

Legislative Agenda from Gap Analysis

Gap Analysis Worksheet #/Section	Language from local law to be added	Location of language added or modified in Construction Model Ordinance	Location language added or modified in Post Construction Model Ordinance
Article 1, General provisions Section 1, Findings of Fact	<p>1.3 “ ... tends to increase soil erosion”</p> <p>1.4 “Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;”</p> <p>1.5 “Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;”</p> <p>1.9 “Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.”</p>	Section 1: Introduction/Purpose	
Article 1. General Provisions Section 2. Purpose	<p>“It seeks to meet those purposes by achieving the following objectives:</p> <ul style="list-style-type: none"> <li>• Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no. GP-02-02 or</li> </ul>	Section 1: Introduction/Purpose	

	<p>as amended or revised;</p> <ul style="list-style-type: none"> <li>• 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 or as amended or revised;</li> <li>• 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;</li> <li>• Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;</li> <li>• Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and</li> <li>• 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</li> </ul>		
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<p>Article 1, Section 4. Applicability</p>	<p>See additions and changes to existing text in Model Ordinance, (added words are underlined and deleted words are crossed out) “This ordinance shall be applicable to all subdivision, site plan, and building permit applications <u>for all</u></p> <p><u>land development activity</u> that will disturb <math>\geq 25,000</math> square feet of <del>earth</del> <u>land</u>. The ordinance also applies to land development activities that are <math>&lt; 25,000</math> square feet disturbance if such activities are part of a larger common plan of development <u>or sale</u> that will disturb <math>\geq 25,000</math> square feet, even though multiple separate and distinct land development activities may take place at different times on different schedules.</p>	<p>Section III: Applicability</p>	
<p>Article 1, Section 4.2</p>	<p>“The <b>JA</b> shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. A consultant cannot be appointed as Stormwater Management Officer.” The Stormwater Management Officer may (1) review the plans, (2) upon approval by the City Council/Town Board/Village Board of Trustees, engage the services of a registered 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</p>	<p>Added in Section IX. Stormwater Pollution Prevention Plan, and added “stormwater management officer” definition to Section II: Definitions</p>	

	<p>the certification of a licensed professional that the plans conform to the requirements of this ordinance.</p> <p>Also added to definitions “<b>Stormwater Management Officer</b> - 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</p>		
Article 1, Section 4.4	<p>Added section 4.4 from sample local law, with a minor change that is underlined to fit in with the Construction Model Ordinance language and deleted crossed out text from Model ordinance.</p> <p>“All land development activities not subject to <u>site plan or building permit approval review as stated in section 4.3</u> shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this law.”</p>	Added as #7 to Section VII: Site Disturbance Activity Approval Process A. Requirements of Application	
Article 1, Section 5.1, Agricultural activity	<p>Added definition of Agricultural Activity as “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.”</p>	Added “Agricultural Activity” definition to Section II: Definitions; Added “Agricultural Activity” to Section VIIC: Exemptions from Ordinance	Added “Agricultural Activity” definition to Section II: Definitions; Added “Agricultural Activity” as an exemption to Section III: Applicability

Article 1, Section 5.2 Silvicultural activity	Added definition of Silvicultural Activity as activities that control the establishment, growth, composition, health and quality of forests and woodlands” Added to exemptions “Silvicultural activity except that landing areas and log haul roads are subject to this law.”	Added “Silvicultural Activity” definition to Section II: Definitions; Added “Silvicultural Activity” as an exemption to Section VIIC: Exemptions from Ordinance	Added “Silvicultural Activity” definition to Section II: Definitions; Added “Silvicultural Activity” as an exemption to Section III: Applicability
Article 1, Section 5.3 Routine maintenance activities	Added as an exemption “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.”	Added as an exemption to Section VIIC: Exemptions from Ordinance	Added as an exemption to Section III: Applicability
Article 2. Zoning Law Amendment: Stormwater Control, Section 1. Definitions	Added definition for the “New York State Stormwater Management Design Manual” “Standards and specifications produced by the New York State Department of Environmental Conservation containing specific design criteria for grading, erosion and sediment control practices, pollution prevention practices and waterway crossings” instead of using “design manual”	Added to Section II: Definitions	Added to Section II: Definitions
Article 2. Zoning Law Amendment” Stormwater Control, Section 1. Definitions	“Erosion control manual”-substituted the “New York State standards and Specifications the most recent version of this publication, which is commonly known as the “Blue Book””.	Added to Section II: Definitions	Added to Section II: Definitions
Article 2. Zoning Law	Added “Land Disturbance Activity” - construction	Added to Section II: Definitions	Added to Section II:

