

## **Chapter 133**

### **STORMWATER, SOIL EROSION AND SEDIMENT CONTROL**

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**[HISTORY: Adopted by the Town Board of the Town of Patterson on 2-27-2002 by L.L. No. 1-2002; Amended 4-13-05 by L.L. No. 6 (readopted 4-13-2005 by L.L. No. 9-2005).Amendments noted where applicable.]**

## **Article I General Provisions**

### **§133-1. Purpose.**

A. The Town of Patterson finds that land development activities, associated increases in site impervious cover, disturbances to the natural vegetative cover, and changes to the topography of the land can often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes. These changes to the hydrology of the watershed can cause an increase in flooding, stream bank erosion, impairment to aquatic resources from silt or other pollutants, degradation of water quality and a loss of wildlife habitat. Land development activities can also cause, unchecked erosion, sediment transport and deposition which can impair aquatic resources, clog drainage ways and cause increased flooding. The potential impairment of the Town's natural resources caused by unchecked erosion, sedimentation and increased stormwater runoff results in a significant economic and social loss to the community. It is the purpose of this chapter to protect the public health, safety and welfare in the Town of Patterson, and its aquatic resources by establishing minimum requirements for stormwater management, preventing erosion and controlling sedimentation for activities which cause changes to the watershed hydrology and may increase erosion and sediment transport including but not limited to construction activities, land alterations including excavation, filling, grading, land stripping and tree clearing, and increases in the rate of stormwater runoff.

B. Regulating land development activities by means of performance standards governing stormwater management, erosion and sediment control 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 stormwater runoff from changes in the natural conditions due to development. It will also protect the Town and other governmental bodies from the additional expense of having to undertake, as a public obligation, increased maintenance of stormwater management practices, programs of repairing roads and other public facilities, of providing flood protection facilities and of compensating private property owners for the destruction of properties arising from the adverse effects of site preparation and construction.

C. To accomplish the aforementioned purpose, the Town Board of the Town of Patterson has promulgated these, standards and regulations which seek to achieve the following objectives:

- (1) Minimize increases in peak rate of stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- (2) Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- (3) Minimize the total volume of stormwater runoff which flows from any specific site during, and following development to the maximum extent practicable in order to minimize the economic impact of installation, operation and maintenance of drainage facilities;
- (4) Reduce soil erosion and sediment transport, wherever possible, through appropriate

structural and non-structural best management practices (BMPs), and to ensure that these management practices are properly maintained to eliminate threats to public safety.

(5) Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02 or as amended or revised;

(6) 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;

### **§133-2. Statutory authority.**

In accordance with Article 9 of the Town Law of the State of New York, and the Municipal Home Rule Law and the General Municipal Law, the Town Board of the Town of Patterson has the authority to enact local laws for the purpose of promoting the health, safety and general welfare of the Town of Patterson, including the protection and preservation of the property of its inhabitants. By the same authority, the Town Board may include in any such law a provision for the appointment of any municipal officers or employees to effectuate and administer such law.

### **§133-3. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**CLEARING** - Any activity that removes the vegetative surface cover.

**CLEARCUTTING** - the removal of ten (10) or more trees over 12" DBH within an area of 20,000 sq.ft.

**COMMON PLAN OF DEVELOPMENT** - where multiple construction activities are occurring, or will occur, whether in stages or phases on a contiguous area.

**DRAINAGE** - The gravitational movement of water or other liquids by surface runoff or overland surface flow.

**EROSION** - The wearing away of the land surface by action of wind, water, gravity or other natural forces.

**EXCAVATION** - Any activity which removes or significantly disturbs rock, gravel, sand, soil or other natural deposits.

**FARM OPERATIONS** - All activities and practices which contribute to the growing or raising of crops, livestock and livestock products as a commercial enterprise, including a commercial horse

boarding operation

**FILLING** - Any activity which deposits natural or artificial material so as to modify the surface or subsurface conditions of land, lakes, ponds, wetlands or watercourses.

**FINAL STABILIZATION** - when all soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of eighty percent has been established or equivalent stabilization measures (such as the use of mulches, riprap or geotextiles) have been employed on all areas not permanently improved by pavement, concrete or structures.

**GRADING** - The alteration or reshaping of the surface or subsurface conditions of land, lakes, ponds, wetlands or watercourses by excavation or filling.

