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**VILLAGE OF UPPER NYACK
LOCAL LAW _____**

A Local Law establishing and continuing Village regulation of Stormwater Management and Erosion and Sediment Control. This Local Law may be cited as the Village Stormwater Management Law.

1 SECTION 1. Findings of Fact. It is hereby determined by the Board of Trustees of the Village of Upper Nyack that:

1.1 Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion and sediment transport and deposition;

1.2 This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;

1.3 Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;

1.4 Increased soil erosion leads to clogging of catch basins, basin overflow and costly repairs;

1.5 Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;

1.6 Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;

1.7 Substantial economic losses can result from these adverse impacts on the waters of the municipality;

1.8 Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;

1.9 The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety;

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

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2 **SECTION 2. Purpose.** The purpose of this Local Law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety and welfare of the public residing within the Village and to address the findings of fact found in Section 1 hereof. This Local Law seeks to meet those purposes by achieving the following objectives:

2.1 Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), current edition;

2.2 Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities, current edition;

2.3 Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature and streambank erosion and maintain the integrity of stream channels;

2.4 Minimize increases in pollution caused by stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and

2.5 Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

3 **SECTION 3. Statutory Authority.**

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

4 **SECTION 4. Applicability.**

4.1 This Local Law shall be applicable to all Land Development Activities as defined in Section 6.14 hereof.

4.2 The Village hereby designates the Village Engineer as the Stormwater Management Officer (SMO) who shall accept and review all Stormwater Pollution Prevention Plans for the Planning Board. The Stormwater Management Officer may review the plans or, upon approval of the Planning Board, engage the services of professional engineers, hydrologists or other consultants to review the plans, specifications and related documents at a cost not to exceed a fee established by the Planning Board.

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4.3 All Land Development Activities subject to review and approval by the Planning Board under the Village's Zoning Law, Subdivision Law or Tree Preservation Law, as those laws may be from time to time amended, shall be reviewed subject to the standards contained in this Local Law .

5 SECTION 5. Exemptions.

5.1 Routine maintenance activities that disturb less than five (5) acres and are performed to maintain the original line and grade, hydrologic capacity or original purpose of the site.

5.2 Repairs to any Stormwater Management Practice or facility deemed necessary by the Stormwater Management Officer.

5.3 Cemetery graves.

5.4 Installation of fences, signs, telephone, electric or other poles or posts.

5.5 Emergency activity immediately necessary to protect life, property or natural resources.

5.6 Activities of an individual engaging in home gardening by growing flowers, vegetables or other plants for use by that person that disturb no more than 10,000 square feet of land. .

5.7 Landscaping and horticultural activities in connection with an existing structure that disturbs no more than 10,000 square feet of land not including a Steep Slope (*see* definition).

6 **SECTION 6. Definitions.** As used in this Local Law, the following terms shall have the meanings indicated below. Any term not defined herein shall have the meaning ascribed to it in Section 2 of the Zoning Law of the Village of Upper Nyack as it may be from time to time amended.

6.1 **APPLICANT:** A property owner or agent of a property owner who has filed an application for a Land Development Activity.

6.2 **CHANNEL:** A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

6.3 **CLEARING:** Any activity that removes the vegetative surface cover.

6.4 **DEDICATION:** The deliberate appropriation of property by its owner for general public use.

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- 6.5 DEPARTMENT: The New York State Department of Environmental Conservation.
- 6.6 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.
- 6.7 DEVELOPER: A person who undertakes Land Development Activities.
- 6.8 EROSION CONTROL MANUAL. The most recent version of the “New York Standards and Specifications for Erosion and Sediment Control” manual, commonly known as the “Blue Book”.
- 6.9 GRADING. The process of changing the existing finished grade by excavation of matter or adding of fill.
- 6.10 IMPERVIOUS COVER. Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).
- 6.11 INDUSTRIAL STORMWATER PERMIT. A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.
- 6.12 INFILTRATION. The process of percolating stormwater into the subsoil.
- 6.13 LAND DEVELOPMENT ACTIVITY: Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance equal to or greater than 10,000 square feet in area or any area of the parcel that includes a Steep Slope.
- 6.14 MAINTENANCE AGREEMENT: A legally recorded document that acts as a property deed restriction and which provides for long-term maintenance of Stormwater Maintenance Practices.
- 6.15 NONPOINT SOURCE POLLUTION: Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
- 6.16 PHASING: Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.
- 6.17 PLANNING BOARD: The Planning Board of the Village of Upper Nyack.

