

TOWN OF CAMBRIA TOWN BOARD

NOVEMBER 8, 2007

The regular meeting of the Town of Cambria Town Board was held at 8:00 PM on the 8th day of November 2007 at the Town Hall, 4160 Upper Mountain Road, Town of Cambria, NY

BOARD MEMBERS PRESENT:

Wright H. Ellis, Supervisor
Robert E. Blackman, Councilman
George J. Bush, Councilman
Matthew P. Foe, Councilman
Debra L. Kroening, Councilwoman

ALSO PRESENT:

Jon T. MacSwan, Highway Superintendent
Lou Ann Murawski, Town Clerk
Edwin J. Shoemaker, Attorney
Robert Klavoon, Wendel Duchscherer
Rebecca Wightman, Wendel Duchscherer
15 interested individuals

Following salute to the flag, Supervisor Ellis called the meeting to order. Board members took action upon the following matters:

PUBLIC HEARING – 2008 PRELIMINARY BUDGET

The Clerk read the following public hearing notice:

Town of Cambria

Notice of Public Hearing

PLEASE TAKE NOTICE that the Town Board of the Town of Cambria will conduct public hearings on the matters referred to herein at the Town Hall, 4160 Upper Mountain Road, Town of Cambria, NY on the 8th day of November 2007 at 8:00 PM. Said public hearings shall be as follows:

1. Any objections to the 2008 Assessment Roll for the following Districts:

	Amount to be Raised by Taxes:
Cambria Water District	\$400,852.00
Cambria Fire District	\$383,701.00
Cambria Refuse and Garbage District	\$394,506.00
Cambria Sewer District No. 1	\$230,370.00
Cambria Drainage District	\$25,000.00

All persons interested shall be heard at the public hearing to be held by the Town Board as aforesaid relative to assessments and amounts to be raised in said districts.

2. Fire Contracts: The Town Board of the Town of Cambria will consider allocations as follows and authorization to enter into contracts with fire companies protecting areas of said Town for fire protection. The fire companies and amounts to be allocated for the year 2008 are as follows:

Cambria Volunteer Fire Company	\$126,900.00
Cambria Volunteer Fire Company Ambulance Service	\$31,800.00
Pekin Fire Company	\$126,900.00
Pekin EMS Contract	\$24,100.00
Sanborn Fire Company	\$1.00

With an additional allocation of \$36,500.00 for the Service Award Program.

3. The Town Board will conduct a public hearing on the 2008 Preliminary Budget. A copy of the 2008 Preliminary Budget is available at the office of the Town Clerk, 4160 Upper Mountain Road, Town of Cambria, NY, where it may be inspected by any interested person during regular office hours. The proposed salaries of the elected officials are hereby specified:

Supervisor	\$19,315.00	
Councilman	\$5,100.00	each
Justice	\$16,075.00	each
Town Clerk	\$32,500.00	
Tax Collector	\$5,150.00	
Highway Superintendent	\$49,200.00	

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All parties in interest and citizens will be heard at the public hearings to be held as aforesaid.

Supervisor Ellis indicated the 2008 budget provides for appropriations totaling \$4,403,221. The most significant increases are in the Drainage and Fire Protection Districts. The proposed increase/decrease in appropriations in each fund are as follows:

General Fund	Increase of \$47,990	(+ 3.68%)
Cemetery Fund	Decrease of \$10,985	(-47.45%)
Highway Fund	Decrease of \$16,450	(- 1.74%)
Drainage District	Increase of \$6,500	(+22.81%)
Fire Protection	Increase of \$46,200	(+13.09%)
Refuse District	Increase of \$9,450	(+2.39%)
Sewer District	Decrease of \$17,570	(-4.41%)
Water District	Decrease of \$11,895	(+1.35%)

Proposed tax rates are as follows:

\$4.759 per 1,000 including Sewer available, an increase of \$0.11 per 1,000 (+2.3%)
\$3.759 per 1,000 without Sewer, an increase of \$0.11 per 1,000 (+3.0%)

Supervisor Ellis opened the public hearing. As there was no one present desiring to be heard, the public hearing was closed.