Amendment” Stormwater Control, Section 1. Definitions	activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre ( <i>see</i> □ <i>Note</i> ), or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.”		Definitions
Article 2. Zoning Law Amendment: Stormwater Control, Section 1. Definitions	Added “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.”	Added to Section II: Definitions	
Article 2. Zoning Law Amendment” Stormwater Control, Section 1. Definitions	Added “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”	Added to Section II: Definitions	Added to Section II: Definitions
Article 2. Zoning Law Amendment” Stormwater Control,	Added “Stormwater Pollution Prevention Plan (SWPPP) - a plan for controlling stormwater runoff and pollutants from a site during and after	Added to Section II: Definitions	

Section 1. Definitions	construction activities.”		
Article 2. Zoning Law Amendment” Stormwater Control, Section 1. Definitions	<p>Added “<b>Surface Waters of the State of New York</b> - 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.</p> <p>Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state. “</p>	Added to Section II: Definitions	
Section 2. Stormwater Pollution Prevention plans Article 2.2.1	Added “All SWPPPs shall provide the following background information and erosion and sediment controls:	Section IX. Stormwater Pollution Prevention Plan A. minimum requirements	
Section 2. Stormwater Pollution Prevention plans Article 2.2.1	Added “Background information about the scope of the project, including location, type and size of project.” To original requirement #1 “Contact Information that includes the name, address, and	Section IX. Stormwater Pollution Prevention Plan A. minimum requirements	

	<p>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.</p>		
<p>Section 2. Stormwater Pollution Prevention plans Article 2.2.2</p>	<p>Added “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); <input type="checkbox"/> <i>Site map should be at a scale no smaller than 1"=100' (e.g. 1"=500" is smaller than 1"=100")</i>” to existing construction model ordinance requirement #2 “A 1" = ____' topographic base map of the site which extends a minimum of ____ feet beyond the limits of the proposed development and indicates existing surface water drainage features, including receiving waters (name of the water, its classification and designation), streams, ponds, culverts, ditches, and wetlands; areas of disturbance; areas that will not be disturbed; locations of utilities, roads, soils types, forest cover, and resources protected under other chapters of this code or by easements; and significant natural and manmade features not otherwise shown. The map shall also include the</p>	<p>Section IX. Stormwater Pollution Prevention Plan A. minimum requirements</p>	

	existing and proposed grading contours, waste areas, borrow areas, equipment and material storage areas and proposed concrete clean out basin(s) and construction entrance.” These 2 requirements were blended together to provide the most comprehensive requirements		
Section 2. Stormwater Pollution Prevention plans Article 2.2.3	Added “Description of the soil(s) present at the site;”	Section IX. Stormwater Pollution Prevention Plan A. minimum requirements	
Section 2. Stormwater Pollution Prevention plans Article 2.2.4	Added “Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.” To some of the language from the Construction Model ordinance requirement #3 to include the language of “final grading landscaping...sequencing shall identify the expected data on which clearing will begin and the estimated duration of exposure of cleared areas”	Section IX. Stormwater Pollution Prevention Plan A. minimum requirements	
Section 2. Stormwater Pollution Prevention plans	Added “A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;” as	Section IX. Stormwater Pollution Prevention Plan A. minimum requirements	

Article 2.2.8	SWPPP requirement #7		
Section 2. Stormwater Pollution Prevention plans Article 2.2.9	Added "...including the siting and sizing of any temporary sediment basins" to SWPPP requirement # 8 which states "Illustration of all necessary erosion and sediment control measures and provide the dimensions, material specifications and installation details for 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.	Section IX. Stormwater Pollution Prevention Plan A. minimum requirements	
Section 2. Stormwater Pollution Prevention plans Article 2.2.11	Added "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;" as SWPPP requirement # 10	Section IX. Stormwater Pollution Prevention Plan A. minimum requirements	
Section 2. Stormwater Pollution Prevention plans Article 2.2.14	Added "implementation (underlined) to existing text in Model Ordinance to SWPPP requirement #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 <u>and implementation</u> 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	Section IX. Stormwater Pollution Prevention Plan A. minimum requirements	