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6.18 **POLLUTANT OF CONCERN:** Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the Land Development Activity, and any Pollutant of Concern listed in the Village's stormwater management plan.

6.19 **RECHARGE:** The replenishment of underground water reserves.

6.20 **SEDIMENT CONTROL:** Measures that prevent eroded sediment from leaving the site.

6.21 **SENSITIVE AREAS:** Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, or habitats for threatened, endangered or special concern species.

6.22 **SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES:** The current edition of 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.

6.23 **SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS:** The current edition of 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.

6.24 **STABILIZATION:** The use of practices that prevent exposed soil from eroding.

6.25 **STEEP SLOPE:** Lot area containing a natural or artificial incline of 15% or greater, measured and determined on the basis of 2-foot contour intervals, as shown on a certified land survey.

6.26 **STOP WORK ORDER:** An order issued which requires that all construction activity on a site be stopped.

6.27 **STORMWATER.** Rainwater, surface runoff, snowmelt and drainage.

6.28 **STORMWATER HOTSPOT -** A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

6.29 **STORMWATER MANAGEMENT FACILITY:** One or a series of Stormwater Management Practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

6.30 **STORMWATER MANAGEMENT OFFICER (SMO):** *See* Section 4.2.

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6.31 **STORMWATER MANAGEMENT PRACTICE (SMP):** Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

6.32 **STORMWATER POLLUTION PREVENTION PLAN (SWPPP):** A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

6.33 **SURFACE WATERS OF THE STATE OF NEW YORK:** Lakes, bays, sounds, ponds, impounding reservoirs, springs well, rivers, 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.

6.34 **WATERCOURSE:** A permanent or intermittent stream or other body of water, either natural or manmade, which gathers or carries surface water.

6.35 **WATERWAY:** A channel that directs surface runoff to a Watercourse or to the public storm drain.

6.36 **WETLAND:** Any state or federally designated or regulated wetland.

7 **SECTION 7. Stormwater Pollution Prevention Plans.**

7.1 **Requirement.** No application for approval of a Land Development Activity shall be reviewed until the Village Engineer has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications of this Local Law.

7.2 **Contents of Stormwater Pollution Prevention Plans.**

7.2.1 All SWPPPs shall provide the following background information and erosion and sediment controls:

7.2.1.1 Background information about the scope of the project, including location, type and size of project;

7.2.1.2 Site map/construction drawings for the project, including general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface waters; wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of offsite material, waste, permanent or temporary equipment storage areas and location(s) of the stormwater discharge(s);

7.2.1.3 Description of the soil(s) present at the site;

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7.2.1.4 Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing; excavation and grading; utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than 10,000 square feet or less if on a Steep Slope (see definition) shall be disturbed at any one time unless pursuant to an approved SWPPP;

7.2.1.5 Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;

7.2.1.6 Description of the pollution and waste materials expected to be stored on-site with updates as appropriate, and a description of controls for each stage of the project from initial land clearing and grubbing to project close-out;

7.2.1.7 Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;

7.2.1.8 Site map/construction drawing(s) specifying the location(s), size(s), and length(s) of each erosion and sediment control practice;

7.2.1.9 Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;

7.2.1.10 Temporary practices that will be converted to permanent control measures;

7.2.1.11 Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

7.2.1.12 Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;

7.2.1.13 Names of the receiving waterbodies (i.e. the Hudson River);

7.2.1.14 Delineation of SWPPP implementation responsibilities for each part of the site;

7.2.1.15 Description of the structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and discharge from exposed area of the site to the maximum extent practicable; and

7.2.1.16 Any existing data that describes the stormwater runoff at the site.

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7.2.2 Land Development Activities meeting Condition A or B below shall also include water quantity and water quality controls (post construction stormwater runoff controls) as set forth below as applicable:

7.2.2.1 Condition A – Stormwater runoff from Land Development Activities discharging a Pollutant of Concern to either an impaired water identified on the Department of Environmental Conservation’s 303(d) list of impaired waters or a TDML (Total Maximum Daily Load) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

7.2.2.2 Condition B – Stormwater runoff from land development activities disturbing more than 10,000 square feet in area or any areas of Steep Slope (see definition).