PUBLIC HEARING – AMENDMENT OF SUBDIVISION REGULATIONS

The Clerk read the Notice of Public hearing.

**TOWN OF CAMBRIA TOWN BOARD
NOTICE OF PUBLIC HEARING**

PLEASE TAKE NOTICE that the Town Board of the Town of Cambria will hold a Public Hearing on the 8th day of November, 2007 at 8:00 p.m., at the Town Hall, 4160 Upper Mountain Road, Sanborn, New York 14132, to hear and consider amendment of the Town Subdivision Regulations by deleting the second paragraph in Section 7, entitled "PARKS, OPEN SPACES, AND NATURAL FEATURES, subsection (c) and adding a new second paragraph as follows:

Such recreation fee shall be paid to the Town Board at the time of final Plat approval, and no Plat shall be signed by the authorized officer of the Planning Board until such payment is made. All such recreation fees shall be placed in a reserve account for the acquisition or development of permanent parks or playgrounds, and shall in no event become a part of any fund for general recreational purpose or of the general fund of the Town. For minor subdivisions, the recreation fee per lot is also required and will be collected prior to approval of said subdivision and filing of same with the County Clerk as set forth in Section 2 herein.

All parties in interest and citizens will be heard at the Public Hearing to be held as aforesaid.

Supervisor Ellis opened the public hearing. There was no one present desiring to be heard. The public hearing was closed.

PUBLIC HEARING – LOCAL LAW TO PROHIBIT ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS TO SEPARATE STORM SEWER SYSTEMS IN THE TOWN OF CAMBRIA

**NOTICE OF PUBLIC HEARING
Town of Cambria**

PLEASE TAKE NOTICE that the Town Board of the Town of Cambria will hold two (2) Public Hearings on Thursday, November 8, 2007 at 8:00 p.m. at the Town Hall, 4160 Upper Mountain Road, Sanborn, New York 14132, to hear and consider adoption of a local law to prohibit illicit discharges, activities and connections to separate storm sewer systems, and, in addition, an ordinance amendment to the Town Zoning regulations entitled "Ordinance for Stormwater Management and Erosion & Sediment Control."

A summary of the local law entitled, "A Local Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer System" is as follows:

- Section 1 - Purpose to meet State and Federal Law regulations regulating non-stormwater discharge to the municipal storm system (called MS4 systems).**
- Section 2 - Definitions.**
- Section 3 - Applicability to only that part of Town of Cambria subject to MS4 regulation.**
- Section 4 - Stormwater Management Officer to be appointed by the Town Board.**
- Section 5 - Severability.**
- Section 6 - Discharge prohibitions within the MS4 area of the Town of Cambria.**
- Section 7 - Implementation of best management practices to reduce or abate illicit discharge to the Town.**

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- Section 8 - Suspension of access to MS4 area when discharge may present imminent and substantial danger to the environment.**
- Section 9 - Industrial or construction activities under Spedes permit must meet conditions of that permit.**
- Section 10 - Access and monitoring of discharge by Stormwater Management Officer (SMO) is authorized.**
- Section 11 - Notification of spills of materials subject to this law to the Town and requirement that person responsible must contain such material.**
- Section 12 - Enforcement – allowing SMO to initiate action against anyone violating this law which may lead to a fine of up to \$1000.00 or imprisonment for up to six months.**
- Section 13 - Provision for appeal of notification of violation to Cambria Town Board.**
- Section 14 - Corrective measures after appeals by SMO either through voluntary corrective measure or issue of Court order authorizing SMO to implement this law.**
- Section 15 - SMO may apply for injunction from Supreme Court to abate violation of this law.**
- Section 16 - Alternative remedy of civil violation when properly authorized.**
- Section 17 - Violation to be considered a public nuisance.**
- Section 18 - Above remedies do not preempt other applicable local, state or federal law.**

A summary of the Stormwater Management amendment to the Town Zoning Ordinance is as follows:

Article 1 – GENERAL PROVISIONS; NEW ARTICLE XVI ZONING ORDINANCE:

- Section 1 - findings of fact establishing reasons for the amendment.**
- Section 2 - purpose for amendment to protect and safeguard health and safety of community.**
- Section 3 - authority of Town Board to adopt this ordinance amendment.**
- Section 4 - applicability to control development activities.**
- Section 5 - Exemptions from ordinance including agricultural activities.**

Article 2 - Zoning Law amendment providing for Stormwater Control amendment.