**IMPERVIOUS SURFACE OR COVER**- Those surfaces in the urban landscape which do not have a permanent vegetative cover and/or cannot effectively infiltrate rainfall including, but not limited to building rooftops, pavement, sidewalks, driveways and roads with a surface of compacted dirt or gravel, asphalt or concrete, decks and swimming pools.

**MULCHING** - The application of a layer of organic material such as wood chips, hay, pine bark or other material at a sufficient thickness for the purpose of effectively controlling erosion.

**PARCEL** - A designated lot, tract or area of land to be used, disturbed, developed or built upon as a unit.

**REDEVELOPMENT** - the reconstruction or modification to any existing, previously developed land, regardless of use, which involves disturbance to soil or its existing overlying cover.

**SEDIMENT** - Solid material, both mineral and organic, that is in suspension, is being transported, has been deposited or has been removed from its site of origin by erosion.

**SITE PREPARATION** - The activities of stripping, excavation, filling and grading, no matter what the purpose of these activities.

**SOIL** - All unconsolidated mineral or nonliving organic material of whatever origin which overlies bedrock.

**STRIPPING** - Any activity which removes or significantly disturbs trees, brush, grass or any other kind of vegetation.

**TOPSOIL** - The natural surface layer of soil, usually darker than subsurface layers, to a depth of at least six (6) inches within an undisturbed area of soils.

**WATERCOURSE** - Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drainage way, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed and bank and any area adjacent thereto subject to inundation by reason of overflow, flood or stormwater. For the purpose

of this Chapter of the Town Code, the term "watercourse" shall be deemed to include ponds and lakes.

WETLANDS - Shall be as defined in Section 154-18 of the Town Zoning Code under the term "Freshwater Wetlands".

## **Article II**

### **Regulated Activities; Exemptions**

#### **§133-4. Regulated Activities.**

A. None of the following activities shall be commenced until a Land Development Permit has been issued under the provisions of this Chapter.

- (1) Site preparation or clearing on slopes which exceed one (1) foot of vertical rise to five (5) feet of horizontal distance (twenty percent (20%)) or site preparation in soils known to be subject to severe erosion, based upon the rating given to individual soil types by the USDA Soil Conservation Service.
- (2) Site preparation or clearing within the one-hundred-year flood-plain of any watercourse.
- (3) Excavation which affects more than four hundred (400) cubic yards of material within any parcel.
- (4) Soil stripping or clear cutting which affects:
  - (a) an area exceeding 5,000 square feet of contiguous ground surface; or
  - (b) one or more areas that in total exceed 20,000 square feet on any individual parcel.
- (5) Grading which affects more than 5,000 square feet of ground surface within any parcel.
- (6) Filling which exceeds a total of two hundred (200) cubic yards of material within any parcel.
- (7) A subdivision of a parcel into two (2) or more lots.
- (8) Any activity requiring approval of a site plan by the Planning Board.

B. Notwithstanding the requirement that certain activities obtain a permit under this section, or any exemption therefrom, any filling, grading, excavation, or any other activity that disturbs the natural vegetative cover shall not cause or contribute to an impairment of aquatic resources, a

degradation of water quality, or to otherwise harm the natural resources of the Town of Patterson as described in Section 133-10, below, and in all cases shall utilize appropriate erosion control measures in accordance with the New York Standards and Specifications for Erosion and Sediment Control.

C. Any temporary or permanent alteration of the land surface of greater than one acre, including but not limited to removal of fifty percent of the vegetative cover, grading or filling, or any of the activities provided in Subsection A, above which results in one or more acres of disturbance shall be deemed to be a “Major Land Development” activity. Smaller disturbances which are part of a common plan of development equal to, or greater to one acre shall also be considered a Major Land Development activity.

(1) All Major Land Development activities shall prepare a Stormwater Pollution Prevention Plan which shall include means and measures for controlling erosion and sedimentation.

(2) Any activity which shall be deemed to be a Major Land Development activity shall obtain a permit from the Town Planner, excepting as provided in §133-6, below.

D. All other activities described in Subsection A, above shall be considered a “Minor Land Development” activity including but not limited to any temporary or permanent alteration of the land surface of 5,000 square feet or greater, but less than one acre including but not limited to removal of fifty percent of the vegetative cover, grading, or filling, and any activities provided in Subsection A above which do not exceed the requirements in Subsection C above.

