

Town Board Members Present: Supervisor-Randy Preston
Councilman- Steve Corvelli
Councilwoman-Dawn Stevens
Councilman- Darin Forbes
Councilwoman- Rarilee Conway

Public Present: Gerald Bruce-Town Clerk, Robert Guynup-Code Enforcement, George Buck, Michelle Burns, Al & Alisha Armstrong, Gary & Alison Follos, Gary & Lora Bushy, Robert & Susan Hockert.

RESOLUTION 16-10 TOWN BOARD APPROVED 2-9-10 & 2-24-10 BOARD MEETINGS.

Motion- Darin Forbes Seconded- Steve Corvelli All in Favor

RESOLUTION 17-10 Town of Wilmington Stormwater Management and Erosion and Sediment Control Law

A local law to establish regulations regarding requirements for stormwater management, erosion and sediment control in the Town of Wilmington.

Be it enacted by the Town Board of the Town of Wilmington as follows:

Article 1. General Provisions

Section 1. Definitions

The terms used in this local law or in documents prepared or reviewed under this local law shall have the meaning 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, and occupying more than 100 square feet of area.

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.

Dedication - the deliberate 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 Management Design Manual*, most recent version including applicable updates, 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 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 clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, 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.

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

Maintenance Agreement - 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 pollutant that has been identified 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 non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

Stormwater Management Facility - one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

Stormwater Management Officer - an employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

Stormwater 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 - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

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.

Section 2. Findings of Fact

It is hereby determined that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- 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. Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- 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 in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- I. 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.

Section 3. Purpose

The purpose of this local law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in Section 2 hereof. This local law seeks to meet those purposes by achieving the following objectives:

- A. 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;
- B. 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;
- C. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- D. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- E. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and ensure that these management practices are properly maintained and eliminate threats to public safety.

Section 4. Statutory Authority

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

Section 5. Applicability

This local law shall be applicable to all land development activities as defined in Section 1.

- A. The municipality 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. The Stormwater Management Officer may (1) review the plans, (2) upon approval by the Town Board of the Town of Wilmington, 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 the certification of a licensed professional that the plans conform to the requirements of this law.
- B. All land development activities subject to review and approval by the Planning Board of the Town of Wilmington shall be reviewed subject to the standards contained in this local law.
- C. All land development activities not subject to review as stated in Section 5 B 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.

Section 6. Exemptions

The following activities may be exempt from review under this law.

- A. Agricultural activity as defined in this local law, except that landing areas and log haul roads are subject to this law.
- B. Routine maintenance activities that disturb less than one acre and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- C. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater.
- D. Management Officer.
- E. Any part of a subdivision if a plat for the subdivision has been approved by the Town of Wilmington on or before the effective date of this law.
- F. Land development activities for which a building permit has been approved on or before the effective date of this law.
- 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, vegetable 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 that disturb less than one acre.

Section 7. Stormwater Pollution Prevention Plans

A. Stormwater Pollution Prevention Plan Requirement

No application for approval of a land development activity shall be approved until the appropriate board has received and reviewed a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this local law.

B. Contents of Stormwater Pollution Prevention Plans

1. All SWPPPs shall provide the following background information and erosion and sediment controls:
 - a. Background information about the scope of the project, including location, type and size of project.
 - b. 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 offsite 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);
 - c. Description of the soil(s) present at the site;
 - d. 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.
 - e. 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;
 - f. 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;
 - g. 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;
 - h. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
 - i. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
 - j. Temporary practices that will be converted to permanent control measures;
 - k. 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;
 - l. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 - m. Name(s) of the receiving water(s);
 - n. Delineation of SWPPP implementation responsibilities for each part of the site;
 - o. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
 - p. Any existing data that describes the stormwater runoff at the site.
2. Land development activities as defined in Section 1 of this Article 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 7 (B) (3) below as applicable:

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.

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

Condition C - Stormwater runoff from land development activity disturbing between one (1) 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.

3. SWPPP Requirements for Condition A, B and C:

- a. All information in Section 7 (B) (1) of this local law;
- b. Description of each post-construction stormwater management practice;
- c. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
- d. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
- e. Comparison of post-development stormwater runoff conditions with pre-development conditions;
- f. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
- g. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;
- h. 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;
- i. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article 2, Section 4 of this local law;
- j. For Condition A, the SWPPP shall be prepared by a landscape architect, 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 local law.

C. 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.

D. Contractor Certification

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

E. 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.

Section 8. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control

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

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

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. Equivalence to Technical Standards

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 Section 8 A and the SWPPP shall be prepared by a licensed professional.

C. Water Quality Standards

Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

Section 9. Maintenance, Inspection and Repair of Stormwater Facilities

A. Maintenance and Inspection During Construction

1. The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
2. For land development activities as defined in Section 1 of this Article and meeting Condition A, B or C in Section 7 (B) (2), the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site log book.
3. 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.