7.2.3 SWPPP Requirements for Condition A (Section 7.2.2.1) or B (Section 7.2.2.2).

7.2.3.1 All information in Section 7.2.1, above;

7.2.3.2 Description of each post construction Stormwater Management Practice;

7.2.3.3 Site map/construction drawing(s) showing the specific location(s) and size(s) of each post construction Stormwater Management Practice;

7.2.3.4 Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms (i.e. 50-year storm, 100-year storm);

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

7.2.3.6 Dimensions, material specifications and installation details for each post-construction Stormwater Management Practice;

7.2.3.7 Maintenance schedule to ensure continuous and effective operation of each post-construction Stormwater Management Practice;

7.2.3.8 Maintenance easements to ensure access to all Stormwater Management Practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;

7.2.3.9 Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Section 9.

7.3 Plan Certification. The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing

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the plan, who shall certify that the design of all Stormwater Management Practices meets requirements in this Local Law.

7.4 Other Environmental Permits. The Applicant shall assure that all other applicable environmental permits have been or will be acquired for the Land Development Activity prior to approval of the final stormwater design plan.

7.5 Contractor Certification.

7.5.1 Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or Stormwater Management Practice installation shall sign and date a copy of the following certification statement before undertaking any Land Development Activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

7.5.2 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.

7.5.3 The certification statement(s) shall become part of the SWPPP for the Land Development Activity.

7.6 SWPPP on Site. A copy of the SWPPP shall be retained at the site of the Land Development Activity during construction from the date of initial construction activities to the date of the final stabilization.

8 SECTION 8. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control. All Land Development Activities shall be subject to the following performance and design criteria:

8.1 Technical Standards. For the purpose of this Local Law, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards by this law:

8.1.1 The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual).

8.1.2 New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version of its successor, hereafter referred to as Erosion Control Manual).

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8.2 Water Quality Standards. Any Land Development Activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in Surface Waters of the State of New York.

9 SECTION 9. Maintenance and Repair of Stormwater Facilities.

9.1 Maintenance During Construction.

9.1.1 The Applicant or Developer of the Land Development Activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and all related appurtenances) which are installed or used by the Applicant or Developer to achieve compliance with the conditions of this Local Law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

9.1.2 The Applicant or Developer or their representative 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. Inspections shall be performed by a Qualified Inspector in accordance with Part VI(c) of the NYSDEC SPEDES General Permit for Stormwater Discharges from Construction Activity, Permit GP-0-20-001. Inspection reports shall be completed every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and also copied to the site log book.

9.2 Maintenance Easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the Applicant or Developer must execute a maintenance easement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Village to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Local Law. The easement shall be recorded in the by the grantor in the office of the Rockland County Clerk after approval by the counsel for the Village.

9.3 Maintenance after Construction. The permanent stormwater management practices installed in accordance with this law shall be operated and maintained by the owner or operator in a fashion to achieve the goals of this Local Law. Proper operation and maintenance includes as a minimum, the following:

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

9.3.2 Written procedures for operation and maintenance and training new maintenance personnel.

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9.3.3 Discharges from the Stormwater Management Practices (SMPs) shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section 8.2.