	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.		
Section 2. Stormwater Pollution Prevention plans Article 2.2.15	Added as SWPPP Requirement #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;”	Section IX. Stormwater Pollution Prevention Plan A. minimum requirements	
Section 2. Stormwater Pollution Prevention plans Article 2.2.16	Added as SWPPP Requirement #13 “Any existing data that describes the stormwater runoff at the site.”	Section IX. Stormwater Pollution Prevention Plan A. minimum requirements	
Section 2. Stormwater Pollution Prevention plans Article 2.2.2	Added language is underlined, and deleted language from Model ordinance has strikethrough “Land development activities as defined in Section <del>II of this ordinance</del> <del>1 of this Article</del> 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 Section <del>X 2.2.3</del> below as applicable: <u>Condition A</u> - 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 <u>impaired</u> waters or a Total Maximum Daily Load (TMDL) designated		Section X: Stormwater Pollution Prevention plan Requirements

	<p>watershed for which pollutants in stormwater have been identified as a source of the impairment.</p> <p><u>Condition B</u> - Stormwater runoff from land development activities disturbing five (5) or more acres.</p> <p><u>Condition C</u> - Stormwater runoff from land development activity disturbing <u>between 25,000 square feet <del>one (1)</del></u> and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.”</p> <p>To existing applicability criteria “ <u>D)2)</u> land development activities that are smaller than 25,000 square feet disturbance if such activities are part of a larger common plan of development, even though multiple separate and distinct land development activities may take place at different times on different schedules”</p>		
Article 2.2.3.1	<p>Add as SWPPP Requirement #1 “All information listed in Section IX. Of the Ordinance for Construction Site Stormwater Pollution Prevention and Erosion and Sediment Control”, language was changed to refer to Construction ordinance rather than another section of this Ordinance because NYS DEC uses 1 law and we have divided construction and post-construction requirements into 2 separate ordinances</p>		Section X: Stormwater Pollution Prevention Plan Requirements

Article 2.2.3.2	Add as SWPPP requirement #2 “Description of each post-construction stormwater management practice;		Section X: Stormwater Pollution Prevention Plan Requirements
Article 2.2.3.3	Add “Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;” to existing SWPPP requirement #3 “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.”		Section X: Stormwater Pollution Prevention Plan Requirements
Article 2.2.3.4	Added “Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms” to existing SWPPP Requirement language from Post-Construction Ordinance “including calculations such as 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		Section X: Stormwater Pollution Prevention Plan Requirements

Article 2.2.3.5	Added “Comparison of post-development stormwater runoff conditions with pre-development conditions” as SWPPP requirement #5		Section X: Stormwater Pollution Prevention Plan Requirements
Article 2.2.3.6	Added “Dimensions, material specifications and installation details for each post-construction stormwater management practice;” as SWPPP requirement #6		Section X: Stormwater Pollution Prevention Plan Requirements
Article 2.2.3.10	Added “ the SWPPP shall be prepared by qualified professional and the final plan must be signed by a New York State licensed professional engineer, who shall certify that the design of all stormwater management practices meet the requirements in this ordinance.” As SWPPP Requirement #10		Section X: Stormwater Pollution Prevention Plan Requirements
Article 2.5	Added “from the date of initiation of construction activities to the date of final stabilization” to “The SWPPP and the records of any inspections completed by the Owner or their agent shall be maintained at the site in the site logbook <del>throughout the duration of construction.</del> ” Language that was removed from model ordinances has a strike through it.	Section XA. Jurisdictional authority Inspections	
Article 2. Section 3. Performance & design Criteria for Stormwater Management and Erosion and Sediment Control	Add “design”		Section IX. General Performance “ design and” Criteria for Stormwater Management