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 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 of Wilmington to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Wilmington.

C. Maintenance after Construction

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:

1. 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.
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 in accordance with Section 8 C.

D. Maintenance Agreements

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

Article 2. Administration and Enforcement

Section 1. Construction Inspection

Inspections as may be required under this local law may be performed by the Town of Wilmington Stormwater Management Officer, or the local government may designate an inspector required to have a Professional Engineer's (PE) license or Certified Professional in Erosion and Sediment Control (CPESC) certificate. When such an inspector is designated, said inspector is required to submit a report to be kept on file with the stormwater pollution prevention plan (SWPP).

A. Erosion and Sediment Control Inspection

The Town of Wilmington Stormwater Management Officer may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of Wilmington enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

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.

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 any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

B. Stormwater Management Practice Inspections

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

C. Inspection of Stormwater Facilities After Project Completion

Inspection programs shall be established on any reasonable basis, including but not limited to:

1. routine inspections
2. random inspections
3. inspections based upon complaints or other notice of possible violations
4. inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants

5. 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
6. joint inspections with other agencies inspecting under environmental or safety laws

Inspections may include, but are not limited to:

1. reviewing maintenance and repair records
2. sampling discharges, surface water, groundwater, and material or water in drainage control facilities
3. evaluating the condition of drainage control facilities and other stormwater management practices

D. Submission of Reports

The Town of Wilmington Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

E. 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 storm water system, the landowner shall grant to the Town of Wilmington, or its designated inspector, the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph C.

Section 2. Performance Guarantee

A. 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 Wilmington in its approval of the Stormwater Pollution Prevention Plan, the Town of Wilmington may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Wilmington as the beneficiary. The security shall be in an amount to be determined by the Town of Wilmington 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 Wilmington, 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 Wilmington. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

B. Maintenance Guarantee

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

C. Recordkeeping

The Town of Wilmington may require entities subject to this law to maintain records demonstrating compliance with this law.

Section 3. Enforcement and Penalties

A. Notice of Violation

When the Town of Wilmington 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:

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 local law and a time schedule for the completion of such remedial action;
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;
6. a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

B. Stop Work Orders

The Town of Wilmington may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the Town of Wilmington confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this local law.

C. Violations

Any land development activity that is commenced or is conducted contrary to this local law, may be restrained by injunction or otherwise abated in a manner provided by law.

D. Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a minimum fine of 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.

E. Withholding of Certificate of Occupancy

If any building or land development activity is installed or conducted in violation of this local law the Code Enforcement Officer may prevent the occupancy of said building or land.

F. Restoration of lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Wilmington may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

Section 4. Fees for Services

The Town of Wilmington may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Wilmington or performed by a third party for the Town of Wilmington.

Section 5. Severability and Effective Date

A. Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

B. Effective Date

This Local Law shall be effective upon filing with the office of the Secretary of State.

Approved by: _____ Date _____

Schedule A

Stormwater Management Practices Acceptable for Water Quality (From: New York State Stormwater Management Design Manual, Table 5.1)		
Group	Practice	Description
Pond	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P-4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
Wetland	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.
	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.
Infiltration	Infiltration Trench (I-1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.
	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
Filtering Practices	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Underground Sand Filter (F-2)	A filtering practice that treats stormwater as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter (F-3)	A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter in place of sand.
	Bioretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
Open Channels	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.

Schedule B

RESOLUTION 18-10 STORMWATER CONTROL FACILITY MAINTENANCE AGREEMENT

Whereas, the Municipality of the Town of Wilmington ("Municipality") and the _____ ("facility owner") want to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Municipality for the below named project, and

Whereas, the Municipality and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the Municipality and the facility owner agree as follows:

1. This agreement binds the Municipality and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.
2. The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.
3. The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
4. The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Municipality within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.
5. The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Municipality.
6. The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Municipality or in accordance with the recommendations of the inspecting engineer.
7. The facility owner shall provide to the Municipality within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of (a Bond, letter of credit or escrow account).
8. This agreement shall be recorded in the Office of the County Clerk, County of Essex together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to _____.
9. If ever the Municipality determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Municipality or by the inspecting engineer, the Municipality is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.

This agreement is effective _____, 20__.

Aye- Darin Forbes Aye- Rarilee Conway Aye-Steve Corvelli Aye-Dawn Stevens Aye- Randy Preston
(Carried 5 Ayes 0 Nays)

RESOLUTION 19-10 TOWN OF WILMINGTON APPROVED WATERFRONT CONSISTENCY REVIEW LAW.

Be it enacted by the Town Board of the Town of Wilmington follows:

GENERAL PROVISIONS

I. Title.

This Local law will be known as the Town of Wilmington Waterfront Consistency Review Law.

II. Authority and Purpose.

A. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).