- Section 1 - Definitions.
- Section 2 - Stormwater plan required.
- Section 3 - Design criteria for stormwater control plan.
- Section 4 - Maintenance and repair of stormwater facilities.
- Section 5 - Severability.

Article 3 - Subdivision regulation amendments amending Section 3 and 4 of the Town of Cambria Subdivision regulations by adding stormwater pollution prevention requirements on all new subdivisions.

Article 4 - Site Plan revision regulations amending Sections 505, 605 and 704 of the Cambria Zoning Ordinance providing for Stormwater regulations in site plan reviews.

Article 5 - Erosion and sediment control law of Cambria is amended to require stormwater control throughout the Town of Cambria.

Article 6 - Amendment to Zoning Map creating new district entitled MS4-RI limiting scope of stormwater regulations to that area of Sanborn included in State mapping of affected area.

Article 7 - Administration and enforcement including penalties for violation – add new Section 1201(3) to Article XII Zoning Ordinance.

Copies of the proposed local law and ordinance are on file at the Town Clerk's Office located at the Town Hall, 4160 Upper Mountain Road, Sanborn, New York 14132 and may be viewed during regular business hours.

All parties in interest and citizens will be heard at the public hearing to be held as aforesaid.

BY ORDER OF THE TOWN BOARD TOWN OF CAMBRIA

Supervisor Ellis opened the public hearings. As there was no one present desiring to be heard, the public hearings were closed.

APPROVAL OF MINUTES

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Foe, it was resolved to approve the Town Board Minutes from meetings held October 11, 16, 17, 2007.

Ayes: Blackman, Bush, Ellis, Foe, Kroening

-Motion Carried-

APPROVAL OF VOUCHERS

Having been reviewed by the Town Board, the following claims were presented for payment:

Cemetery Fund	Claims 10 – 11	\$ 118.30
Construction Trust	Claim 1	\$ 6,299.07
General Fund	Claims 466-507	\$74,015.00
Highway Fund	Claims 190-199	\$21,684.71
Recreation Fund	Claim 55	\$ 198.85
Refuse Fund	Claims 16 – 17	\$28,345.86
Sewer Construction Fund	Claim 4	\$ 442.50
Sewer Operating Fund	Claims 57 – 59	\$ 89.85
Water Construction Fund	Claim 8	\$ 4,230.00
Water Operating Fund	Claims 191-204	\$ 4,661.87

Upon a motion duly made by Councilman Bush and seconded by Councilman Blackman, it was resolved to approve the abstract of audited vouchers as presented.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

PRESENTATION – STORMWATER MANAGEMENT PLAN

Rebecca Wightman, Wendel Duchscherer, offered a presentation on Town of Cambria's Stormwater Management Plan. She indicated the plan provides the criteria required by the New York State Department of Environmental Conservation, which is required to be adopted by January 8, 2008. The area affected is in the vicinity of Route 31 and the railroad tracks, approximately 256 acres.

ADOPTION – STORMWATER MANAGEMENT PLAN

Upon a motion duly made by Councilman Foe and seconded by Councilwoman Kroening, it was resolved to approve the Stormwater Management Plan Prepared by Wendel Duchscherer dated October 2007.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

UPPER MOUNTAIN ROAD WATERLINE REPLACEMENT

Robert Klavoon, Wendel Duchscherer, presented an overview of the Upper Mountain Road Waterline Replacement Project, indicating the public hearing was held in October and there were no agencies commenting relative to the Town's Lead Agency status.