9.4 Maintenance Agreements. The Village of Upper Nyack shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule A of this Local Law entitled Sample Stormwater Control Facility Maintenance Agreement. The Village, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

10 SECTION 10. Administration and Enforcement.

10.1 Construction Inspection.

10.1.1 Erosion and Sediment Control Inspection. The Stormwater Management Officer may require such inspections as necessary to determine compliance with this Local Law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this Local Law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the Applicant shall notify the Stormwater Management Officer at least 48 hours before any of the following: (1) Start of construction; (2) Installation of sediment and erosion control measures; (3) Completion of site clearing; (4) Completion of rough grading; (5) Completion of final grading; (6) Close of the construction season; (7) Completion of the final landscaping; and (8) Successful establishment of landscaping in public areas. If any violations are found, the Applicant or Developer shall be notified in writing of the nature of the violation and required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

10.1.2 Stormwater Management Practice Inspections. The Stormwater Management Officer is responsible for conducting inspections of Stormwater Management Practices (SMPs). All applicants are required to submit "as built" plans for any Stormwater Management Practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and practices and which plan must be certified by a professional engineer.

10.1.3 Inspection of Stormwater Facilities after Project Completion. Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice or possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or

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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. Inspections may be performed by the Stormwater Management Officer or a consultant hired by the Village. Any consultant hired to inspect Stormwater Facilities and Stormwater Management Practices must have a Professional Engineer's license or be certified as a Professional in Erosion and Sediment Control (CPESC).

10.1.4 Submission of Reports. The Stormwater Management Officer may require monitoring and reporting from entities subject to this Local Law as necessary to determine compliance with this Local Law.

10.1.5 Right of Entry for Inspection. When any new Stormwater Management Facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Village the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Section 10.1.3.

11 SECTION 11. Performance Guarantee.

11.1 Construction Completion Guarantee. In order to ensure the full and faithful completion of all Land Development Activities related to compliance with all conditions set forth by the Village in its approval of the Stormwater Pollution Prevention Plan (SWPPP) the Planning Board may require the Applicant or Developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village as the beneficiary. The security shall be in an amount to be determined by the Village Board of Trustees based on the submission of final design plans, with reference to the actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Board of Trustees, provided such period shall not be less than one (1) year from the date of final acceptance or such other certification that the facilities have been constructed in accordance with the approved plans and specification and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Board of Trustees. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

11.2 Maintenance Guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the Developer or by a corporation that owns and manages a commercial facility, the Developer, prior to construction, may be required to provide the Village with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the Developer or landowner fails to properly operate and maintain stormwater and erosion and sediment control facilities, the Village may draw upon

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the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

11.3 Record Keeping. The Planning Board may require entities subject to this Local Law to maintain records demonstrating compliance with this Local Law and to file them with the Village on a schedule to be determined.

12 SECTION 12. Enforcement and Penalties.

12.1 Notice of Violation. When the Stormwater Management Officer determines that a Land Development Activity is not being carried out in accordance with the requirements of this Local Law, the Stormwater Management Officer, the Village's Code Enforcement Officer or his designee, may issue a written notice of violation to the landowner. The notice of violation shall contain:

12.1.1 the name and address of the landowner, developer or applicant;

12.1.2 the address when available or a description of the building, structure or land upon which the violation is occurring;

12.1.3 a statement specifying the nature of the violation;

12.1.4 a description of the remedial measures necessary to bring the Land Development Activity into compliance with this local law and a time schedule for the completion of such remedial action;

12.1.5 a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

12.1.6 a statement that the determination of violation may be appealed to the Board of Trustees by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

12.2 Stop Work Orders. The Village's Stormwater Management Officer, Code Enforcement Official, code enforcement officer or any designee of the foregoing may issue a Stop Work Order for violations of this Local Law. Persons receiving a Stop Work Order shall be required to halt all Land Development Activities and construction activities (including but not limited to building construction), except those activities that address the violations leading to the Stop Work Order. The Stop Work Order shall be in effect until the Stormwater Management Officer confirms that the Land Development Activity is in compliance and the violation has been satisfactorily addressed. Failure to address a Stop Work Order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this Local Law.

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12.3 **Violations.** Any Land Development Activity that is commenced or is conducted contrary to this Local Law, may be restrained by injunction or otherwise abated in a manner provided by law.

12.4 **Penalties.** In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Local Law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six (6) months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six (6) months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this Local Law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

12.5 **Withholding of Certificate of Occupancy.** If any building or Land Development Activity is installed or conducted in violation of this Local Law the Stormwater Management Officer may prevent the occupancy of said building or land.