B. The purpose of this local law is to provide a framework for agencies of the Town of Wilmington to incorporate the policies and purposes contained in the Town of Wilmington Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions within the coastal area; and to assure that such actions and direct actions by Town agencies are consistent with the LWRP policies and purposes.

C. It is the intention of the Town of Wilmington that the preservation, enhancement and utilization of the unique coastal area of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate limited population growth and economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of coastal resources while preventing loss and degradation of living coastal resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural coastal processes; impairment of scenic, cultural or historical resources; losses due to flooding, erosion and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.

D. The substantive provisions of this local law shall only apply when there is in existence a Town of Wilmington Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

III. Definitions.

A. "Actions" include all the following, except minor actions:

- (1) projects or physical activities, such as construction or any other activities that may affect natural, manmade or other resources in the coastal area or the environment by changing the use, appearance or condition of any resource or structure, that:
 - (i) are directly undertaken by an agency; or
 - (ii) involve funding by an agency; or
 - (iii) require one or more new or modified approvals, permits, or review from an agency or agencies;
- (2) agency planning and policymaking activities that may affect the environment and commit the agency to a definite course of future decisions;
- (3) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect coastal resources or the environment; and
- (4) any combination of the above.

B. "Agency" means any board, agency, department, office, other body, or officer of the Town of Wilmington.

C. "Waterfront area" means the Waterfront Revitalization Area as delineated in the Town of Wilmington Local Waterfront Revitalization Program.

D. "Waterfront Assessment Form (WAF)" means the form, a sample of which is appended to this local law, used by an agency to assist in determining the consistency of an action with the Local Waterfront Revitalization Program.

E. "Consistent" means that the action will fully comply with the LWRP policy standards, conditions and objectives and, whenever practicable, will advance one or more of them.

F. "Direct Actions" mean actions planned and proposed for implementation by an agency, such as, but not limited to a capital project, rule making, procedure making and policy making.

G. "Environment" means all conditions, circumstances and influences surrounding and affecting the development of living organisms or other resources in the coastal area.

H. "Local Waterfront Revitalization Program" or "LWRP" means the Local Waterfront Revitalization Program of the Town of Wilmington, approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Town of Wilmington.

I. "Minor actions" include the following actions, which are not subject to review under this chapter:

- (1) maintenance or repair involving no substantial changes in an existing structure or facility;
- (2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes;
- (3) repaving or widening of existing paved highways not involving the addition of new travel lanes;
- (4) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
- (5) maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected, or within Significant Coastal Fish and Wildlife Habitat areas;
- (6) granting of individual setback and lot line variances, except in relation to a regulated natural feature, a bulkhead or other shoreline defense structure;
- (7) minor temporary uses of land having negligible or no permanent impact on coastal resources or the environment;
- (8) installation of traffic control devices on existing streets, roads and highways;
- (9) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- (10) information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any action;
- (11) official acts of a ministerial nature involving no exercise of discretion, including building where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building code.
- (12) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
- (13) conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
- (14) collective bargaining activities;
- (15) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
- (16) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
- (17) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, storage of road de-icing substances, or other hazardous materials;
- (18) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;
- (19) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;
- (20) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;
- (21) adoption of a moratorium on land development or construction;
- (22) interpreting an existing code, rule or regulation;

(23) designation of local landmarks or their inclusion within historic districts;

(24) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to coastal resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part;

(25) local legislative decisions such as rezoning where the Town Board determines the action will not be approved.

IV. Management and Coordination of the LWRP

A. The Town of Wilmington Planning Board shall be responsible for coordinating review of actions in the Town's coastal area for consistency with the LWRP, and will advise, assist and make consistency recommendations to other Town agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the program.

B. The Planning Board shall coordinate with the New York State Department of State regarding consistency review of actions by Federal agencies and with State agencies regarding consistency review of their actions.

C. The Planning Board shall assist the Town Board in making applications for funding from State, Federal, or other sources to finance projects under the LWRP.

D. The Planning Board shall perform other functions regarding the coastal area and direct such actions or projects as the Town Board may deem appropriate, to implement the LWRP.

V. Review of Actions.

A. Whenever a proposed action is located within the Town's coastal area, each Town agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards summarized in Section H herein. No action in the coastal area shall be approved, funded or undertaken by that agency without such a determination.

B. Whenever a Town agency receives an application for approval or funding of an action, or as early as possible in the agency's formulation of a direct action to be located in the coastal area, the agency shall refer a copy of the completed WAF to the Planning Board within ten (10) days of its receipt and prior to making its determination, shall consider the recommendation of the Planning Board with reference to the consistency of the proposed action.

C. After referral from an agency, the Planning Board shall consider whether the proposed action is consistent with the LWRP policy standards set forth in Section H herein. The Planning Board shall require the applicant to submit all completed applications, Waterfront Assessment Form (WAFs), Environmental Assessment Form (EAFs), and any other information deemed necessary to its consistency recommendation.

