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Municipality: Town of Blooming Grove
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Title: Town of Blooming Grove Stormwater Management Ordinance
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Abstract

Chapter 201 of the Town Code for the Town of Blooming Grove provides for use of structural and nonstructural practices designed to reduce stormwater runoff and mitigate adverse impacts on property, natural resources and the environment. The General Provisions are divided into several areas: Findings; Purpose; Statutory authority; Applicability; Exemptions. The sections of the Stormwater Control provision are: Definitions; Pollution prevention plans; Performance and design criteria; Maintenance and repair of facilities; Administration and enforcement; Enforcement and penalties; and Fees for services.

Resource

Town of Blooming Grove NY Stormwater Management

Chapter 201: STORMWATER MANAGEMENT

[HISTORY: Adopted by the Town Board of the Town of Blooming Grove 7-25-2005 by L.L. No. 5-2005. Amendments noted where applicable.]

ARTICLE I General Provisions

§ 201-1. Findings.

It is hereby determined that:

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

- B. This stormwater runoff contributes to increased quantities of waterborne pollutants, including siltation of aquatic habitat for fish and other desirable species, and may cause property damage;
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff, thereby increasing stream bank erosion and sedimentation;
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- F. Economic losses can result from adverse impacts on stormwater quantity and velocity and on the waters;
- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- H. The regulation of stormwater runoff discharges from land development activities is in the public interest and will help to reduce threats to public health and safety; and
- I. Regulation of land development activities by means of standards governing stormwater management and site design is intended to regulate development such that it is 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.

§ 201-2. Purpose; objectives.

The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in § 201-1 hereof. This chapter seeks to meet those purposes by seeking to achieve the following objectives:

- A. Meet the minimum requirements for control of construction site and post-construction runoff of the New York State SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02, as amended or revised;

- B. 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 GP-02-01, as amended or revised;
- C. 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;
- D. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- F. 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.

§ 201-3. Statutory authority.

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

§ 201-4. Applicability.

- A. This chapter shall be applicable to all land development activities as defined in § 201-6 of this chapter.
- B. The Town shall designate a Stormwater Management Administrator who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Administrator may review the plans; upon approval by the Town Board, engage the services of a professional engineer to review the plans, specifications and related documents; and/or accept the certification of a licensed professional that the plans conform to the requirements of this chapter and other applicable laws and regulations.

- C. All land development activities subject to review and decision by the applicable municipal board shall be reviewed pursuant to the standards contained in this chapter, and other applicable laws and regulations.
- D. Stormwater pollution prevention plan (SWPPP) consistent with the requirements of Articles I and II of this chapter shall be required for preliminary subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in Article II of this chapter. The approved preliminary subdivision plat shall be consistent with the provisions of this chapter.
- E. A stormwater pollution prevention plan consistent with the requirements of Articles I and II of this chapter and with the terms of preliminary plan approval shall be required for final subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in Article II of this chapter. The approved final subdivision plat shall be consistent with the provisions of this chapter.
- F. Stormwater pollution prevention plan consistent with the requirements of Articles I and II of this chapter shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards in Article II of this chapter. The approved site plan shall be consistent with the provisions of this chapter.
- G. No land development activity not subject to review as stated in Subsection C above shall be commenced unless and until the Town Planning Board has approved a stormwater pollution prevention plan (SWPPP) submitted to the Board.

§ 201-5. Exemptions.

The following activities may be exempt from review under this chapter:

- A. Agricultural activity as defined in this chapter.
- B. Alteration or maintenance of an existing structure which will not have an impact on the quantity or quality of the surface water discharge from the site.
- C. Routine maintenance activities that disturb less than one acre of land and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- D. Repair to any stormwater management practice or facility deemed necessary by the Building Inspector, Engineer or other person designated by the Town Board.

