dedications or*** easements will be recorded with the plan and will remain in effect even with transfer of title to the property***.*** *(see* ***Refer to § 119-7 J of this chapter*** *Subsection J of this section* 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 section (see Subsection J of this section 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 meets the requirements in this section;

(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 ***(both Public and Private)***.

(1) Maintenance of a Public Stormwater Management Facility
The Town of Perinton may accept ownership and maintenance responsibility of any stormwater management facility as long as it provides stormwater quantity and quality controls for multiple residential properties and the facility meets all the requirements of this chapter and includes sufficient area for inspection and regular maintenance as well as property dedication.

(2) Maintenance of a Private Stormwater Management Facility
The Town of Perinton will not accept dedication of any stormwater management facility that provides stormwater quantity and quality controls for commercial properties. These facilities will be privately owned, but must still meet the requirements of this chapter and include adequate area for maintenance as well as perpetual access to the Town of Perinton for inspection purposes. The Town of Perinton will require that owners of all private stormwater management facilities enter into a maintenance agreement with the Town in accordance with § 119-7 I (3-7).

(3) *Maintenance* ***Access E***asement. *The* ***For privately owned stormwater management facilities, the*** applicant or owner of the site must execute *a maintenance* ***an*** 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 section 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.

(4) *(2)* Maintenance after construction. The owner or operator of ***a private and*** permanent stormwater management practices installed in accordance with this section shall ensure they are operated and maintained to achieve the goals of this section. Proper operation and maintenance also includes, as a minimum, the following:

(a) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this section.

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

(c) Discharges from the stormwater management practices shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 119-5 of this chapter.

(5) *(3)* Maintenance agreements.

(a) 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 ***is*** *must be* approved by the Town of Perinton***. This legal document must be*** *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.

(b) *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 section and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.*

(6) *(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 section 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.

(7) *(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 years. These records shall be made available to the Town of Perinton during inspection of the facility and at other reasonable times upon request.

(8) *(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.
   (1) 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.
   (2) 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 section is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this section.

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 postconstruction 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 and 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 days to effect 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 section 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 section, 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 section 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 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 section.

(5) Civil and criminal penalties. Violations of these provisions shall be enforced pursuant to Chapter 115, Enforcement Procedures, of the Town Code.

(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/* ***Letter of Credit/Financial*** security. The Town of Perinton may, at its discretion, require the submittal of a *performance* ***Letter of Credit*** *security* ***or other financial security (cash: savings account or trust and agency account)*** *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 ***Letter of Credit*** *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* ***Letter of Credit*** security shall contain forfeiture provisions for failure to complete work specified in the stormwater pollution prevention plan. The *installation performance* ***Letter of Credit*** 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 section. 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 section. Provisions for a partial pro-rata release of the *performance* ***Letter of Credit*** security based on the completion of various development stages can be done at the discretion of the Town of Perinton.

§ 119-8 Illicit discharges and connections to storm sewer.

A. Purpose; intent. The purpose and intent of this section 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:
   (1) Reducing pollutants in stormwater discharges to the maximum extent practicable;
   (2) Prohibiting nonstormwater discharges to the storm drain system; and
   (3) Prohibiting stormwater discharges to sanitary sewers.
B. Applicability. This section 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 section. 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 section are minimum standards; therefore, this section 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 nondomestic 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 nondomestic 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. Stormwater 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 Subsection E(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 section. Access to property and/or records of a nondomestic 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 section 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 section 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 stormwater. Such activities include failing private sewage disposal systems as defined in Subsection I, 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 section: 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, noncommercial 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 nonstormwater 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 section 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.
   (1) Any person discharging to the MS4 in violation of this section may have his or her 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.
   (2) 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 section, 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 section.
   (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 section as often as may be necessary to determine compliance with this section. 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 section.

(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 section, or that there is a need to further inspect and/or sample the private stormwater system to verify compliance with this section 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. Requirement 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 his or her 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 nonstructural 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 nonstructural 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/nonstructural 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 § 119-5 of this chapter, 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 or her authorized representative.

P. Watercourse protection.

(1) No person shall alter a stormwater conveyance system on private or publicly owned land such that it alters the stormwater 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 responsible for a facility or operation or 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 at 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 nonhazardous 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, postmarked 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.

§ 119-8.1 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.

§ 119-9 *Performance bond* ***Letter of Credit/Financial Security***.