(1) Any Activity which shall be deemed a Minor Land Development activity, as defined herein shall prepare a Erosion and Sediment Control Plan which meets the requirements contained herein.

(2) Any activity which shall be deemed to be a Minor Land Development activity shall obtain a permit from the Town Planner, excepting as provided in §133-6, below.

### **§133-5. Exemptions**

The following activities are exempt from obtaining a permit pursuant to this Chapter, however such activities shall not be conducted in a manner that causes or results in soil erosion, sedimentation or a visible change in the quality of runoff as set forth in §133-10, below.

A. Excavations for the basements and footings of single-family houses and for septic-tank systems, wells and swimming pools attendant to single-family homes, excepting where those excavations are proposed in such locations as described under Subsection A(1) and (2) of §133-4, above. The area of excavation set forth herein shall be included in calculating the total amount of site disturbance for the purposes of compliance with §133-4 C&D, above.

B. Farm Operations as defined by Article 25AA of the Agriculture and Markets Law.

- C. Cemetery graves.
- D. Activities of an individual engaging in home gardening by growing flowers, vegetables or other plants primarily for use by that person and his or her family.
- E. Landscaping and horticultural activities in connection with an existing structure that result in less than 11,000 square feet in aggregate of disturbance.
- F. Emergency activities immediately necessary to protect life, property or natural resources.
- G. Governmental activities, but only to the extent that such activities are exempted from the provisions of this chapter or are otherwise exempt pursuant to state law.
- H. Repairs to stormwater management facilities authorized by the Town Planner.

**§133-6. Erosion Control Permits with Site Plan or Subdivision Approval**

A Site Plan, approved pursuant to §154-75, or a Subdivision Plat approved pursuant to Chapter 138 of the Patterson Town Code, which also includes a separate Erosion and Sediment Control Plan meeting the requirements of this Chapter, approved by the Planning Board shall constitute an Erosion and Sediment Control Permit approved under this Chapter.

**Article III  
Land Development Permit Procedures and Requirements**

**§133-7. Application Requirements.**

A. Where a major or minor Land Development Permit is required pursuant to §133-4(C) or (D), an Application shall be submitted to the Town Planner which includes the following:

- (1) Five (5) copies of a Land Development Application Form.
- (2) An application fee as set from time to time by resolution of the Town Board. The fee shall be deemed a reasonable sum to cover the costs of administration and shall in no part be returnable to the applicant(s).
- (3) Five (5) copies of a Erosion and Sediment Control Plan or a Stormwater Pollution Prevention Plan, or both as may be required herein.
  - (a) Maps and plans accompanying the application shall be prepared by an individual authorized by the State of New York to prepare such plans which may include an architect, engineer or landscape architect licensed by the State of New York, or a Certified Professional in Erosion and Sediment Control.

(4) An Environmental Assessment Form (EAF) pursuant to SEQRA prepared and submitted by the applicant, unless the application concerns a site plan or subdivision project already before the Planning Board for which a SEQRA declaration has already been made.

### **§ 133-8. Review Standards**

A. Within thirty days of the receipt of an application or any plans or material in support thereof, the Town Planner shall notify the Applicant if the application is determined to be complete or if additional information is required.

B. The Town Planner shall approve, with or without modifications or deny all permits within thirty (30) days of the date of determining that the application is complete, unless the applicant consents, in writing, to a time extension.

C. Prior to granting a permit, the Town Planner shall determine that the request is in harmony with the purpose and standards set forth in this chapter.

D. In granting a permit, the Town Planner may fix a reasonable time limit for the termination of the permit and may attach any conditions which he deems necessary to assure compliance with the provisions of this Chapter. Any permit issued for a major or minor land disturbance shall not exceed one (1) year in duration. The performance guaranty so specified under §133-20, shall be posted before any permits may be granted or site work commenced.

E. Modifications of the terms of an approved permit shall follow the same application, review and approval procedures as those set forth in this section for the original permit.

F. It shall be the responsibility of the Town Planner and Code Enforcement Officer to inspect any sites for which a permit has been issued under this Chapter as frequently as necessary to assure compliance with the terms and conditions of the approved permit and the provisions of this Chapter and to submit written notification of any violations of these terms or provisions of the Permit to the property owner to which the permit has been issued.