- E. Land development activity that received approval by the Town Planning Board prior to the effective date of this chapter. However, said activity shall not be exempt from compliance with applicable state laws or regulations governing stormwater management and control.
 - F. Land development activity for which a building permit has been approved prior to the effective date of this chapter. However, said activity shall not be exempt from compliance with applicable state laws or regulations governing stormwater management and control.
 - G. Cemetery graves.
 - H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
 - I. Emergency activity immediately necessary to protect life, property or natural resources.
 - J. Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.
 - K. Landscaping and horticultural activities in connection with an existing structure, provided such activities do not disturb one acre or more of land.
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ARTICLE II Stormwater Control

§ 201-6. Definitions.

The terms used in this chapter or in documents prepared or reviewed under this chapter shall have the meanings as set forth in this section.

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

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

BUILDING — Any structure, either temporary or permanent, having walls and a roof,

designed for the shelter of any person, animal, or property.

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

CLEARING — Any activity that removes the vegetative surface cover, including ground cover, shrubs, brush and trees.

DEDICATION — The appropriation of property by its owner for general public use.

DEPARTMENT — The New York State Department of Environmental Conservation.

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

DEVELOPER — A person who undertakes land development activities.

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

GRADING — Excavation or fill of material, including the resulting conditions thereof.

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

INDUSTRIAL STORMWATER PERMIT — A state pollutant discharge elimination system permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION — The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND — An area that has or may be determined as a federal wetland; a New York State mapped wetland; or an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

LAND DEVELOPMENT ACTIVITY — Construction activity, including but not limited to, clearing, grading, excavating, blasting, soil disturbance or placement of fill that results in disturbance of one or more acres of land, or activity that disturbs less than one acre of land area that is part of a common plan of development or sale which will or has disturbed one or more acres of land, even though multiple separate and distinct land development activities may take place at different times on different schedules.

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

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

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

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

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

PROJECT — Land development activity.

RECHARGE — The replenishment of underground water reserves.

SEDIMENT CONTROL — Measures that prevent eroded sediment from leaving the site.

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

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 — 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 GP-02-02 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

STABILIZATION — The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER — An order issued which requires that all construction activity on a site be stopped.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

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

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

STORMWATER MANAGEMENT ADMINISTRATOR — The Building Inspector, engineer or other person designated by the Town Board to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

STORMWATER MANAGEMENT FACILITY — One or a series of stormwater management practices installed and operated for the purpose of controlling stormwater runoff.

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

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

STORMWATER RUNOFF — Flow on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK

- A. 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.
- B. 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.

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

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

§ 201-7. Stormwater pollution prevention plans.

- A. Stormwater pollution prevention plan requirement. No application for approval of a land development activity shall receive approval until the appropriate board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this chapter.
- B. Contents of stormwater pollution prevention plans. All SWPPPs shall provide the following background information and erosion and sediment controls:
 - (1) Background information about the scope of the project, including location, type and size of project.
 - (2) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s). (Site map should be at a scale no

smaller than one inch equals 100 feet.)

- (3) Description of the soil(s) present at the site.
- (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
- (5) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff.
- (6) Description of construction and waste materials expected to be stored on-site, with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.
- (7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out.
- (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice.
- (9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins.
- (10) Temporary practices that will be converted to permanent control measures.
- (11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place.
- (12) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice.
- (13) Name(s) of the receiving water(s).

- (14) Delineation of SWPPP implementation responsibilities for each part of the site.
- (15) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.
- (16) Any existing data that describes the stormwater runoff at the site.
- (17) Any additional information shall be provided if requested by the Stormwater Management Administrator.

C. Land development activities as defined herein and meeting Condition A, B or C below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Subsection D below as applicable:

- (1) Condition A: stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
- (2) Condition B: stormwater runoff from land development activities disturbing five or more acres.
- (3) Condition C: stormwater runoff from land development activity disturbing between one 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.