The Planning Board shall render its written recommendation to the agency within thirty (30) days following referral of the WAF from the agency, unless extended by mutual agreement of the Planning Board and the applicant or in the case of a direct action, the agency. The Planning Board's recommendation shall indicate whether the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards and shall elaborate in writing the basis for its opinion. The Planning Board shall, along with a consistency recommendation, make any suggestions to the agency concerning modification of the proposed action, including the imposition of conditions, to make it consistent with LWRP policy standards or to greater advance them.

In the event that the Planning Board's recommendation is not forthcoming within the specified time, the agency shall make its consistency decision without the benefit of the Planning Board's recommendation.

D. If an action requires approval of more than one Town agency, decision making will be coordinated between the agencies to determine which agency will conduct the final consistency review, and that agency will thereafter act as designated

consistency review agency for the specific action being reviewed. Only one WAF per action will be prepared. If the agencies cannot agree, the Town Board shall designate the consistency review agency.

E. Upon receipt of the Planning Board's recommendation, the agency shall consider whether the proposed action is consistent with the LWRP policy standards summarized in Section H herein. The agency shall consider the consistency recommendation of the Planning Board, the WAF and other relevant information in making its written determination of consistency. No approval or decision shall be rendered for an action in the coastal area without a written determination of consistency having first been rendered by a Town agency.

The Planning Board is the designated agency for the determination of consistency for variance applications subject to this law. The Zoning Board of Appeals shall consider the written consistency recommendation of the Planning Board in the event and at the time it makes a decision to grant such a variance and shall impose appropriate conditions on the variance to make the activity consistent with the objectives of this law.

F. Where an Environmental Impact (EIS) is being prepared or required, the draft EIS must identify applicable LWRP policies standards in Section H and include a thorough discussion of the effects of the proposed action on such policy standards.

G. In the event the Planning Board's recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation and state the manner and extent to which the action is consistent with the LWRP policy standards.

H. Actions to be undertaken within the coastal area shall be evaluated for consistency in accordance with the following summary of LWRP policy standards, which are derived from and further explained and described in Section III (Policies) of the Town of Wilmington LWRP, a copy of which is on file in the Town Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions must also consult with Section IV (Proposed Uses and Projects), in making their consistency determination. The action must be consistent with the policies to:

- 1. Foster a pattern of development in the waterfront area that enhances the community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development.**
- 2. Preserve historic resources of the waterfront area**
- 3. Enhance visual quality and protect scenic resources throughout the waterfront area**
- 4. Minimize loss of life, structure, and natural resources from flooding and erosion.**
- 5. Protect and improve water quality and supply**
- 6. Identify, protect and restore the quality and function of the ecosystem**
- 7. Protect and improve air quality in the waterfront area**
- 8. Minimize environmental degradation in the waterfront area from solid waste and hazardous substances and waste**
- 9. Provide for public access to, and recreational use of, waterfront waters and public lands in the waterfront area**
- 10. Protect water-dependent uses in suitable locations**
- 11. Promote sustainable use of fish and wildlife resources**
- 12. Protect agricultural lands**
- 13. Promote appropriate use and development of energy and mineral resources**

I. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Planning Board. Such files shall be made available for public inspection upon request.

VI. Enforcement.

No action within the Wilmington coastal area which is subject to review under this Chapter shall proceed until a written determination has been issued from a Town agency that the action is consistent with the Town's LWRP policy standards. In the event that an activity is being performed in violation of this law or any conditions imposed thereunder, the Code Enforcement Officer or any other authorized official of the Town shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect. The Town Attorney, Code Enforcement Officer and Police Department shall be responsible for enforcing this Chapter.

VII. Violations.

A. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this Chapter shall have committed a violation, punishable by a fine not exceeding three hundred and fifty dollars (\$350.00) for a conviction of a first offense and punishable by a fine of two thousand dollars (\$2000.00) for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.

B. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

VIII. Severability.

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part or provision hereof other than the provision so found to be invalid.

IX. Effective Date.

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

**Aye- Darin Forbes Aye- Rarilee Conway Aye-Steve Corvelli Aye-Dawn Stevens Aye- Randy Preston
(Carried 5 Ayes 0 Nays)**

RESOLUTION 20-10 TOWN OF WILMINGTON SITE PLAN REVIEW LAW.

ARTICLE __1__ Site Plan Review

1 Purpose of article.

The purpose of this article is to allow the proper integration of uses into the community. Because of their characteristics, or the special characteristics of the area in which they are to be located, these uses require special consideration so that they may be properly located and planned with respect to:

- (1) The objectives of the Town of Wilmington Land Use Code, Comprehensive Plan and Local Waterfront Revitalization Plan.
- (2) Their effect on surrounding properties.
- (3) The ability of the Town to accommodate the growth resulting from the proposed use without undue adverse effect on the Town and its citizens and taxpayers, and the protection of the environment, health, safety and welfare of the Town and its citizens.