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* ***Letter of Credit or other financial security (cash: savings account or trust and agency account)*** 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 the 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. [Amended 12-10-1997 by L.L. No. 6-1997]
Any person found guilty of a violation of the provisions of this chapter shall be punishable pursuant to Chapter 115, Enforcement Procedures.
CODE OF THE TOWN OF PERINTON, NEW YORK, v36 Updated [_____]/ PART II GENERAL LEGISLATION / Chapter 119, EROSION AND SEDIMENT CONTROL / § 119-12 Correction of Existing Watercourse Conditions. [_____]
§ 119-12 Correction of Existing Watercourse Conditions. LI__-,
All existing obstructions, dams, diversions, deposits of debris, including vegetation, soil or other solid material, as well as erosion, or other diversions that impact the natural flow of water or the intensity or quantity of flow through, across or to any stream, ditch, culvert, watercourse or other drainage system which will, in the opinion of the Commissioner of Public Works, constitute an undue burden upon the drainage system must be removed or corrected within 30 days after written notice from the Commissioner of Public Works.
The Commissioner of Public Works will render an opinion based on a present or future (as reasonably foreseeable) hazard to the safety and general welfare of the residents of the Town, the environment or any property. In the case of wild growth of natural vegetation or brush, the Commissioner of Public Works will evaluate and render an opinion as to whether the obstruction may cause flooding, inundation or diversion of water upon other premises or properties.
Work associated with the removal or correction of an existing watercourse condition must be completed in a manner that will not cause a violation of NYSDEC Water Quality Standards. Compliance with this section does not relieve the applicant of the obligation and responsibility to obtain permit coverage from either the NYSDEC or USACOE, if necessary for work within a bed or bank of a stream or watercourse.

Deputy Supervisor Knapp asked that the Board set a date for a Public Hearing to discuss the proposed changes to Chapters 119 of the Code of the Town of Perinton.

A motion was made by Councilperson LaFay, seconded by Councilperson Saum, that 8:00 pm on July 28, 2010 at the Perinton Town Hall, 1350 Turk Hill Road, Fairport NY be set as the time, date and place for a Public Hearing to discuss proposed changes to Sections 119 of the Code of the Town of Perinton.

Ayes: Knapp, Saum, LaFay, Havens
Nays: None
Unanimously approved

ORDER FOR HEARING
AMENDMENT TO SECTION 208 OF THE
CODE OF THE TOWN OF PERINTON: PUBLIC BUILDINGS AND GROUNDS

Director of Code Enforcement and Development, Mike Doser, stated that the revisions to Section 208 adjust the definitions for public buildings and grounds. Mr. Doser stated that senior living facilities are growing in popularity around the country and in Perinton. The purpose of this modification is to clearly define nursing homes, residential health care facilities, adult homes or residences for adults, according to the laws of New York. Additionally, there has been a definition created for "senior citizen apartments". The senior citizen apartment is a residential building with units for rent for more than five unrelated adults over the age of 55 years. Ninety percent of all the rental units must be occupied by an adult at least 55 years of age.

Mr. Doser reviewed the other change to the public buildings and grounds section of 208-8 and stated that recreational-oriented businesses and facilities also continue to become more popular. The Town is proposing a more narrow definition of "recreational facilities" to mean facilities that are not part of an enclosed mall or shopping center and have also expanded the defined uses to include dance studios and karate studios or similar uses, funeral homes and movie theatres.

Councilperson LaFay asked about the addition of funeral homes and movie theatres under the Public Buildings and Grounds definitions and Mr. Doser stated that those two items are actually covered under another area of the Town Code and would be deleted from this section.

Councilperson Knapp asked about the wording in the senior citizen apartment definition "90% of all of the rental units must be occupied by an adult at least fifty-five years of age" questioning a situation in which a spouse, partner or child under the age of 55 lives with that individual over 55 years of age. Town Attorney Place stated that the purpose of the code change was not to be exclusionary but to separate senior uses as opposed to regular apartment complexes and that the wording refers to at least one person who leases the apartment being over 55.