G. If, at any time during the effective period of a permit issued by the Town Planner the terms of the permit are violated, or if the permit expires prior to the completion of the work, the Town Planner may revoke the permit and thereafter recommend to the Town Board that the performance guaranty be forfeited to the Town. If the applicant becomes unable to complete the project or any phase thereof within the specified time, he shall within thirty (30) days prior to the specified date of completion, present, in writing, a request for an extension of time, setting forth therein the reasons for the request. If, in the discretion of the Town Planner, such an extension is warranted, the Town Planner may grant additional time for the completion of the work.

H. The Town Planner is authorized to consult with and obtain recommendations from the Town Planning Board and/or its Chairman, the Town Engineer, the Town Highway Superintendent, the Town Environmental Conservation Inspector, the Putnam County Soil and Water Conservation District, the New York City Department of Environmental Protection and the New York State

Department of Environmental Conservation.

**§ 133-9. Additional Costs and Expenses.**

In the event that an application requires the Town to incur additional expenses for technical assistance in the review of an application, the applicant shall pay the reasonable expenses incurred by the Town. The applicant shall be notified of the expenses and shall deposit said funds in escrow as necessary to cover to the costs being incurred.

**Article IV**  
**Performance, Technical and Design Standards**

**§ 133-10. Performance Standards.**

Upon the approval of this Chapter by the Town Board, all Land Development activities regulated under this Chapter shall be in conformance with the provisions set forth herein. It shall be a violation of this Chapter, or for any permit issued thereof, to either cause or contribute to an impairment of aquatic resources, a degradation of water quality, or to otherwise harm the natural resources of the Town of Patterson. More specifically:

- A. There shall be no increase in turbidity that will cause a substantial visible contrast to natural conditions of surface water;
- B. There shall be no increase in suspended, colloidal and settleable solids that will cause deposition or impair the waters for their best usages;
- C. There shall be no residue from oil and floating substances, nor visible oil film, nor globules of grease.
- D. No uncontrolled sedimentation shall occur from any land disturbance which;
  - (1) is not properly managed by appropriate erosion and sediment control practices
  - (2) causes, or may potentially cause an impairment to water quality.
- E. There shall no increase in the peak rate of runoff which causes an impairment to any stream channel or drainage structure.

**§133-11. Technical Standards**

The following technical standards shall be used in the design and installation of all erosion control, sediment control and stormwater practices designed or installed under this Chapter.

- A. New York Standards and Specifications for Erosion and Sediment Control (Empire State Chapter of the Soil and Water Conservation Society) 2004 or the most current version or its successor (also referred to as the Erosion Control Manual).
- B. New York State Stormwater Design Manual, latest edition (New York State Department of Environmental Conservation).
- C. Urban Hydrology for Small Watersheds (TR55) (USDA Natural Resource Conservation Service)
- D. Soil Survey of Putnam and Westchester Counties, New York (USDA Soil Conservation Service).
- E. East of Hudson Phosphorus Removal Supplement

**§133-12. Erosion and Sediment Control Plan Requirements.**

An Erosion and Sediment Control Plan shall be prepared in accordance with the Technical Standards provided for herein, and at a minimum shall include the following information:

- (1) Existing features map(s), at a scale no smaller than one (1) inch equals fifty (50) feet indicating:
  - (a) The boundaries of all parcels on which site preparation activities are proposed to be undertaken.
  - (b) All public improvements within a distance of two hundred (200) feet of the parcel on which site preparation activities are proposed to be undertaken, the structures identified by their uses and capacities, and the roads identified by their surface material and width of surface.
  - (c) All wetlands, greater than 4,000 square feet in size and any watercourses located either on the site or within a distance of one hundred (100) feet of the parcels on which site preparation activities are proposed to be undertaken.
  - (d) Existing topography at contour intervals of two (2) feet referenced to USGS datum.
  - (e) All sewer, water, gas and electric lines and all other utilities within the parcels on which site preparation activities are proposed to be undertaken.
  - (f) The location and description of all vegetation located within the area of proposed disturbance, and including the area within one hundred (100) feet of the disturbance.