2 Applicability.

Uses requiring site plan approval.

- (1) All new commercial development activities within the Town shall require site plan review and approval before being undertaken.
- (2) All projects exceeding Type I thresholds of Part 617 of the New York State Environmental Quality Review Act (SEQRA) shall be subject to Site Plan Review and referred to the APA for Class A regional project review concurrent with the Site Plan review process.

3 Site Plan Review Procedure.

- A. Application shall be made to the Planning Board using forms supplied.
- B. Prior to formal submission of a detailed site plan, applicants may schedule an optional Sketch Plan conference.
- C. The purpose of the sketch plan conference is to allow the Planning Board to review the basic site design concept, provide the applicant with constructive suggestions, and generally, to determine the information to be required for the site plan. In order to accomplish these objectives, the applicant shall provide 10 copies of the following:
 - (1) A brief narrative and preliminary concept showing the locations and dimensions of principal and accessory structures, parking areas, and other planned features and any anticipated changes in the existing topography and natural features.
 - (2) A sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features within 200 feet.
 - (3) A topographic or contour map of adequate scale and detail to show site topography.
- D. If the Planning Board determines that the information submitted for the sketch plan is sufficient, it may, at its discretion, conduct site plan review at the sketch plan meeting without requiring additional information or scheduling a separate site plan meeting.
- E. If additional information is requested by the Planning Board after the sketch plan conference, a complete application shall be submitted to the Code Enforcement Officer. The Code Enforcement Officer shall notify the Planning Board and the Adirondack Park Agency within 10 days and shall provide a copy of the application to each interested body.

4 Application content.

- A. The Planning Board may request that the applicant provide the same information requested at the Sketch Plan conference and may further request any of the items listed under "D" below. The Planning Board is not limited to this list and may request any additional information it deems necessary or appropriate. In determining the amount of information it will require, the Planning Board will consider the type of use, its location, and the size and potential impact of the project.
- B. At least two weeks in advance of the scheduled Planning Board meeting date at which a site plan is to be considered, 10 copies of the application for site plan approval shall be submitted to the Code Enforcement Officer.
- C. The proposed site plan shall show the information requested by the Planning Board.
- D. Site plan checklist:
 - (1) Existing conditions.
 - (a) Legal data.
 - [1] Name and address of applicant and authorization of owner, if different from applicant.
 - [2] Name and address of owner(s) of record, if different from applicant.
 - [3] Name and address of person or firm preparing the plan and map.
 - [4] Ownership intentions, such as purchase options.
 - [5] Current zoning classification of property, including exact zoning boundary if in more than one district.
 - [6] Property boundary line plotted to scale. Distances, angles and area should be shown.
 - [7] North arrow, scale and date.
 - [8] Locations, widths, elevations and names of existing and proposed adjacent streets.
 - [9] Property lines and names of owners of adjoining parcels.
 - [10] Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within and adjoining the property.

- [11] Description of all existing deed restrictions or covenants applying to the property.
 - [12] The identification of any state or county permits required for execution of the project.
 - [13] Other requirements which the Planning Board might deem necessary, including but not limited to a licensed survey.
- (b) Natural features.
- [1] Geological features, such as depth to bedrock and the location of rock outcrops.
 - [2] Topographic features, including a map showing existing slope at two-foot contour intervals.
 - [3] Vegetative cover, including existing wooded areas, significant isolated trees and similar features.
 - [4] Soil characteristics, such as load bearing capacity and drainage capacity.
 - [5] Hydrologic features should include drainage and runoff patterns, flood hazard areas, wetlands and depth to groundwater.
- (c) Existing development and infrastructure.
- [1] Location and dimensions of major buildings and structures and their use.
 - [2] Location and width of roads and paths, including site access.
 - [3] Location, size and flow direction of sewers, water supply lines and culverts. Major electric, fuel and utility lines and appurtenances should also be shown.
 - [4] Location of other existing development and uses, including parking and loading areas, fences, trees and landscaping.

(2) New conditions.

- (a) Proposed development.
- (1) Grading and drainage plan showing proposed topography at appropriate contour intervals. This information shall be combined with the map of existing topography.
 - (2) Location, proposed height and use of buildings and other structures, such as retaining walls, fences, outdoor storage tanks, air-conditioning units and waste disposal units.
 - (3) Location, proposed use, design and construction materials of improvements not requiring structures, such as parking, loading and outdoor storage areas.
 - (4) Location and arrangement of site access and egress, including all paths for pedestrian and vehicular travel within the site. Information should include profiles and cross sections of roadways and sidewalks showing grades, widths and location and size of utility lines.
 - (5) Location and size of water and sewer lines and appurtenances. Any means of water supply or sewage disposal other than extensions of existing systems should be described, including location, design and construction materials.
 - (6) Location, design and construction materials of all energy distribution facilities, including electric, gas and solar energy.
 - (7) Location, size and design and construction materials of all outdoor signs.
 - (8) General landscaping plan and planting schedule, including areas of natural vegetation to remain, the treatment of buffer areas and the location and type of trees to be planted.
 - (9) Estimated project construction schedule with possible phasing plan for large projects.
 - (10) Additional specifications for materials.
 - (11) Performance bond, amount, completion schedule, public improvements covered, inspection and bond approval if required.
 - (12) Any other requirements which the Planning Board might deem necessary, including but not limited to a licensed survey.
 - (13) Environmental Review. Applications for site plan review and approval shall be accompanied by a short-form or a long-form Environmental Assessment Form (EAF) or a draft Environmental Impact Statement (EIS), as required by SEQRA.