Article 2. Article 3.1	Added “The applicant shall consult the jurisdictional Authority’s design criteria, the NYS stormwater management design manual, and the NYS standards and specifications for erosion and sediment control for guidance and requirements related to stormwater management design criteria If there is a conflict between any of the standards, the more stringent standard shall apply.”		Deleted all of Section X. Basic Stormwater Management Design Criteria Added language to beginning of new Section X: General Performance Criteria for Stormwater Management
Article 2, Section 3.2	Add “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 (Section IX) and Section X of this ordinance and the SWPPP shall be prepared by a licensed professional”		Added to Section IX. General design and performance criteria for stormwater management
Article 2. Section 4.1 Maintenance, Inspection and repair of stormwater facilities	Add “Stormwater facilities” and took out “stormwater pollution prevention” and added “Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.”	Section XI. Duration, Maintenance, and Close-out	
Article 4.1.2	Added “The applicant shall employ a “Responsible Individual” as defined in Section II of this ordinance who will oversee the implementation of the SWPPP on a daily basis. The applicant shall also employ the services of a Qualified Professional in erosion and sediment control who will inspect and document the	Added to Section X: Inspections, B property owner inspections	Added to Section X; Stormwater Pollution Prevention Plan Requirements

	effectiveness of all erosion and sediment control practices. The documentation will be kept in a site logbook. Inspection reports will be completed every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. A monthly summary of reports will be copied to the site logbook and delivered to ( <i>jurisdictional authority</i> ) within 5 days after the month's end.” to post- Construction Model ordinance and added “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 development activities 5 acres or less occurring on a single family residence, which is not part of a larger common plan of development or an agricultural property.” To construction model ordinance		
Section 4.1.3	Added “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.	Section X. Inspections, Section Property Owner/Developer Inspections	
Article 4.2 Maintenance Easement(s)	Added “...shall be recorded in the office of the County Clerk”		Section XI. Maintenance of Stormwater Management Facilities
Article 2 Section 4.3 Maintenance after Construction	Changed title of Section XI. from “Maintenance Easement and Agreements” to “Maintenance of Stormwater Management facilities” Added a		Added to Section XI.

	<p>section “Maintenance after Construction”</p> <p>The owner or operator of permanent stormwater management practices installed in accordance with this law shall ensure they are operated and maintained to achieve the goals of this law. Proper operation and maintenance also includes as a minimum, the following:</p> <p><b>1.</b> A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.</p> <p><b>2</b> Written procedures for operation and maintenance and training new maintenance personnel.</p> <p><b>3</b> Discharges from the stormwater management practices shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section II of this Ordinance</p> <p>Added definition of “Water Quality standard violation” as “an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York”</p>		
Article 2 Section 4.4	Took out “A draft of the agreement shall be provided to the ( <i>jurisdictional authority</i> ) for review and approval and a final signed copy of the agreement shall be provided to the ( <b>jurisdictional</b>		Section XI: Maintenance of stormwater Management facilities

	<p><b>authority)</b> prior to issuance of any permits for land disturbance activities.” And replaced with “The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this local law entitled “Stormwater Control Facility Maintenance Agreement.” And changed “and recorded into the land record” to “recorded in the office of the County Clerk as a deed restriction on the property.”</p>		
<p>Article 6 Section 1.3, Inspection of Stormwater facilities after project completion</p>	<p>Added “Inspection can 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 associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and 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</p>		<p>Section XII: Inspection and Right of Entry</p>

	facilities and other stormwater management practices.”		
Article 6, Sections 3.1, 3.2, 3.3	<p>Added “Notice of Violation.</p> <p>When the ((City/Town/Village) of _____) determines that a land development activity is not being carried out in accordance with the requirements of this local law, it may issue a written notice of violation to the landowner. The notice of violation shall contain :</p> <ol style="list-style-type: none"> <li>1 the name and address of the landowner, developer or applicant;</li> <li>2 the address when available or a description of the building, structure or land upon which the violation is occurring;</li> <li>3 a statement specifying the nature of the violation;</li> <li>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;</li> <li>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;</li> <li>6 a statement that the determination of violation may be appealed to the municipality</li> </ol>	Section XII: Enforcement and Penalties, Added as Section B: Notice of Violation	

