NOTICE OF PUBLIC HEARING
LOCAL LAW 2013-1
MODIFICATION TO CHAPTER 102A, STORMWATER MANAGEMENT
AND EROSION AND SEDIMENT CONTROL

Notice is hereby given that a Public Hearing will be held before the Town Board of the Town of West Seneca on the 4TH day of February, 2013 at 7:00 PM, at the Town Hall, 1250 Union Road, West Seneca, New York to hear all interested parties and citizens for or against the adoption of Local Laws Number 1, for the year 2013.

Any resident of the Town of West Seneca is entitled to be heard upon said proposed adoption of Local Law No. 1, for the year 2013. Copies of the law will be available at the office of the Town Clerk for inspection by any person during regular business hours and is posted on the Town's web-site.

Jacqueline A. Felser, Town Clerk
Dated: January 7, 2013

§ 102A-13. **Maintenance, inspection and repair of stormwater facilities.**

- Maintenance and inspection during construction.

  (1) The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

  (2) For land development activities as defined in § 102A-6 of this chapter and meeting Condition A, B and C in § 102A-7B(2), the applicant shall have a qualified ~~professional~~ *inspector* conduct *construction* site inspections. ~~and document the effectiveness of all erosion and sediment control practices every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. Inspection reports shall be maintained in a site logbook.~~
  Refer to the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity, most current or its successor, for inspection requirements.

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

- Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall ensure they are operated and maintained to achieve the goals of this chapter. 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 alibis 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 § 102A-8C.

- Maintenance agreements. *For commercial, institutional or industrial developments,* t~~T~~he Town of West Seneca 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*s A and* B of this chapter entitled "Sample Stormwater Control Facility Maintenance Agreement." ~~*Editor's Note: Schedule B is on file in the Town offices.* The Town of West Seneca, 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 chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.~~

- *The Town of West Seneca, in lieu of a maintenance agreement, at its sole discretion, may accept dedication of any existing or future stormwater management facility for residential or townhome developments, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. The owner(s) shall provide an Engineer's Report in order to establish a Drainage Benefit Area (DBA) which, at a minimum, provides the following:*

    - *Plans and Specifications: Provide an overall description of the Drainage Benefit Area and the improvements. Include an operations and maintenance plan that ensures continuous and effective operation of each post-construction stormwater management practice. Refer to Schedule C of this chapter for practices acceptable for dedication to the Town for maintenance responsibility.*

    - *Estimate of Cost: The net amount to be assessed on the lots or parcels within each district for the total cost of maintenance and servicing for each fiscal year with adjustments either positive or negative for reserves, surpluses, deficits, and/or contributions. For future facilities, the developer shall be required to pay an initial fee of $500/lot or parcel in an escrow account that is created for said Drainage Benefit Area, accruing interest shall remain within the escrow account.*

    - *Assessment Diagram: The Diagram of the DBA boundaries showing the exterior boundaries of the DBA and the lines and dimensions of each lot or parcel of land within the DBA. A legal description of said boundary shall accompany the diagram.*

    - *Assessment Roll: An assessment of the estimated cost of the improvements on each benefited lot or parcel of land within the DBA.*

    - *Method of Assessment: The method of apportionment of assessments, indicating the proposed assessment of the net amount of the costs and expenses of the improvements to be assessed upon the lots and parcels of land within the DBA, in proportion to the estimated benefits to be received by such lots and parcels.*

- *Existing facility dedication. The Town may accept dedication of existing stormwater management facilities provided that the following conditions are met:*

    - *All owners, of the lands which constitute the entire stormwater management facility, shall accept the dedication of properties to the Town.*

    - *Maintenance easements are in place as necessary for Town access as specified in this chapter.*

- *The facility is in good working order and regular maintenance has been performed. If the facility is in need of repair or maintenance, costs of such repair, to bring the facility into compliance, as determined by the Town Engineer, shall be incurred by the facility owners and property owners that are part of the future Drainage Benefit Area.*

- *An Engineer's Report has been developed, in accordance with this chapter, to establish a Drainage Benefit Area.*

- *Inspection after construction. The Town of West Seneca shall be allowed to enter the owner's or operator's premises, upon the presentation of credentials, where a regulated facility or activity is located to ensure optimum performance of the measures as designed or if there is a reasonable likelihood of adversely affecting human health or the environment.*

Schedule A

Stormwater Management Practices Acceptable for Water Quality and Utilized on this Project *(From: New York State Stormwater Management Design Manual, Table 3.3)*		
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 base flow 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.
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.

- Note: Reference long-term operation and maintenance schedule here.

Schedule B

STORMWATER CONTROL FACILITY MAINTENANCE AGREEMENT

Town of West Seneca, Erie County, New York

Whereas, the Town of West Seneca ("Town") 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 Town for the below named project, and

Whereas, the Town 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 Town and the Facility Owner agree as follows:

- This agreement binds the Town and the Facility Owner, its successors and assigns, to the maintenance provisions depicted in the approved Stormwater Pollution Prevention Plan (SWPPP) which are attached as Schedule A of this agreement.

- 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.

- 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.

- The Facility Owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five year period and after every 3.6 inches of rain in 24 hours (a ten-year storm event), 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 Town 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.

- 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 Town.

- The Facility Owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Town or in accordance with the recommendations of the inspecting engineer.

- This agreement shall be recorded at the sole cost and expense of the Facility Owner in the Office of the County Clerk, County of Erie, together with the deed for the common property.

- If ever the Town 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 Town or by the inspecting engineer, the Town 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 Stormwater Control Maintenance Agreement is executed and delivered and is effective as of the ____ day of _____, 20___.

TOWN OF WEST SENECA
By: _____

Sign: _____
Supervisor

_____
Signature of Owner's Agent

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

On the ____ day of _____, in the year 20___, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

Schedule C

Stormwater Management Practices Acceptable for dedication to the Town for residential developments. *(From: New York State Stormwater Management Design Manual, Table 3.3)*		
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 base flow 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.
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.

- Note: No proprietary hydrodynamic/filtering water quality devices or underground pipe/arch storage systems shall be acceptable for dedication to the Town.