12.6 **Restoration of Lands.** Any violator may be required to restore land to its undisturbed condition. If restoration is not undertaken within a reasonable time after notice, the Village may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

13 **SECTION 13. Fee for Services.**

13.1 The Village Engineer or Planning Board may require any person undertaking Land Development Activities regulated by this Local Law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Village or performed by a third party for the Village.

14 **SECTION 14. Effect on Other Laws.**

14.1 Nothing in this Local Law shall be construed to vary or modify the provisions of any other general or Local Law or to authorize the violation thereof; however, where there is a conflict between this Local Law and another Local Law the more restrictive provision shall control.

15 **SECTION 15. Severability.**

15.1 If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Local Law shall be judged invalid by a court of competent jurisdiction, such order

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of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law.

16 SECTION 16. Effective Date.

16.1 This Local Law shall take effect upon the later of April 15, 2022 or upon filing in the Office of the Secretary of State.

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SCHEDULE A

**STORMWATER CONTROL FACILITY MAINTENANCE AGREEMENT
[INSERT PROJECT REFERENCE]
VILLAGE OF UPPER NYACK, TOWN OF CLARKSTOWN, ROCKLAND COUNTY**

This Stormwater Control Facility Maintenance Agreement (“Agreement”) is made and entered into as of the ____ day of _____ 20 __, by and between INSERT FACILITY OWNER NAME (“Facility Owner”), and the **Village of Upper Nyack**, New York, (“Village”) a municipal corporation having its principal place of business at 328 North Broadway, Upper Nyack, New York 10960.

WITNESSETH:

WHEREAS, Facility Owner is the owner of that certain parcel of land located at [insert street address], which is known and designated on the Village of Upper Nyack Tax Map as Tax Lot No. [insert tax lot number], which is more particularly bounded and described in Schedule A annexed hereto and made a part hereof (the “Property”); and

WHEREAS, the Facility Owner has submitted a Stormwater Pollution Prevention Plan (“SWPPP”) to the Village dated ____ and last revised ____ and prepared by _____, which sets forth, among other things, the proposed improvements to be constructed and/or installed for the purpose of controlling and mitigating stormwater runoff from the Property; and

WHEREAS, the Village has approved the SWPPP; and

WHEREAS, a plan depicting the stormwater control measures approved as a part of the SWPPP (the “Stormwater Control Measures”) is annexed hereto as Schedule B (the “Approved Plan”); and

WHEREAS, a maintenance plan for such Stormwater Control Measures is annexed hereto as Schedule C (the “Maintenance Plan”); and

WHEREAS, the Village and the Facility Owner desire that the Stormwater Control Measures be built, maintained, repaired, replaced and continued in perpetuity in accordance with the Approved Plan and the Maintenance Plan and the terms and conditions of this Agreement to ensure the optimum performance of the Stormwater Control Measures.

NOW, THEREFORE, the Village and the Facility Owner agree as follows:

1. This Agreement binds the Facility Owner and its successors and assigns to the maintenance of the Stormwater Control Measures as depicted and described in the Approved Plan and the Maintenance Plan attached hereto as Schedules B and C, respectively.
2. The Facility Owner and its successors and assigns shall install, use, maintain, clean, repair, replace and continue the Stormwater Control Measures in accordance with the Approved

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Plan and Maintenance Plan to ensure optimum performance of the Stormwater Control Measures to the design specifications as set forth in the Approved Plan. The Stormwater Control Measures shall include, but shall not be limited to, the following: [summarize the Stormwater Control Measures used on the Property], but only to the extent shown on Approved Plan attached hereto as Schedule B.