	by filing a written notice of appeal within fifteen (15) days of service of notice of violation.” To construction model ordinance to meet requirements of 3.1, section 3.2 and 3.3 were already in Construction M.O. and Sections 3.1-3.3 match up with sections in Post-construction M.O		
Article 6. Section 3.4	Added “☞ Penalties implemented by the (jurisdictional authority) must be at least as stringent as the penalties listed in the State’s Model Local Law. They are as follows: Any person who violates the provisions of the ordinance shall be subject to a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only	Section XII. Enforcement and Penalties, Section C	Section XV: Enforcement and Penalties

	all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.		
Article 6, Section 3.5	Added "Holds on Occupation Permits Occupation permits may not be granted until corrections to all stormwater practices have been made and accepted by the ( <i>jurisdictional authority</i> )."	Section Enforcement and Penalties, Section, Section D	
Article 6, Section 4 (not a mandatory change, a recommended change)	Changed language regarding fees in post-construction to match construction M.O. "If desired, communities will need to establish or modify a fee structure. In recognition of increased costs, MS4s may want to modify the current fee structure to account for increased costs to comply with this ordinance."		Section XV. Fees
This section documents other changes that were made to the model ordinances not as a requirement of the gap analysis but resulting from comments from the workshops, construction task group, B. Kendall's review from the NYS DEC or just to improve the	Changed language from "Annual groundwater recharge rates shall be maintained, by promoting infiltration through the use of structural and non-structural methods. At a minimum, annual recharge from the post development site shall mimic the annual recharge from pre-development site conditions" to "an attempt shall be made to maintain annual ground water recharge, by promoting infiltration through the use of structural and non-structural methods. At a minimum, an attempt shall be made for annual recharge from		Section IX. #3

overall quality and consistency of both documents	the post development site to mimic the annual recharge from pre-development site conditions”		
	Changed Section VI title from “ Standards for Construction activities covered under this permit” to “...covered under this ordinance”	Section VI	
	Changed “...prior to issuance of a permit...” to “prior to the issuance of <u>site plan approval</u> or a permit”	Section VIII: Financial Guarantees	
	Changed “The amount of the Financial Guarantee shall be the total estimated construction cost of the stormwater pollution prevention and erosion and sediment control practices <del>approved under the permit</del> , plus a contingency”	Section VIII: Financial Guarantees	
	Changed “section/chapter” in 5 spots to “Ordinance”	Section VIII: B Financial Guarantees	
	Deleted “Any application for or acceptance of any permit issued or requested pursuant to this ordinance constitutes agreement and consent by the person making application or accepting the permit to allow the ( <i>jurisdictional authority</i> ) to enter upon the premises with valid consent to conduct inspections as required by this ordinance. Refusal to allow the ( <i>jurisdictional authority</i> ) to conduct said inspections of the premises and the records related to such permit or required to be maintained by this ordinance shall constitute sufficient justification for the summary and immediate revocation or suspension of said permit. In addition, should the ( <i>jurisdictional authority</i> )	Section X: Inspections, JA (conflicts with NYS DEC B. Kendall’s comments)	

	deem it necessary, it may make an application to any court of competent jurisdiction to obtain a warrant authorizing an inspection of the premises in question.”		
	Removed language from “Off-Site Facility” definition to “A stormwater management measure located outside the subject property boundary <del>described in the permit application for land development activity</del> ”		Section II: Definitions
	Added language to “Unless specifically excluded by this ordinance, any landowner or operator desiring <del>approval or</del> a permit for a land disturbance activity”		Section VI. Compliance
	Added language to Post-Construction that “No waivers or mitigation plans will be considered for land disturbance activity that disturb one (1) acre or greater of land.”		Section VIII: Fee in Lieu-of and Dedication or Easement of Land
	Changed “This plan must be prepared by a registered landscape architect or by the soil conservation district, <del>and must be approved prior to receiving a permit. prior to receiving approval for land-disturbance activity</del> ”		Section XIII: As-built Plans and project Close-out
	Changed “The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved <del>under the permit, by the jurisdictional Authority</del> plus 25%.		Section XVII. Fees
	Added ☞ “Penalties implemented by the JA must be at least as stringent as listed in the State’s	Section XII: Enforcement and Penalties	