The proposed changes to § Section 208 follow:

Added text

Deleted text

§ 208-8. Definitions

PUBLIC BUILDINGS AND GROUNDS –

A. The words "public buildings and grounds," as used in this chapter, are intended to designate any one or more of the following uses, including grounds and accessory buildings necessary for their use:
   (1) Churches, places of worship, parish houses and convents.
   (2) Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority.
   (3) Nursery schools, elementary schools, high schools, colleges or universities having a curriculum approved by the Board of Regents of the State of New York.
   (4) Golf courses and country clubs when occupying not less than 50 acres, not including, however, clubs whose activities include the maintenance, storage or takeoffs or landings of aircraft.
   (5) Public libraries and museums.
   (6) Not-for-profit fire, ambulance, public safety and humane society buildings. [Amended 10-27-1993 by L.L. No. 11-1993]
   (7) *Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes, homes for adults, homes for the aged or residences for adults as the same are defined under the Public Health Law or the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York.* ***Nursing homes, residential health care facilities, adult homes or residences for adults, all as defined by either the Public Health Law or Social Services Law or 'senior citizen apartments,' as defined by § 208-8.***
   (8) Recreational facilities, either for profit or not for profit, such as swimming, tennis, platform tennis, bowling, hockey, ice skating, ***karate studio, dance studio*** or other ***similar*** indoor or outdoor sports ***(except if located within an enclosed mall or shopping center.)***
   (9) Day-care centers approved by the New York State Department of Social Welfare.

SENIOR CITIZEN APARTMENTS – A residential building with units for rent for more than five unrelated adults over the age of fifty-five years. 90% of all of the rental units must be occupied by an adult at least fifty-five years of age.

Deputy Supervisor Knapp asked that the Board set a date for a Public Hearing to discuss the proposed changes to Chapters 208 of the Code of the Town of Perinton.

A motion was made by Councilperson Saum, seconded by Councilperson Havens, that 8:00 pm on July 28, 2010 at the Perinton Town Hall, 1350 Turk Hill Road,

Fairport NY be set as the time, date and place for a Public Hearing to discuss proposed changes to Sections 208 of the Code of the Town of Perinton.

Ayes: Knapp, Saum, LaFay, Havens
Nays: None
Unanimously approved

PERMISSIVE REFERENDUM

Deputy Supervisor Knapp announced that the 30-day time for Permissive Referendum for the transfer of $15,000 from the Capital Reserve for Building Improvement to the Recreation and Parks Maintenance and Repair Fund for the replacement of the HVAC rooftop unit #3 at the Perinton Community Center has passed.

Ayes: Knapp, Saum, LaFay, Havens
Nays: None
Unanimously approved

AUTHORIZE DEPOSIT OF PROCEEDS FROM MUNICIPAL AUCTION-DPW
TRANSFER FUNDS TO CAPITAL RESERVE FUNDS AND AMEND BUDGET

Commissioner of Public Works Beck stated that the DPW sent several pieces of declared surplus equipment to auction and that he is requesting that the proceeds from the sale of highway equipment ($45,459.00) be deposited in the Highway Equipment Capital Reserve Account, the sewer proceeds ($9,472.50) be deposited in the Sewer Equipment Capital Reserve Account, the Code Enforcement and Development proceeds ($9,360.00) and the Assessor proceeds ($7,290.00) be deposited into the appropriate account for each of those offices.

Councilperson LaFay made a motion, seconded by Councilperson Saum to authorize the deposit of the proceeds from the municipal auction into the appropriate accounts detailed above and to amend the associated budgets accordingly.

Ayes: Knapp, Saum, LaFay, Havens
Nays: None
Unanimously approved

AUTHORIZE DEPOSIT OF PROCEEDS FROM MUNICIPAL AUCTION-PARKS
TRANSFER FUNDS TO CAPITAL RESERVE FUNDS AND AMEND BUDGET

Commissioner of Recreation and Parks Myers stated that the Parks Department submitted 11 pieces of equipment to be sold at the Municipal Equipment auction, which took place on May 8, 2010. Mr. Myers is requesting that the $55,894.50 in proceeds be deposited into the Capital Reserve for Parks Equipment Fund and that the associated budget be amended.

Councilperson Saum made a motion, seconded by Councilperson Havens to authorize that the $55,894.50 in proceeds be deposited into the Capital Reserve for Parks Equipment Fund and that the associated budget be amended.

Ayes: Knapp, Saum, LaFay, Havens
Nays: None
Unanimously approved

DECISION: SPECIAL USE PERMIT
VILLAGE SPORTS

Town Attorney Place stated that the Conservation Board has made a recommendation supporting a Negative Declaration for SEQR for the Special Use Permit for Village Sports. The Town Planning Board initially had a concern with traffic;

however, a traffic report has been submitted showing that the level of service is acceptable at both entrances to the property. The Town Planning Board has also submitted a memo supporting the issuance of the Special Use Permit.