- (g) The depth to bedrock on the site proposed for site preparation activities.
  - (h) The depth to permanent groundwater aquifers on the site proposed for site preparation activities.
  - (i) The boundary of the one-hundred-year floodplain, together with wetland boundaries.
- (2) Drainage computations to evaluate the peak rates, and volumes of runoff for the site in its pre-developed and post-developed conditions may be required.
- (3) Development standards. All development plans, specifications and timing schedules, including extensions of previously approved plans, shall comply with the Technical Standards identified herein and shall be designed for “newly graded” or “during construction” conditions. In the event of conflict with this Chapter, the requirements which, to the greater extent, will serve to minimize erosion shall apply.
- (4) Site plan. A site plan shall be prepared at a scale no smaller than one (1) inch equals fifty (50) feet, which shows the proposed developed conditions for the site and the proposed erosion and sediment control measures including:
- (a) The location of all excavation, filling and grading proposed to be undertaken, identified as to the depth, volume and nature of the materials involved.
  - b) The location of all soil stripping or tree cutting, identified as to the nature of vegetation affected.
  - (c) All areas where topsoil is to be removed, stockpiled and ultimately placed.
  - (d) All temporary and permanent vegetation to be placed on the site, identified as to plant type, size, quantity, location, seed mixture and rate of application, as appropriate.
  - (e) The type, location and application rate of all mulch.
  - (f) All temporary and permanent drainage, erosion and sediment control practices, including such practices as stormwater ponds and temporary sediment basins, identified as to the type of facility, the materials from which it is constructed, its specifications or manufacturer product identification number, its dimensions and its capacity.
  - (g) The anticipated pattern of surface drainage during periods of peak runoff, upon completion of site preparation and construction activities, identified as to rate and direction of flow at all major points within the drainage systems.
  - (h) The location of all roads, driveways, sidewalks, structures, utilities and other

improvements, including the finished grade of any proposed structures.

- (i) The final contours of the areas of the site affected by an action requiring a permit in intervals of no greater than two (2) feet.
- (5) Supporting calculations to demonstrate the suitability of erosion and sediment control measures.
- (6) A construction schedule which is keyed to the site plan indicating:
  - (a) When major phases of the proposed project are to be initiated and completed.
  - (b) When major site preparation activities are to be initiated and completed.
  - (c) When the installation of temporary and permanent vegetation and drainage, erosion and sediment control facilities are to be completed.
  - (d) The anticipated duration, in days, of exposure of all major areas of site preparation before the installation of erosion and sediment control measures.
- (7) An estimate of the costs of providing temporary and permanent vegetation and drainage, erosion and sediment control facilities prepared by a qualified individual as contained herein.

### **§ 133-13. Stormwater Pollution Prevention Plan (SPPP) Requirements**

A. When required pursuant to this Chapter, a stormwater pollution prevention plan shall be prepared in accordance with the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activities (Permit No. GP-02-01), using the Technical Standards identified herein, and at a minimum shall include the following information:

- (1) Background information about the scope of the project, including location, type and size of project.
- (2) Site map/construction drawing(s) for the project at a scale no smaller than one (1) inch equals fifty (50) feet. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final grades at two-foot contours; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
- (3) A location map at a scale of not less than one (1) inch equals two thousand feet.

- (4) Description of the soil(s) present at the site;
- (5) 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 SPPP.
- (6) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
- (7) 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;
- (8) 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;
- (9) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- (10) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the location and sizing of any temporary sediment basins or traps;
- (11) Temporary practices that will be converted to permanent control measures;
- (12) 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;
- (13) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
- (14) Name(s) of the receiving water(s);
- (15) Delineation of SPPP implementation responsibilities for each part of the site;
- (16) 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 reasonably attainable; and

- (17) Any existing data that describes the stormwater runoff at the site.
- (18) Description of each post-construction stormwater management practice;
- (19) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
- (20) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms
- (21) Comparison of post-development stormwater runoff conditions with pre-development conditions.
- (22) Dimensions, material specifications and installation details for each post-construction stormwater management practice;
- (23). Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
- (24) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property and where required by law shall be filed with the Town and/or County Clerk.
- (25) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures.

B. The SPPP shall be prepared by a landscape architect, Certified Professional in Erosion and Sediment Control (CPESC) or licensed 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 of this local law.

C. Each contractor and subcontractor identified in the SPPP 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."

D. 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.

E. The certification statement(s) shall become part of the SPPP for the land development activity, a copy of which shall be filed with the Patterson Planning Department.

F. A copy of the SPPP 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.

#### **§133-14. Maintenance During Construction.**

A. 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 local law. Sediment shall be removed from sediment traps or sediment basins whenever their design capacity has been reduced by fifty (50) percent.