3. The Facility Owner shall pay all expenses related to the inspection, use, maintenance, repair and replacement of the Stormwater Control Measures.
4. The Facility Owner shall provide for the annual inspection of the Stormwater Control Measures to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York or such other person or professional approved by the Village Engineer. The inspecting engineer shall perform such inspection in accordance with the inspection checklist included as a part of the Maintenance Plan attached hereto as Schedule C and shall submit to the Village Engineer (or such other department, agency, board or representative as the Village may designate for such purpose) within thirty (30) days of the inspection, a copy of the completed inspection checklist.
5. The Facility Owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the Stormwater Control Measures except in accordance with written approval of the Village Engineer (or such other department, agency, board or representative as the Village may designate for such purpose).
6. The Facility Owner shall undertake necessary repairs and replacement of the Stormwater Control Measures at the direction of the Village or in accordance with the recommendations of the inspecting engineer as indicated on an inspection checklist.
7. If ever the Village Engineer (or such other department, agency, board or representative as the Village may designate for such purpose) determines that the Facility Owner has failed to construct or maintain the Stormwater Control Measures in accordance with the Approved Plans or has failed to undertake corrective action specified by the Village or by the inspecting engineer, the Village is hereby authorized, but not required, following five (5) days written notice to the Facility Owner (except in the case of an emergency, in which event only such notice as is practicable under the circumstances, if any, is required), to enter onto the Property to undertake such steps as are reasonably necessary for the inspection, preservation, continuation or maintenance of the Stormwater Control Measures and to affix the expenses thereof as a lien against the Property. The Facility Owner hereby grants on its behalf and on behalf of its successors and assigns an irrevocable right of entry to the Village, its employees, contractors, vendors and/or officers to perform inspections and perform the corrective measures referred to in this Paragraph 7. The Facility Owner hereby agrees to defend, indemnify, and hold harmless the Village and its representatives from any damages as a result of the Village's inspection and/or performance of corrective measures as described herein unless such damage results from the willful misconduct or gross negligence of the Village and its representatives.

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8. The Facility Owner hereby designates [PROVIDE NAME AND ADDRESS] (the “Contact Person”) as the Contact Person for all stormwater-related emergencies at the Property and activities related to this Agreement. All notices required to be given to the Facility Owner pursuant to this Agreement shall be given to the Contact Person. It is the responsibility of the Facility Owner to advise the Village, in writing, of any change as to the name or contact information for the Contact Person.
9. If the Property is conveyed to another party, the subsequent owner or owners shall, as a result of such conveyance, assume all responsibility for performing the maintenance procedures and for any other costs associated with the use, maintenance, repair or replacement of the Stormwater Control Measures. The conveyance of the Property shall release the party conveying the Property from the obligations imposed by this Agreement and such obligations shall become the responsibility of the party acquiring the Property.
10. The Facility Owner shall record this Agreement at its own cost and expense in the Office of the Rockland County Clerk.
11. This Agreement, and all rights hereunder granted shall run with the land and shall be binding up on the successors, legal representatives and assigns of the respective parties.
12. Reference to the Village in this Agreement shall mean to the Village Board of Trustees or such department, board, agency or representative of the Village as the Village Board of Trustees may designate from time to time.
13. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of New York.
14. Neither this Agreement nor any provision thereof may be waived, changed or cancelled except in writing.
15. If any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

[Nothing further on this page]

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IN WITNESS WHEREOF, this Stormwater Control Facility Maintenance Agreement has been duly executed by the parties hereto the day and year first written above.

FACILITY OWNER

By: _____
Name:
Title:

VILLAGE OF UPPER NYACK

By: _____
Name:
Title:

[Acknowledgements on next page]

State of New York)
) ss.
County of _____)

On the _____ day of _____ 20____, before me, the undersigned personally appeared _____ personally known to me or proved on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the individuals, or the person upon behalf of which the individuals acted, executed the instrument.

Notary Public

State of New York)
) ss.
County of _____)

On the _____ day of _____ 20____, before me, the undersigned personally appeared _____ personally known to me or proved on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the individuals, or the person upon behalf of which the individuals acted, executed the instrument.

Notary Public

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**SCHEDULE A
LEGAL DESCRIPTION OF PROPERTY**

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SCHEDULE B
APPROVED PLAN(S)
[CONTENTS OF SCHEDULE B TO BE
APPROVED BY THE VILLAGE ENGINEER]

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**SCHEDULE C
MAINTENANCE PLAN
[CONTENTS OF SCHEDULE C TO BE
APPROVED BY THE VILLAGE ENGINEER]**