	<p><i>model local law they are as follows any person who violates the provisions of this ordinance shall be subject to a punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation." As a Hand symbol, suggestion to municipalities that their penalties and fines</i></p>		
	<p>Updated the definition of Qualified Professional in both Ordinances to match DEC's definition</p>	<p>Section II: Definitions</p>	<p>Section II: Definitions</p>
	<p>Removed "Erosion and Sediment Control Plan" definition because it was not referred to in either</p>	<p>Section II: Definitions</p>	<p>Section II: Definitions</p>

	of the Model Ordinances		
	Checked use of engineer throughout Construction and Post-Construction Model Ordinances and used terminology of “New York State licensed professional “	Section IX. SWPPP Requirements -need to verify with group requirements for construction M.O. certification etc.	
	“This ordinance shall be applicable to all <del>subdivision, site plan, and building permit applications</del> for all land development activity that will disturb $\geq 25,000$ square feet of land”	Section III: Applicability	
	Changed title of Section VII: Site Disturbance Activity Approval process” to “Land Development Activity Approval process”	Section VII	
	Added as “hand symbol” “It is recommended not required that the landscaping plan be prepared by a landscape architect or certified by the Soil and Water Conservation District” MS4s may opt to allow a qualified professional as defined in Section II of this ordinance to prepare a landscaping plan.”		Section XIII. As-Built Plans and Project Closeout
	Replace “land development activity” with “land disturbance activity”	Throughout Entire Ordinance	Throughout Entire Ordinance
	Redefine “land disturbance activity” using the current “land development activity’ definition	Throughout Entire Ordinance	Throughout Entire Ordinance
	Deleted “Existing nursery and agricultural operations conducted as a permitted main or accessory use.” As an exemption because this is not an exemption that DEC uses in their local law	Section VII. C Land Disturbance Activity process	Section III: Applicability
	Deleted “Letter of Credit” and “Performance Bond” definitions from Construction M.O. because they were not used in the text and added it	Section II: Definitions	Section II: Definitions

	to the Post-construction M.O. because these terms were used in the text		
	Deleted “Perimeter Control A barrier that prevents sediment from leaving a site either by filtering sediment-laden runoff, or diverting it to a sediment trap or basin” definition from Construction M.O. because it was not used in the text	Section II: Definitions	
	Deleted “Site Development Permit -A permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff and grading.” Definition because was not used in the text	Section II: Definitions	
	Change “ Building permit” to “permit” And deleted definition of “building permit” in Post Construction M.O. as “Permit authorizes the commencement of new construction or improvements to an existing structure.”	Throughout entire Ordinance	Throughout entire Ordinance
	Deleted definition of “Building -Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area” because this word does not require a definition it is assumed that most people understand this		Section II: Definitions
	Deleted “Detention - The temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.” Definition and Detention facility definition- A detention basin or alternative structure designed for the purpose of temporary storage of stream		Section II: Definitions

	flow or surface runoff and gradual release of stored water at controlled rates.” Because neither term is used in the text of the Post-construction M.O.		
	Added “Designated Agent- Individual(s) directed by the <i>jurisdictional authority</i> to conduct site inspections and/or perform other municipal duties.” To post-construction M.O. because the term is used in the text		Section II: Definitions
	Added ‘Erosion Control- Measures that minimize erosion.” Definition to Post construction M.O because term is used in text		Section II: Definitions
	Deleted “developer- A person who undertakes land disturbance activities” definition from Post Con. M.O. because the term applicant was used instead		Section II: Definitions
	Deleted “drainage easement- A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.” Definition frm Post-con M.O. because not used in text		Section II: Definitions
	Deleted “Industrial Stormwater Permit- A State Pollutant Discharge Elimination System permit issued to a Stormwater Permit commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.” because term was not used in text of Post Con M.O		Section II: Definitions
	Deleted “Infiltration facility- Any structure or device designed to infiltrate retained water to the		Section II: Definitions