The following Resolution was offered by Councilman Matthew P. Foe, who moved its adoption, and seconded by Councilman Robert E. Blackman, to wit:

RESOLUTION DECLARING NEGATIVE ENVIRONMENTAL IMPACT AND RESOLUTION AUTHORIZING INSTALLATION OF APPROXIMATELY 5,500 LINEAL FEET OF 12" PVC WATERLINE ON UPPER MOUNTAIN ROAD, LOCATED BETWEEN SHAWNEE ROAD AND CAMBRIA ROAD, IN FRONT OF THE CAMBRIA TOWN HALL, WHICH WILL REPLACE EXISTING 8-INCH WATERLINE, AT AN ESTIMATED MAXIMUM COST OF \$600,000.00.

WHEREAS, a Public Hearing was duly held on the 11th day of October, 2007, by this Town Board at the Town Hall, 4160 Upper Mountain Rd, Town of Cambria, pursuant to Section 202-b of the Town Law to consider a certain map and plan and estimate of cost relating to installation of approximately 5,500 lineal feet of 12" PVC waterline on Upper Mountain Road, located between Shawnee Road and Cambria Road, in front of the Cambria Town Hall, which will replace existing 8-inch waterline at an estimated maximum cost of \$600,000.00 in and for Cambria Water District for the Town of Cambria; and

WHEREAS, the said Town Board did duly consider the said matter and did hear all persons interested.

WHEREAS, the Town Board has considered the effect of the action on the environment under SEQRA.

NOW, THEREFORE, after such hearing and upon the evidence given thereat and pursuant to the provisions of Section 202-b of the Town Law of the State of New York, it is

RESOLVED, that based upon a review of the Questionnaire and the other representations made by the Town Board in connection with the Improvement, (i) the Improvement will result in no major impacts and, therefore, is one which May not cause significant damages to the environment, (ii) the Action will not have a "significant effect" on the "environment", as such quoted terms are defined in the SEQRA Act, and (iii) no "environmental impact statement", as such quoted term is defined in the SEQRA Act, need be prepared for the Action; and it is further

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RESOLVED, that a copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Town Clerk where the same shall be available for public inspection during business hours and copies of a negative declaration shall be filed in such offices, posted in such places and published in such newspapers as shall be necessary to conform with the requirements of the SEQRA Act; and it is further

RESOLVED, that the Town Board does hereby determine that it is in the public interest to make public improvement, to wit: the installation of approximately 5,500 lineal feet of 12" PVC waterline on Upper Mountain Road, located between Shawnee Road and Cambria Road, in front of the Cambria Town Hall, which will replace existing 8-inch waterline at an estimated maximum cost of \$600,000.00 in and for the Cambria Water District for the Town of Cambria; and it is further

RESOLVED, that the plans and specifications and the estimate of expense and the proposed contract for the execution of the work as prepared by Wendel Duchscherer, Architects and Engineers and Edwin J. Shoemaker, Attorney for the said Town, and presented to this Board are hereby approved; and it is further

RESOLVED, that the Clerk of the Board be authorized to advertise for bids for the performance of the above described work in accordance with the provisions of law; and it is further

RESOLVED, that no construction will be commenced until the Town has received approval of this project from New York State Agriculture and Markets.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

WRIGHT H. ELLIS voting AYE
ROBERT E. BLACKMAN voting AYE
GEORGE J. BUSH voting AYE
MATTHEW P. FOE voting AYE
DEBRA KROENING voting AYE

The Resolution was thereupon declared duly adopted.

A RESOLUTION AUTHORIZING THE INSTALLATION OF APPROXIMATELY 5,500 LINEAL FEET OF 12" PVC WATERLINE ON UPPER MOUNTAIN ROAD, LOCATED BETWEEN SHAWNEE ROAD AND CAMBRIA ROAD, IN FRONT OF THE CAMBRIA TOWN HALL, WHICH WILL REPLACE EXISTING 8-INCH WATERLINE, AT AN ESTIMATED MAXIMUM COST OF \$600,000.00 AUTHORIZING THE ISSUANCE OF \$600,000.00 SERIAL BONDS OF SAID TOWN TO PAY THE COST THEREOF.