D. SWPPP requirements for Conditions A, B and C:

- (1) All information in § 201-7B of this chapter;
- (2) Description of each postconstruction stormwater management practice;
- (3) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice;
- (4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;

- (5) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions;
 - (6) Dimensions, material specifications and installation details for each postconstruction stormwater management practice;
 - (7) Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice;
 - (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; and
 - (9) Inspection and maintenance declaration binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 201-9D of this chapter.
- E. Plan certification. The SWPPP shall be prepared by a certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this chapter.
- F. 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.
- G. Contractor certification.
- (1) Each contractor and subcontractor 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."
 - (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.
 - (3) The certification statement(s) shall become part of the SWPPP for the land

development activity.

- H. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 201-8. Performance and design criteria.

All land development activities shall be subject to the following performance and design criteria:

- A. Technical standards. For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this chapter. These documents are on file in the Town Building Department.
 - (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").
 - (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 or its successor, hereafter referred to as the "Erosion Control Manual").
- B. Water quality standards. No land development activity may cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

§ 201-9. Maintenance and repair of facilities.

- A. Maintenance during construction.
 - (1) The applicant and developer of the land development activity shall at all times properly construct, operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
 - (2) The applicant or developer or representative identified in the SWPPP shall be on site at all times when land development activity takes place and shall inspect and

document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days, in addition to 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 Administrator and also copied to the site log book.

- B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement declaration that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town and its agents to determine whether the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town.

- C. Maintenance after construction. The owner or operator of permanent stormwater management practices shall be operated and maintained in compliance with the SWPPP and all other conditions of approval. Proper operation and maintenance also includes, as a minimum, the following:
 - (1) A preventive/corrective maintenance program for all 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 chapter.

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

 - (3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations.

- D. Maintenance declarations. The property owner shall execute a formal maintenance declaration 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 declaration shall be consistent with the terms and conditions of Schedule A annexed as part of this chapter, entitled Sample Stormwater Control Facility Maintenance Declaration. **Editor's Note: Schedule A is included at the end of this chapter.** The Town, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 201-10. Administration and enforcement.

A. Construction inspection.

(1) Erosion and sediment control inspection.

(a) The Town of Blooming Grove may require such inspections as necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant where the work fails to comply with the requirements of this chapter and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of Blooming Grove enforcement official 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 final landscaping.

[8] Successful establishment of landscaping in public areas.

(b) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until all violations are corrected and all work previously completed has received approval by the Stormwater Management Administrator.

(2) Stormwater management practice inspections. The Town of Blooming Grove Stormwater Management Administrator is authorized to conduct inspections of stormwater management practices (SMPs). All applicants are required to submit as-built plans for any stormwater management practices constructed or located on-site and off-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be

certified by a professional engineer.

- B. 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 of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which is 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.
- C. Submission of reports. The Stormwater Management Administrator may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.
- D. 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 Town of Blooming Grove, its officers, employees and agents, the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection B above.
- E. Performance guarantee.
 - (1) Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Blooming Grove in its approval of the Stormwater Pollution Prevention Plan, the Town of Blooming Grove may require the applicant or developer to provide, prior to construction, a cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Blooming Grove as the beneficiary. The security shall be in an amount to be determined by the Town of Blooming Grove based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Blooming Grove, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and

specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Town of Blooming Grove.

- (2) Performance and maintenance guarantee. The developer, prior to construction, shall be required to provide the Town of Blooming Grove with a performance and maintenance bond to ensure proper construction, operation and maintenance of all stormwater management and erosion control facilities, both during and after construction. If the developer's successor(s) fails to properly construct, operate and maintain stormwater management and/or erosion and sediment control facilities, the Town, its officers, employees and agents, may enter upon the property and perform any work necessary to cause proper construction, operation and/or maintenance of the facilities, and may draw upon the account of the bond to cover all such costs, including legal, engineering and inspection costs. The maintenance bond shall cover the estimated cost of properly maintaining the system for five years after substantial completion of construction.

F. Recordkeeping. The Town of Blooming Grove may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

§ 201-11. Enforcement and penalties.