	subsurface. These facilities may be above grade or below grade.” Definition from Post-construction M.O. because not used in text		
	Deleted “offset fee- A monetary compensation paid to a local government for failure to meet pollutant load reduction targets.” definition because not used in text		Section II: Definitions
	Deleted “On-Site Facility- A stormwater management measure located within the subject property boundary” because term is not used in text		Section II: Definitions
	Added “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.” to Post-construction to be consistent with construction permit		Section II: Definitions
	Deleted “Structural Stormwater Mangement Practices- Devices which are constructed to provide temporary storage and treatment of stormwater runoff” definition because it was not used in the text of the Post-con. M.O.		Section II: Definitions
	Deleted “Watercourse- A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.” Term was not used in text		Section II: Definitions
	Added “ Unless exempted under Section VII.C of this ordinance”	Section III: Applicability	
	Added “A copy of the permission letter from the	Section IV. Compatibility to other	

	NYS DEC to disturb more than 5 acres at one time (if applicable)...”	Permit sand Ordinance requirements”	
	Added underlined language “...All land disturbance activities as defined in Section III of this Ordinance not subject to site plan or permit approval...”	Added to #7 Section VII: standards for construction activities covered under this Ordinance	
	Deleted “Additions or modification to existing single family structures provided the land disturbance area does not exceed the greater than or equal to 25,000 square foot threshold.” As an exemption is not applicable and conflicts with existing language	Section VII. Land Disturbance Activity Approval Process	Section III. Applicability
	Changed “Developments” to “Land disturbance activities” ...that disturb less than 25,000 square feet of land, provided they are not part of a larger common development plan.	Section VII. Land Disturbance Activity Approval Process	Section III. Applicability
	Add ☞ <i>“Rather than place specific design information into an ordinance, it is often preferable to fully detail these requirements in a design criteria manual. This allows specific design information to change over time as new information or techniques become available without requiring the formal process needed to change ordinance language. The ordinance can then require those submitting any development application to consult the current design manual for the exact design criteria for the stormwater management practices appropriate for their site. “</i> and deleted “Grading, erosion control practices, pollution	Moved from Section IX. to Section XI.	

	<p>prevention practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the (<i>jurisdictional authority's</i>) <i>Design Standards; New York State Stormwater Management Design Manual; and New York Standards and Specifications for Erosion &amp; Sediment Control</i> and shall be adequate to prevent transportation of sediment from the site to the satisfaction of (<i>jurisdictional authority</i>). If there is a conflict between any of the standards, the more stringent standard shall apply.”</p>		
	<p>Add ☞ “ <i>Municipalities must include the applicable section of the City/Town/Village law of the State of New York</i>”</p>	Section XII: Enforcement and Penalties-Violation and Penalties	
	<p>Added underlined language “<i>Additions or modifications to existing single family structures <u>and construction of new structures on agricultural land are exempt up to five (5) acres</u></i>”</p>		Section III: Applicability
	<p>Deleted “When a site development plan is submitted that qualifies as a redevelopment project as defined in Section II of this ordinance, decisions on permitting and on-site stormwater requirements shall be governed by special stormwater sizing criteria found in the current New York State Stormwater Management Design Manual. This criteria is dependent on the amount of impervious area created by the redevelopment</p>		Section VI. Compliance

	and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by ( <b><i>jurisdictional authority</i></b> ) and the NYSDEC where required.” Because the same paragraph is under the Applicability Section		
	Insert at beginning of section “☞ <i>The waiver and mitigation requirements outlined below are optional and are only applicable to land disturbance activities that disturb less than 1 acre and do not directly discharge into a 303(d) water body</i> ” to clarify that this is optional		Section VII: Waivers and Mitigation
	Insert at beginning of section “☞ <i>The waiver and mitigation requirements outlined below are optional and are only applicable to land disturbance activities that disturb less than 1 acre and do not directly discharge into a 303(d) water body</i> ” to clarify that this is optional		Section VIII: Fee in Lieu-Of and Dedication or Easement of Land
	Deleted “☞ <i>One way to handle the submittal requirements is to place a Submittal Checklist in the New York State Stormwater Management Design Manual and require that they are used for submission of any plan. The benefit of this is that changes in submittal requirements can be made as needed without needing to revisit and alter the original ordinance.</i> ” Because it was confusing.		Section X: Stormwater Pollution Prevention Plan Requirements
	Deleted “In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after		Section XIII. As-Builts and Project Close-out