The following Resolution was offered by Councilman George Bush, who moved its adoption, and seconded by Councilwoman Debra Kroening, to wit:

WHEREAS, pursuant to proceedings hereto had and taken in accordance with the provisions of Section 202-b of the Town Law, the Town Board of the Town of Cambria, Niagara County, New York, has determined it to be in the public interest to increase and improve facilities of the Cambria Water District in said Town, and

WHEREAS, it is now desired to authorize the installation of approximately 5,500 lineal feet of 12" PVC waterline on Upper Mountain Road, located between Shawnee Road and Cambria Road, in front of the Cambria Town Hall, which will replace existing 8-inch waterline, at an estimated cost of \$600,000.00 and authorizing the issuance of \$600,000.00 serial bonds, and to provide for the financing thereof in accordance with the aforesaid order;

NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Cambria, Niagara County, New York, as follows:

Section 1. The installation of approximately 5,500 lineal feet of 12" PVC waterline on Upper Mountain Road, located between Shawnee Road and Cambria Road, in front of the Cambria Town Hall, which will replace existing 8-inch waterline, at an estimated cost of \$600,000.00, and authorizing the issuance of \$600,000.00 serial bonds, in and for the Cambria Water District of the Town of Cambria, Niagara County, New York, as more fully described in the aforesaid proceedings, is hereby authorized.

Section 2. The maximum estimated cost of such specific object or purpose is \$600,000.00 and the plan for the financing thereof is \$600,000.00 by the issuance of the serial bonds of said Town hereby authorized to be issued pursuant to the provisions of the Local Finance Law. Further details pertaining to the said bonds will be prescribed in a further resolution or resolutions of this Town Board.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is thirty years, pursuant to subdivision 4 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said Town of Cambria, Niagara County, New York, are hereby irrevocably pledged to the payment of the principal of and interest on such obligations as the same respectively become due and payable. There shall be annually apportioned and assessed upon the several lots and parcels of land within said Town of Cambria Water District No. 1 which the Town shall determine and specify to be especially benefited by the improvement, an amount sufficient to pay the principal and interest on said bonds as the same become due, but if not paid from such source, all the taxable real property in said Town shall be subject to the levy of ad valorem taxes without limitation as to rate or amount sufficient to pay the principal of and interest on said bonds as the same shall become due.

Section 6. The validity of such bonds and bond anticipation notes may be contested only if:

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1. Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
2. The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
3. Such obligations are not authorized in violation of the provisions of the Constitution.

Section 7. Upon this resolution taking effect, the same shall be published in full in the Union Sun & Journal, the official newspaper, together with a notice of the Town Clerk, in substantially the form provided in Section 81.00 of the Local Finance Law.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

WRIGHT H. ELLIS voting AYE ROBERT E. BLACKMAN voting AYE
GEORGE J. BUSH voting AYE MATTHEW P. FOE voting AYE
DEBRA L. KROENING voting AYE

The Resolution was thereupon declared duly adopted.

TOWN PARK NATURE TRAIL

Jon MacSwan indicated the final inspection of the Town Park Nature Trail project by the NYS Parks representative went well – she was pleased with the project.

CHANGE ORDER NO. 1 – DECREASE OF \$35,633.96 (modifications as required to meet budget and address actual field conditions)

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to approve Change Order No. 1 dated November 5, 2007, a decrease of \$35,633.96, resulting in total contract price of \$153,031.70.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

GRANT CLOSEOUT – FEE TO ROTELLA GRANT MANAGEMENT

Supervisor Ellis indicated that Bernie Rotella has agreed to complete the necessary paperwork required to closeout the grant for a fee of \$1,500.00.

Upon a motion duly made by Councilman Blackman and seconded by Councilwoman Kroening, it was resolved to authorize a payment of \$1,500.00 to Bernie Rotella to complete the necessary grant closeout paperwork for the Town Park Nature Trail.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

ADOPTION OF 2008 BUDGET – (Copy attached and made a part of these Minutes)

Upon a motion duly made by Councilman Foe and seconded by Councilman Bush, it was resolved to approve the 2008 Preliminary Budget as the adopted 2008 Budget with total appropriations of \$4,403,221.00.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried

APPROVAL OF ASSESSMENT ROLL

Upon a motion duly made by Councilman Foe and seconded by Councilman Foe, it was resolved to approve the 2008 Assessment Roll for the Special Districts and the amount to be raised by taxes in those districts as set forth in the notice of public hearing.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