- A. This chapter may be enforced by the Stormwater Management Administrator. The Stormwater Management Administrator is authorized to issue and serve appearance tickets in connection with violations of this chapter.
- B. It shall be a violation of this chapter if any land development activity or any other disturbance of land does not fully comply with the requirements of this chapter, or with the terms or provisions of the SWPPP, or with any lawful order or notice issued by the Stormwater Management Administrator.
- C. Notice of violation. If the Town determines that a violation has occurred, the Stormwater Management Administrator may issue a written notice of violation. The notice of violation should generally contain:
 - (1) The name and address of the landowner, developer or applicant;
 - (2) The address, when available, or a description of the building, structure or land upon which the violation is occurring;
 - (3) A statement specifying the nature of the violation;

- (4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action; and
- (5) A statement of the penalty or penalties that may be assessed against the person(s) to whom the notice of violation is directed.

D. Stop-work orders. The Stormwater Management Administrator may issue a stop-work order for violations of this chapter. Persons receiving a stop-work order shall be required to halt all land development activities, except those permitted activities that remedy the violation(s) causing issuance of the stop-work order. The stop-work order shall be in effect until the Stormwater Management Administrator confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to remedy 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 chapter.

E. Violations and penalties.

- (1) In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed 14 days, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed 14 days, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 14 days, or both. Each day's continued violation shall constitute a separate additional violation.

(2) Civil penalties.

- (a) In addition to and not in lieu of the above, any person who violates any provision of this chapter or who builds or alters any structure or use of land in violation of any statement or plan submitted and approved thereunder who assists therein shall be liable to the Town for a civil penalty in an amount not to exceed \$350 for a first violation; in an amount not less than \$350 nor more than \$700 for a second violation committed within a period of five years of the first violation; and in an amount of not less than \$700 nor more than \$1,000 for a third and each subsequent violation committed within a period of five years of the first violation. Each week's continued

violation shall constitute a separate additional violation.

(b) Civil penalties may be ordered in any action or proceeding by any court of competent jurisdiction, including but not limited to state and federal courts. All penalties shall be paid to the Town.

(c) The judgment amount of any civil penalty ordered pursuant to this section, if not paid, may be assessed and levied against the real property which is the subject of the penalty and collected in the same manner as a real property tax.

(3) In addition to and not in lieu of the remedies authorized above, the Town Board or the enforcement officer may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation or threatened violation of this chapter or to enforce any provision of this chapter.

(4) In addition to and not in lieu of the remedies authorized above, where a violation of this chapter may cause injury or damage to public or private property or to the public interest or environment or may cause, in whole or in part, noncompliance by the Town with stormwater or erosion control requirements, then, after due notice and opportunity to be heard is given the violator, the Town, its officers, employees and agents, shall have the authority to enter upon private property and take necessary corrective and restorative action to remedy such violation. All costs of such Town action, including but not limited to corrective, engineering, legal and administrative costs, shall be billed to the owner of the property. If not paid, such costs may be assessed and levied against the property and collected in the same manner as real property tax. In the event of an emergency, the Town shall be authorized to enter upon the property and take action without notice to the property owner or opportunity to be heard.

F. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter no certificate of occupancy shall be issued and no building or land shall be occupied.

G. Restoration of lands. Any violator of this chapter may be required to restore land to its undisturbed or prior condition. In the event that restoration is not undertaken within a reasonable time after notice and opportunity to be heard, the Town, its officers, employees and agents, shall have the authority to enter upon the private property and take necessary corrective and restorative action to remedy violations of this chapter. All costs of such Town action, including, but not limited to, corrective, engineering, legal and administrative costs, shall be billed to the owner of the property. If not paid, such costs may be assessed and levied against the property and collected in the same manner

as real property tax.

§ 201-12. Fees for services.

The Town of Blooming Grove may require any person undertaking land development activities regulated by this chapter to reimburse to the Town the Town's reasonable costs for review of SWPPPs, inspections, or SMP maintenance performed by or on behalf of the Town.