	<p>construction is completed. This plan will explain not only how the site will be stabilized after construction, but 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 certified by the soil and water conservation district prior to receiving approval for a land disturbance activity.” Because the same information was listed as SWPPP requirement 313 under Section X. Stormwater Pollution Prevention Plan Requirements.</p>		
	<p>Deleted as an exemption “Land disturbance activities that disturb less than 25,000 square feet of land, provided they are not part of a larger common development plan.” Because already understood that these activities are exempt from the Applicability Section</p>	<p>Section VII: Land Disturbance Activity Approval Process C. Exemptions</p>	
	<p>Added “☞ This model ordinance requires that the final SWPPP must be signed by a NYS licensed professional engineer this requirement is more stringent than the NYS DEC which allows for licensed/certified professionals as defined in Section II to sign final SWPPPs. Municipalities may choose to change the language in this model ordinance to the NYS DEC requirement</p>	<p>Section IX. Stormwater Pollution Prevention Plan Requirements</p>	
	<p>Added “☞ In addition to single-family residences which are not a part of a larger plan of development the NYS DEC also exempts</p>	<p>Section IX. Stormwater Pollution Prevention Plan Requirements</p>	

	subdivisions under 5 acres from the requirement to have a licensed/certified professional sign a final SWPPP as long as the subdivisions associated land disturbance activities do not discharge directly to a 303(d) impaired waterbody or are not located in a Total Maximum Daily Load (TMDL) watershed		
	Added to are not applicable to land disturbance activities “that meet technical standards” and are 5 acres or less occurring on a single family residence, which is not part of a larger plan of development, or an agricultural property. “In addition, these land disturbance activities must not discharge directly to a 303(d) impaired waterbody or must not be located in a Total Maximum Daily Load (TMDL) watershed.” Note- adding this language now makes the model ordinance equivalent to DEC requirements	Section IX. Stormwater Pollution Prevention Plan Requirements	
	Added “In addition, these land disturbance activities must not discharge directly to a 303(d) impaired waterbody or must not be located in a Total Maximum Daily Load (TMDL) watershed.” Note- adding this language now makes the model ordinance equivalent to DEC requirements.	Section X: Inspections, last paragraph of section	
	Added “☞ In addition to single-family residences which are not a part of a larger plan of development the NYS DEC also exempts subdivisions under 5 acres from the requirement to have a qualified professional inspect and document the effectiveness of all erosion and sediment control practices as long as the	Section X: Inspections	

	subdivisions associated land disturbance activities do not discharge directly to a 303(d) impaired waterbody or are not located in a Total Maximum Daily Load (TMDL) watershed”		
	Deleted “Land disturbance activities that disturb less than 25,000 square feet of land, provided they are not part of a larger common development plan.” as an exemption because it is explained under Applicability		Section III: Applicability-Exemptions
	Added “...or are located in a Total Maximum Daily Load (TMDL) Watershed”		Section VII: Waivers and Mitigation Requirements
	Added “...or are located in a Total Maximum Daily Load (TMDL) Watershed”		Section VIII: Fee in Lieu-Of and Dedication or Easement of Land
	Added “☞ The NYS DEC does not include this language in their model local law, “Requirements of Maintenance Agreements”, the NYS DEC requires inspection of stormwater management facilities to occur at least once every 5 years, however it is recommended by the SWCMC to keep this language as part of the Ordinance as it is important to monitor the maintenance and repair needs of stormwater management facilities to ensure their proper function”		Section XI. Maintenance of Stormwater Management Facilities, Section- <u>Requirements of Maintenance Agreements</u>
	Added “☞ The NYS DEC does not include this language in their model local law, “Records of Installation and Maintenance Activities”, however it is recommended by the SWCMC to keep this		Section XI. Maintenance of Stormwater Management Facilities,

	language as part of the Ordinance”		
	Added “☞ The NYS DEC does not include this language in their model local law, “Landscape Alterations”, however it is recommended by the SWCMC to keep this language as part of the Ordinance”		Section XIV: Landscape Alterations