APPROVAL OF FIRE PROTECTION CONTRACTS

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to approve the Fire Protection Contracts in the amounts as set forth in the notice of public hearing.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

SUBDIVISION REGULATIONS AMENDMENT

Upon a motion duly made by Councilman Bush and seconded by Councilman Blackman, it was resolved to approve the amendments to the Subdivision Regulations as set for the in the notice of public hearing.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

LOCAL LAW NO. 1, 2007 – A LOCAL LAW TO PROHIBIT ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS TO SEPARATE STORM SEWER SYSTEMS IN THE TOWN OF CAMBRIA

DESIGNATION OF TOWN BOARD AS LEAD AGENT

Upon a motion duly made by Councilman Blackman and seconded by Councilman Foe, it was resolved to designate the Town Board as Lead Agent under SEQRA relative to Local Law No. 1, 2007.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

NEGATIVE DECLARATION

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to declare a Negative Declaration under SEQRA as the proposed action of adoption of Local Law No. 1, 2007 will not result in any significant adverse environmental impacts.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

ADOPTION – LOCAL LAW NO. 1, 2007

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to adopt Local Law No. 1, 2007, “ A Local Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer Systems in the Town of Cambria”.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

**TOWN OF CAMBRIA
LOCAL LAW NO. 1 OF THE YEAR, 2007**

**A Local Law to Prohibit Illicit Discharges, Activities and Connections to
Separate Storm Sewer Systems in the Town of Cambria**

Be it Enacted by the Town Board of the Town of Cambria as Follows:

SECTION 1. PURPOSE/INTENT

The purpose of this law is to provide for the health, safety, and general welfare of the citizens of the Town of Cambria through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This law establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The objectives of this law are:

- 1.1 To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;
- 1.2 To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- 1.3 To prohibit Illicit Connections, Activities and Discharges to the MS4;
- 1.4 To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this law; and
- 1.5 To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

SECTION 2. DEFINITIONS

Whenever used in this law, unless a different meaning is stated in a definition applicable to only a portion of this law, the following terms will have meanings set forth below:

- 2.1 Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater

- conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- 2.2 Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- 2.3 Construction Activity. Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- 2.4 Department. The New York State Department of Environmental Conservation.
- 2.5 Design Professional. New York State licensed professional engineer or licensed architect.
- 2.6 Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristic may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- 2.7 Illicit Connections. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:
1. Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
 2. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- 2.8 Illicit discharge. Any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 6 of this law.
- 2.9 Industrial Activity. Activities requiring SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.
- 2.10 MS4. Municipal Separate Storm Sewer System.
- 2.11 Municipal Separate Storm Sewer System. A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
1. Owned or operated by the Town of Cambria;
 2. Designed or used for collecting or conveying stormwater;
 3. Which is not a combined sewer; and
 4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40CFR 122.2.
- 2.12 Municipality. The Town of Cambria.
- 2.13 Non-Stormwater Discharge. Any discharge to the MS4 that is not composed entirely of stormwater.
- 2.14 Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- 2.15 Pollutant. Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.
- 2.16 Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- 2.17 Special Conditions.
1. Discharge Compliance with Water Quality Standards. The condition that applies where a municipality has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

2. 303(d) Listed Waters. The condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
 3. Total Maximum Daily Load (TMDL) Strategy. The condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
 4. The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges. Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six (6) months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- 2.18 State Pollutant Discharge Elimination System (SPDES) Stormwater Discharge Permit. A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.
- 2.19 Stormwater. Rainwater, surface runoff, snowmelt and drainage.
- 2.20 Stormwater Management Officer (SMO). An employee, the municipal engineer or other public official(s) designated by the Town of Cambria to enforce this local law. The SMO may also be 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.
- 2.21 303(d) List. A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes, and streams that fall short of the state surface water quality standards and are not expected to improve within the next two years.
- 2.22 TMDL. Total Maximum Daily Load.
- 2.23 Total Maximum Daily Load. The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.
- 2.24 Wastewater. Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

SECTION 3. APPLICABILITY

This law shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

SECTION 4. RESPONSIBILITY FOR ADMINISTRATION

The Stormwater Management Officer(s) (SMO(s)) shall administer, implement, and enforce the provisions of this law. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the municipality.