NOTE: All plans shall be at a scale of one inch equals 40 feet or larger scale showing the proposed development and their immediate environs. When development is proposed for larger lots, those areas left undeveloped may be shown on a site location map at an appropriate scale and level of detail.

5 Planning Board Action.

- A. Following receipt of an application for site plan review, the Code Enforcement Officer shall notify the Planning Board and the Planning Board shall determine its completeness at its next scheduled meeting. The Code Enforcement Officer shall

notify the Adirondack Park Agency of such receipt as required, and furnish to the Agency such pertinent information as the Agency may deem necessary.

- B. Notices. Applications that meet the criteria of General Municipal Law (GML) Section 239-m shall be sent to the Essex County Planning Board prior to the Planning Board decision. Applications that meet the criteria of 239–nn shall be noticed to neighboring municipalities.
- C. The Planning Board shall comply with Part 617 the SEQRA.
- D. Optional Public Hearings. Within 62 days following the determination of a complete application by the Planning Board, the Planning Board may hold a public hearing if a public hearing is deemed necessary. In determining whether a public hearing is necessary, the Planning Board shall be guided by the expected level of public interest in the project and the possibility of an eventual disapproval. Applicants may request a public hearing. When an applicant requests a public hearing, no site plan review project may be disapproved without such a hearing.
- E. Public Hearing Notice. The Planning Board shall notice the public hearing by _____ publication in the official newspaper at least five days prior to the date of the public hearing.
 - (1) A copy of the public notice shall be mailed to the Adirondack Park Agency. The Agency shall be a full party in interest with standing to participate in any and all proceedings conducted pursuant to this section.
- F. Planning Board Decision. The Planning Board shall render a decision within 62 days of receipt of a complete application or within 62 days of the close of a public hearing, if required. Said decision shall be in the form of an approval, approval with conditions, or disapproval based on the criteria of this Local Law. The decision shall incorporate the specific description and expiration date for any conditions imposed by the Planning Board.
- G. The Planning Board, in conjunction with its approval of any site plan review project, may impose such requirements and conditions as are allowable within the proper exercise of the police power. The Planning Board may impose reasonable conditions to ensure that the project will be adequately supported by services and improvements made necessary by the project, and to ensure that the project will be completed in accordance with the requirements and conditions authorized under this Local Law. In addition, the Planning Board may require that the Code Enforcement Officer incorporate any such requirements and conditions in any permit issued with regard to such site plan review project.
- H. Filing of decision. The decision of the Planning Board shall be filed within five (5) days of a decisions in the office of the Town Clerk and a copy thereof mailed to the applicant. The decision shall contain such findings of fact and conditions as are required by this Local Law. The decision shall also be mailed to the Adirondack Park Agency.

6 Criteria for Site Plan Review.

- A. The Planning Board shall not approve an application unless it first determines that such site plan review application meets the following site plan review objectives and guidelines;
 - (1) The application complies with all other requirements of this Local Law and the Town of Wilmington Land Use code, including the dimensional regulations of the zoning district in which it is proposed to be located;
 - (2) The project would be in harmony with the general purpose and intent of this Local Law and the Local Waterfront Revitalization Plan, specifically taking into account the location, character, and size of the proposed project and the description and purpose of the district in which such project is proposed, the nature and intensity of the activities to be involved in or conducted in connection with the proposed project, and the nature and rate of any increase on the burden of supporting public services and facilities which will follow the approval of the proposed project;
 - (3) The establishment, maintenance or operation of the proposed project would not create public hazards from traffic, traffic congestion, or the parking of automobiles or be otherwise detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to the property and improvements in the neighborhood or the general welfare of the town;
 - (4) The project would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space to provide supporting facilities and services made necessary by the project - taking into account the commercial, industrial, economic, educational, residential, recreational or other benefits that might be derived from the project. In making this determination, the Planning Board shall consider those factors pertinent to the project contained in the development considerations set forth hereof, and in so doing, the

Planning Board shall make a net overall evaluation of the project in relation to the development objectives and general guidelines set forth in this Local Law; and

- (5) The Planning Board shall take into consideration the public health, safety and general welfare, the comfort and convenience of the public in general and residents of the immediate neighborhood.