B. 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. Inspection reports shall be completed every 7 days and within 24 hours of any storm event producing 0.5 or more inches of precipitation. The reports shall be delivered to the Patterson Planning Department and also copied to the site log book.

#### **§133-15. 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 Patterson 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 Town Attorney of the Town of Patterson.

#### **§133-16. Maintenance after Construction**

A. The owner or operator of permanent stormwater management practices installed in accordance with this law shall operate and maintain the stormwater management practices 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.

B. Discharges from stormwater management practices shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with §133-11.

### **§133-17. Maintenance Agreements.**

As a condition of the approval of a Land Development Permit the Town Planner may require that a maintenance agreement for the future operation and maintenance of one or more of the stormwater management practices proposed for the site, in a form acceptable to the Town Attorney and binding on all subsequent landowners, be executed and recorded in the office of the County Clerk as a deed restriction on the property.

### **§ 133-18. Notations.**

The following notations are to be included on all subdivision and site plan erosion and sediment control plans, and may be required on erosion and sediment control plans prepared for major and minor Land Development Permits:

A. Road and drainage improvements.

(1) All topsoil to be stripped from the area being developed shall be stockpiled not less than two hundred (200) feet from any body of surface water and shall be immediately seeded with rye grass mixture with a quick germination time.

(2) On all embankment fill slopes, topsoil shall be stripped at least five (5) feet wider than required for the embankment toe of slope. All fill slopes shall be immediately stabilized using appropriate techniques which meet the design criteria described in the New York Standards and Specifications for Erosion and Sediment Control.

(3) Erosion and sediment control measures, including but not limited to silt fencing, sediment traps, and checkdams, shall also be employed where necessary for supplementary erosion control measures.

(4) All cut slopes and embankment fills are to be immediately laid back and stabilized using appropriate techniques which meet the design criteria described in the New York Standards and Specifications for Erosion and Sediment Control which may include the following:

(a) Grade to finished slopes.

(b) Scarified.

(c) Topsoiled with not less than four (4) inches of suitable topsoil material.

(d) Seeded with perennial rye grass. Seed shall be applied at the rate of not less than five (5) pounds per one thousand (1,000) square feet.

(e) Mulched with not less than one (1) inch and not more than three (3) inches of straw [two (2) tons per acre] and anchored in a suitable manner.

(5) Temporary on-site sedimentation basins for the immediate control of erosion and sediment transport are to be provided when and where required or ordered. The length, width and depth of such basins are to be determined in the field in accordance with the New York Standards and Specifications for Erosion and Sediment Control.

(6) All erosion control structures are to be maintained in proper functioning order and are to be replaced or repaired as necessary.

**B. General.**

(1) Construction equipment shall not unnecessarily cross live streams except by means of bridges and culverts or other approved methods.

(2) Wherever feasible, natural vegetation should be retained and protected.

(3) Only the smallest practical area of land should be exposed at any one time during development.

(4) Erosion control requirements shall include surface stabilization measures applied as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven (7) days after the construction activity in that portion of the site has temporarily or permanently ceased. From November 1 through March 31 any disturbed area must be stabilized using a heavy mulch layer, a rolled erosion control product or another method that does not require seed germination to control erosion.

(5) The permanent final vegetation and structures shall be installed as soon as practical and as may be directed by the Town Planner or Town Engineer.

(6) All erosion control measures employed during construction shall comply with the standards found in New York Standards and Specifications for Erosion and Sediment Control, latest edition.

(7) Phasing shall be required on all sites disturbing greater than five (5) acres, with the size of each phase to be established by the Planning Board or Town Planner.

**§133-19. Permit standards.**

The standards and requirements contained herein shall be applied in reviewing and approving all permit pursuant to this Chapter.

A. An Erosion and Sediment Control Plan shall seek to return the quality of the stormwater leaving the site to its pre-disturbance condition to the maximum extent practicable.

B. Excavation, filling, grading and stripping shall be permitted to be undertaken only in such locations and in such a manner as to minimize the potential of erosion and sediment and the threat to the health, safety and welfare of neighboring property owners and the general public. Alterations of grade, or disturbances to the natural vegetative cover on slopes greater than thirty percent shall be avoided.

C. Site preparation and construction shall be fitted to the vegetation, topography and other natural features of the site and shall preserve as many of these features as feasible.

D. The control of erosion and sediment shall be a continuous process undertaken as necessary prior to, during and after site preparation and construction.