Councilperson Saum made a motion, seconded by Councilperson LaFay, that the Special Use Permit for Village Sports located at 2830 Baird Road be given a Negative Declaration under the New York State Environmental Quality Review Act (SEQR) because the addition of a multiple use building on the property will in no way negatively affect the environment.

Ayes: Knapp, Saum, LaFay, Havens
Nays: None
Unanimously approved

Councilperson Saum made a motion, seconded by Councilperson Havens that the Town Board approve the Special Use Permit requested as outlined at the Public Hearing on March 24, 2010 for an open-air pavilion and as shown on the site plan submitted to the Town Board on March 24, 2010, consistent with section 208-54 of the Code of the Town of Perinton, for Village Sports conditioned on the following:

1. This is subject to site plan approval

Ayes: Knapp, Saum, LaFay, Havens
Nays: None
Unanimously approved

APPROVE ACCEPTANCE OF NYS GRANT FOR AGRICULTURAL PLANNING STUDY

Director of Code Enforcement and Development, Mike Doser stated that the Town of Perinton has recently received a $25,000 grant from New York State Department of Agriculture and Markets to perform a planning study related to agriculture and farmland protection in Southeast Perinton. The Town applied for the grant in 2008, and received proposals from engineering firms and municipal planners for the study. However, the project was postponed until the outcome of the grant funding decision was known. This year the State awarded the Town the grant.

Mr. Doser asked the Town Board to accept the Municipal Agricultural Protection Planning Grant for $25,000 and to approve the ability of the Town to enter into an agreement with the State of New York for approximately a two-year period that will expire March 29, 2012 to do the study.

Councilperson Havens made a motion, seconded by Councilperson Saum, to accept the Municipal Agricultural Protection Planning Grant for $25,000 and to approve the ability of the Town to enter into an agreement with the State of New York for approximately a two-year period that will expire March 29, 2012 to do the study.

Ayes: Knapp, Saum, LaFay, Havens
Nays: None
Unanimously approved

DECISION: AMENDMENT TO SECTION 208 OF THE TOWN OF PERINTON DRIVE THROUGHS IN HISTORIC DISTRICTS

Commissioner of Public Works Beck explained that the Town Board held a Public Hearing regarding the Code change for drive throughs in a historic district at their May 26, 2010 meeting. At this time, the Town Board has memos from both the Conservation Board and Planning Board in support of the code revision and Mr. Beck is recommending that the Town Board adopt the proposed changes to section 208-8 of the Town Code regarding drive throughs in a historic district.

Councilperson Saum made a motion, seconded by Councilperson LaFay, that the changes to Section 208-8 of the Code of the Town of Perinton regarding Drive-

Throughs in a historic district be given a Negative Declaration under the New York State Environmental Quality Review Act (SEQR) because the code change will in no way negatively affect the environment.

Ayes: Knapp, Saum, LaFay, Havens
Nays: None
Unanimously approved

Councilperson Havens made a motion, seconded by Councilperson LaFay that the proposed changes to Section 208-8 of the Code of the Town of Perinton be adopted.

Ayes: Knapp, Saum, LaFay, Havens
Nays: None
Unanimously approved

APPROVE LEASE
5 ACRES FURMAN ROAD

Deputy Supervisor Knapp stated that Tim Brown is interested in renting 5 acres of Town-owned farmland next to his Brown Duck Tree Farm to grow Christmas trees. Attorney Place has finalized a lease and Mr. Brown is happy with it. The terms would be for 15 years at $125 per year. Attorney Place explained that this is land that Metrose donated to the Town at the back of Wisteria Grove. The proposed lease will be beneficial to the tree farm and help encourage the continuation of that agricultural use.

Councilperson Havens made a motion, seconded by Councilperson LaFay, that the approval of the lease on Furman Road with Tim Brown be given a Negative Declaration under the New York State Environmental Quality Review Act (SEQR) because the lease of the property will in no way negatively affect the environment.

Ayes: Knapp, Saum, LaFay, Havens
Nays: None
Unanimously approved

Councilperson LaFay made a motion, seconded by Councilperson Saum to approve the lease with Tim Brown for 5 acres of land on Furman Road.

Ayes: Knapp, Saum, LaFay, Havens
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 Code Enforcement and Development Department for the month of May, 2010 be approved.

Ayes: Knapp, Saum, LaFay, Havens
Nays: None
Unanimously approved

There being no further business before the Board and no further questions from the audience, the meeting was adjourned at 8:50 pm.

Respectfully submitted,

Jennifer A. West
Town Clerk