B. In considering the approval of the site plan, the Planning Board shall find that the proposed development meets all the following standards and requirements.

- (1) Relationship to adjacent and nearby land uses both public and private.
- (2) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- (3) Visual compatibility with surroundings and aesthetics.
- (4) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- (5) Location, arrangement, appearance and sufficiency of off-street parking and loading.
- (6) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience.
- (7) Adequacy of stormwater and drainage facilities.
- (8) Adequacy of water supply and sewage disposal facilities including the relationship to existing and proposed water supply, sewage disposal.
- (9) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- (10) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- (11) Relationship to the community's ability to provide adequate recreation, education, fire protection and similar facilities and services to its residents and visitors.
- (12) Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion. Effect on air and water quality standards applicable primarily to industrial site development plans.
- (13) Effect on energy consumption and conservation.

7 Additional APA Development Considerations.

A. The following are those factors which shall be considered that relate to the potential for adverse impact upon the park's natural aesthetic, ecological, wildlife, historical, recreational or open space resources, before any site plan review project is undertaken in the town. Any burden on the public in providing facilities and services made necessary by such land use and development or subdivisions of land shall also be taken into account, as well as any commercial, industrial, residential, recreational or other benefits which might be derived there from.

B. Natural resource considerations.

- (1) Water.
 - (a) Existing water quality.
 - (b) Natural sedimentation or siltation.
 - (c) Eutrophication.
 - (d) Existing drainage and runoff patterns.
 - (e) Existing flow characteristics.
 - (f) Existing water table and rates of recharge.
- (2) Land.
 - (a) Existing topography.
 - (b) Erosion and slippage.
 - (c) Floodplain and flood hazard.
 - (d) Mineral resources.
 - (e) Viable agricultural soils.
 - (f) Forest resources.
 - (g) Open space resources.
 - (h) Vegetative cover.
 - (i) The quality and availability of land for outdoor recreational purposes.
- (3) Air Quality
- (4) Noise Levels
- (5) Critical resource areas.

- (a) Rivers and corridors of rivers designated to be studied as wild, scenic or recreational in accordance with the Environmental Conservation Law.
- (b) Rare plant communities.
- (c) Habitats of rare and endangered species and key wildlife habitats.
- (d) Alpine and sub-alpine life zones.
- (e) Wetlands.
- (f) Elevations of 2,500 feet or more.
- (g) Unique features, including gorges, waterfalls, and geologic formations.
- (6) Fish and Wildlife.
- (7) Aesthetics.
 - (a) Scenic vistas.
 - (b) Natural and man-made travel corridors.

C. Consideration of Historic site or Structures.

D. Site development considerations.

- (1) Natural site factors.
 - (a) Geology.
 - (b) Slopes.
 - (c) Soil characteristics.
 - (d) Depth to groundwater and other hydrological factors.
- (2) Other site factors.
 - (a) Adjoining and nearby land uses.
 - (b) Adequacy of site facilities.

E. Governmental considerations.

- (1) Governmental service and finance factors.
 - (a) Ability of government to provide facilities and services.
 - (b) Municipal school or special district taxes or special district.
- (2) In considering the approval of columbariums, the Planning Board shall require reasonable conditions or provisions to ensure the continued maintenance of the columbarium facility in perpetuity.
- (3) Considerations of Conformance with other governmental controls.

**Aye- Darin Forbes Aye- Rarilee Conway Aye-Steve Corvelli Aye-Dawn Stevens Aye- Randy Preston
(Carried 5 Ayes 0 Nays)**

Resolution 21-10 of the Town Board Town of Wilmington Adopting the Town of Wilmington Local Waterfront Revitalization Program

WHEREAS, the Town of Wilmington initiated preparation of a Local Waterfront Revitalization Program in cooperation with the New York State Department of State, pursuant to Article 42 of the Executive Law; and

WHEREAS, a Draft Local Waterfront Revitalization Program was prepared and circulated by the Department of State with potentially affected State, federal, and local agencies in accordance with the requirements of Executive Law, Article 42; and

WHEREAS, the Town of Wilmington Town Board, as lead agency, filed a Negative Declaration - Notice of Determination of Non-Significance on 3/9/2010 for preparation of the Local Waterfront Revitalization Program, pursuant to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act);

NOW, THEREFORE, BE IT RESOLVED, that the Town of Wilmington Local Waterfront Revitalization Program is hereby adopted and that the Mayor is authorized to submit the Local Waterfront Revitalization Program to the New York State Secretary of State for approval, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

**Aye- Darin Forbes Aye- Rarilee Conway Aye-Steve Corvelli Aye-Dawn Stevens Aye- Randy Preston
(Carried 5 Ayes 0 Nays)**

RESOLUTION 22-10 THE TOWN OF WILMINGTON AS LEAD AGENCY, HAS DETERMINED THAT THE PROPOSED ACTION, LOCAL WATERFRONT REVITALIZATION PROGRAM, WILL NOT HAVE A SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT AND A DRAFT IMPACT STATEMENT WILL NOT BE PREPARED.