E. The smallest practical area of land shall be exposed by site preparation at any given time.

F. Mulching or temporary vegetation suitable to the site shall be used where necessary to protect areas exposed by site preparation, and permanent vegetation which is well adapted to the site shall be installed as soon as practical.

G. Where slopes that have been exposed or re-graded during site preparation are to be re-vegetated, the slopes shall not be of such steepness that vegetation cannot be readily established or that problems of erosion or sediment may result.

H. Site preparation and construction shall not cause a permanent adverse effect on the free flow of water by encroaching on, blocking or restricting watercourses.

I. All fill material shall be of a composition suitable for the ultimate use of the fill, free of rubbish and brush, stumps, tree debris, rocks, frozen material and soft or easily compressible material.

J. Fill material shall be compacted sufficiently to prevent problems of erosion, and where the material is to support structures, it shall be compacted to a minimum density of ninety percent (90%) of modified proctor with proper moisture control.

K. All topsoil which is excavated from a site shall be stockpiled and used for the restoration of the site, and such stockpiles, where necessary, shall be seeded or otherwise treated to minimize the effects of erosion. Topsoil is not to be removed or sold from the site unless restoration has been completed.

L. Prior to, during and after site preparation and construction, an integrated drainage system shall be provided which at all times minimizes erosion, sediment, hazards of slope instability and adverse effect on neighboring property owners.

M. The natural drainage system shall generally be preserved in preference to modifications of this system, excepting where such modifications are necessary to reduce levels of erosion and sediment and adverse effects on neighboring property owners.

N. All drainage systems shall be designed to handle adequately the anticipated flows, both within the site and from the entire upstream drainage basin, so as to achieve no net increase in peak rate of runoff from the site.

O. Sufficient grades and drainage facilities shall be provided to prevent the ponding of water, unless such ponding is proposed by the approved in site plan, in which event there shall be sufficient water flow to maintain proposed water levels and to avoid stagnation.

P. There shall be provided, where necessary to minimize erosion and sediment, such measures as benches, berms, terraces, diversions, temporary sediment basins and retention basins. During the course of construction, where the Town Planner, Town Engineer or Environmental Conservation Inspector determines that additional erosion control measures are needed, they shall be provided by the Project Owner at no cost to the Town of Patterson.

Q. Drainage systems, plantings and other erosion or sediment control devices shall be maintained as frequently as necessary to provide adequate protection against erosion and sediment and to ensure that the free flow of water is not obstructed by the accumulation of silt, debris or other material or by structural damage.

R. Wherever possible, clean water shall be diverted around any areas of disturbance.

S. For any proposed grades planned to have a slope greater than 3H:1V the design engineer shall provide calculations documenting that the slope will be stable as designed. Slope stability should be demonstrated by two-dimensional limiting equilibrium methods such as the Bishop Simplified Method. Further, the analysis should include an evaluation of seasonal high groundwater conditions, including subsurface investigations if deemed necessary, to assure that the slope will remain stable in "worst case" conditions."

T. The exposure of an area by site preparation shall be kept to the shortest practical period of time prior to the construction of structures or improvements or the restoration of the exposed areas to an attractive natural condition. The developer shall initiate stabilization measures as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion of the site has temporarily or permanently ceased excepting where the initiation of stabilization measures by the seventh day after construction activity temporarily or permanently ceased is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable.

### **§133-20. Redevelopment.**

A. The redevelopment of a site shall comply with the technical standards contained herein for water quality for the entire site, including the area proposed for redevelopment, except as noted in Subsection C below.

B. The redevelopment of a site shall comply with the technical standards contained herein for water quantity for any increase in the volume or rate of runoff due to the redevelopment, except as

noted in Subsection C below.

C. A deviation from the technical and performance standards contained in this Chapter may be permitted where an owner or developer proposing to redevelop a site demonstrates that proper sizing and installation of acceptable stormwater management practices is not feasible due to inadequate space, head or other physical constraints of the site, and that the proposed change will not cause or contribute to a significant adverse change in any water resource within that drainage basin. Inadequate space in which to locate stormwater management practices caused directly by the size or location of the proposed redevelopment shall not be considered acceptable justification to permit a deviation from the standards.