1. THE TOWN BOARD APPROVED THE STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL LAW.

2. THE TOWN BOARD APPROVED THE WATERFRONT CONSISTENCY REVIEW LAW.

3. THE TOWN BOARD APPROVED THE SITE PLAN REVIEW LAW

THE TOWN BOARD APPROVED THE STORMWATER FACILITY MAINTAINANCE AGREEMENT.

AYE -Steve Corvelli AYE- Dawn Stevens AYE-Randy Preston AYE-Darin Forbes AYE- Rarilee Conway

RESOLUTION 23-10 TOWN BOARD APPROVED RAISING BUILDING PERMIT FEES
EFFECTIVE 3-9-2010

1. Single Family Dwelling (including Manufactured homes and Double wide homes) Note: Floor area shall include habitable basements. Floor area shall be Based on outside dimensions of building.	.15 per sq. ft. (to .25)
2. Multiple Family Dwelling	.18 per sq. ft. (to .30)
3. Building of Non-Residential Occupancy	.21 per sq. ft. (to .30)
4. Residential Garages, Carports and Utility Sheds over 140 sq. ft.	.12 per sq. ft (to .20)
5. Additions to all buildings	
One and Two Family Dwellings	.15 per sq. ft. (to .25)
Multiple Family Dwellings	.18 per sq. ft. (to .30)
Non-Residential	.21 per sq. ft. (to .30)
6. Repairs and/or Alterations and Demolitions	\$40.00 (to 50.00)
7. Conversion or Change of Occupancy	\$50.00 (same)
8. Building Permit Renewal	50% of current fee (same)
9. Swimming Pool Permit	\$40.00 (to 50.00)
10. Solid, Liquid or Gas Burning Device	\$30.00 (to 50.00)
11. Chimney Permit	\$30.00 (to 50.00)
12. Septic Systems (<u>Must be designed by a licensed design professional'</u>)	
One and Two Family Dwellings	\$50.00
Multiple Family Dwellings	\$75.00
Non-Residential	\$100.00
13. Required Fire Safety Inspections Pursuant to Local Law # 1 of 2007	\$35.00 per hour
14. Certificate of Inspection-no permit issued	\$40.00 (to 50.00)
15. Certificate of Compliance or Occupancy-permit issued	N/C

Motion Rarilee Conway Seconded- Darin Forbes All in Favor

RESOLUTION 24-10 TOWN BOARD OPPOSES THE CLOSURE OF THE MORIAH SHOCK FACILITY.

Motion- Steve Corvelli Seconded- Darin Forbes All in Favor

**RESOLUTION 25-10 TOWN BOARD APPROVES THE IRON MAN RACE TO INCLUDE THE TOWN
OF WILMINGTON.**

Motion – Dawn Stevens Seconded – Rarilee Conway All in Favor

RESOLUTION 26-10 TOWN BOARD APPROVED THE PURCHASE OF A KONICA MINOLTA BIZHUB C280 COPIER FOR \$13,271. LESS ALLOWANCE FOR STATE AND LOCAL GOVERNMENTS OF (47%)(STATE CONTRACT) NET TOTAL BEING \$7065.22

- **NEW YORK STATE CONTRACT # PC 59463**
- **FROM OFFICE SYSTEMS 20 TRADE RD. PLATTSBURGH N.Y. 12901**

Motion Darin Forbes Seconded Steve Corvelli All in Favor

RESOLUTION 27-10 APPROVAL OF EXPENSES.

Name of Account

General Fund	From: G117 To: G170	Amt:	14024.58
Payrolls		Amt:	19298.60
Social Security		Amt:	1396.97
Health Insurance		Amt:	6207.68
Other:		Amt:	
Other:		Amt:	
Other:		Amt:	

Highway	<u>From:</u> H40 To: H60	Amt.	21604.36
Payrolls		Amt.	15021.02
Social Security		Amt.	1086.91
Health Insurance		Amt.	6656.39
Other:		Amt.	
Other:		Amt.	

Water	<u>From:</u> W51 To: W72	Amt.	4552.94
Payrolls		Amt.	2862.40
Social Security		Amt.	203.53
Health Insurance		Amt.	1265.74
Other: BAN PMT		Amt.	
Other:		Amt.	

GARBAGE DIST.	<u>From:</u> GD9 To: GD11	Amt.	894.89
Payrolls		Amt.	1351.20
Social Security		Amt.	95.82
Health Insurance		Amt.	477.20
Other:		Amt.	
Other:		Amt.	

Motion Steve Corvelli Seconded – Darin Forbes All in Favor

Motion to adjourn by Darin Forbes Seconded by Rarilee Conway all in Favor

Respectfully Submitted

Gerald Bruce /Town Clerk