#### **§133-21. Contractor Certification.**

A copy of all Notice of Intents and all contractor's certification, required pursuant to the New York State General Permit for Stormwater Discharges from Construction Activity Permit No. GP-02-01 for all land disturbances, development or redevelopment located within the Town of Patterson shall also be filed with the Patterson Planning Department.

### **Article V Administration and Enforcement**

#### **§133 -22. Performance guaranty.**

A. After the approval of the application and before the issuance of any permit, the applicant shall, when so required, file with the Town Board, surety for the amount of the estimated cost of the project, one (1) of the following performance guaranties:

- (1) A joint savings account in both the name of the Town of Patterson and the property owner, along with a withdrawal slip endorsed by the property owner.
- (2) A performance bond which shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, surety and period of execution.
- (3) An irrevocable letter of credit from a bank, which letter of credit shall be approved by the Town Board and Town Attorney.

B. The Town Planner in approving an application submitted under §133-4, or the Town Planning Board, whichever shall retain jurisdiction of the application, may grant a waiver of such guaranty if it deems the proposed activities to be of minor scope and to be in full compliance with the intent of this Chapter.

C. The party or parties filing the performance guaranties shall certify that either upon termination of the permit or the operation, whichever may come first, the project shall be in conformity with both the approved specific requirements of the permit and the provisions of this

Chapter. In the event of default of such and violation of any other applicable laws, such performance guaranty shall be forfeited to the Town. The Town shall return to the applicant any amount that is not needed to cover the costs of restoration, administration and any other expenses incurred by the Town as a result of the applicant's default. Such performance guaranty shall continue in full force and effect until a certificate of compliance shall have been issued by the Town Planner after such consultation with any agencies or individuals as he deems necessary to insure that all provisions of this Chapter and of the permit have been met.

**§133 -23. Waiver of requirements.**

Where one or more of the requirements contained herein are not requisite in the interest of health, safety or general welfare, or will provide information extraneous to the issuance of a permit, then one or more of the requirements may be waived by either the Planning Board or the Town Planner, whichever shall have original jurisdiction.

**§133 -24. Damage due to violation; penalties for offenses.**

A. If there is any damage due to violation of this chapter, or if there is any damage to adjacent properties, or if any soil, liquid or other material is caused to be deposited upon or to roll, flow or wash upon any public property, private property or right-of-way in violation of this Chapter, the person, firm, partnership, corporation or other party responsible shall be notified and shall cause the same to be removed from such property or right-of-way within thirty-six (36) hours of written notice. In the event of an incident which presents an immediate danger to the public health or safety, notice shall be given by the most expeditious means and the violation shall be immediately remedied by the party responsible for the incident, or at its discretion and when the responsible party fails to adequately remedy the incident in a reasonable time, the Town shall cause such remedy and the cost of such remedy by the Town shall be paid to the Town by the party who failed to so remedy and shall be a debt owed to the Town.

B. Any person, firm or corporation, whether as owner, lessee, principal, agent, employee or otherwise, violating any of the provisions of this Local Law shall be guilty of a violation, which shall be punishable by a fine of not less than two hundred dollars (\$200) nor more than three hundred and fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both, for a conviction of the first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than three hundred and fifty dollars (\$350) 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 (\$700) nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed six months, or both.

C. Every day that a violation of any of the provisions of this chapter continues after written notice shall have been served upon the owner or his agent, either personally or by registered mail addressed to such person at his last known address, or after three days of having posted notice on

the property on which the violation has occurred, shall constitute a separate violation.

D. The Town Planner, in the administration of his duties contained herein, shall have the authority to issue stop work orders and appearance tickets for violations of this Chapter. The Code Enforcement Officer shall also have the authority to enforce the provisions of this Chapter.

**§133-25. Conflict with other provisions.**

Where this Chapter imposes greater restrictions than are imposed by the provision of any law, ordinance, regulation or private agreement, this chapter shall control. Where greater restrictions are imposed by any law, ordinance, regulation or private agreement than are imposed by this Chapter, such greater restrictions shall control.

**§133 -26. Appeals**

Any person aggrieved by an order or decision issued pursuant to this section may seek review by the Patterson Zoning Board of Appeals and then may seek judicial review pursuant to Article 78 of the Civil Practice Law and Rules in the Supreme Court for the County of Putnam. Such appeals shall be filed within thirty (30) days after the date of a determination on the issuance of a permit or in the case of a decision by the Planning Board, the filing of the particular order or decision with the Patterson Town Clerk.