SECTION 5. SEVERABILITY

The provisions of this law are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this law.

SECTION 6. DISCHARGE PROHIBITIONS

- 6.1 Prohibition of Illegal Discharges.
No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in Section 6.1.1. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:
- 6.1.1 The following discharges are exempt from discharge prohibitions established by this local law, unless the Department or the municipality has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to stormdrains, uncontaminated pumped ground water, foundation or footing drains, crawl space or from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

- 6.1.2 Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time prior and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this local law.
- 6.1.3 Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.
- 6.1.4 The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

6.2 Prohibition of Illicit Connections.

6.2.1 The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

6.2.2 This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

6.2.3 A person is considered to be in violation of this local law if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

SECTION 7. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

7.1 Best Management Practices.

Where the SMO has identified illicit discharges as defined in Section 2 or activities contaminating stormwater as defined in Section 8 the municipality may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.

7.1.1 The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.

7.1.2 Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in Section 2 or an activity contaminating stormwater as defined in Section 8, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.

7.1.3 Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

SECTION 8. SUSPENSION OF ACCESS TO MS4. Illicit Discharges in Emergency Situations.

8.1 The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

8.2 Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this law may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the SMO.

SECTION 9. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person such to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the municipality prior to the allowing of discharges to the MS4.

SECTION 10. ACCESS AND MONITORING OF DISCHARGES.

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- 10.1 Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this Law, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Law.
- 10.2 Access to Facilities.
- 10.2.1 The SMO shall be permitted to enter and inspect facilities such to regulation under this law as often as may be necessary to determine compliance with this Law. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
- 10.2.2 Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this law.
- 10.2.3 The municipality shall have the right to set up on any facility such to this law such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.
- 10.2.4 The municipality has the right to require the facilities such to this law to install monitoring equipment as is reasonably necessary to determine compliance with this law. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- 10.2.5 Unreasonable delays in allowing the municipality access to a facility such to this law is a violation of this law. A person who is the operator of a facility such to this law commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this law.
- 10.2.6 If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this law, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this law or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 11. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the municipality in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

SECTION 12. ENFORCEMENT

12.1 Notice of Violation.

When the municipality's SMO finds that a person has violated a prohibition or failed to meet a requirement of this law, he/she may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- 12.1.1 The elimination of illicit connections or discharges;
- 12.1.2 That violating discharges, practices, or operations shall cease and desist;
- 12.1.3 The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- 12.1.4 The performance of monitoring, analysis, and reporting;
- 12.1.5 Prosecution for such violation under Section 12.2;
- 12.1.6 The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

12.2 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 fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed six (6) 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 (5) years, punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six (6) months, or both; and upon a 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 (\$700.00) not more than one thousand dollars (\$1,000.00) 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 such constitute a separate additional violation.

SECTION 13. APPEAL OF NOTICE OF VIOLATION

Any person receiving a Notice of Violation may appeal the determination of the SMO to the Town of Cambria Town Board within fifteen (15) days of its issuance, which shall hear the appeal within thirty (30) days after the filing of the appeal, and within five (5) days of making its decision, file its decision in the office of the municipal clerk and mail a copy of its decision by certified mail to the discharger.

SECTION 14. CORRECTIVE MEASURES AFTER APPEAL

- 14.1 If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within five (5) business days of the decision of the municipal authority upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.
- 14.2 If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

SECTION 15. INJUNCTIVE RELIEF

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this law. If a person has violated or continues to violate the provisions of this law, the SMO may petition for a preliminary or permanent injunction restraining the person for activities which would create further violations of compelling the person to perform abatement or remediation of the violation.

SECTION 16. ALTERNATIVE REMEDIES

- 16.1 When a person has violated a provision of this Law, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Municipal Attorney and concurrence of the Municipal Code Enforcement Officer, where:
- 16.1.1 The violation was unintentional;
 - 16.1.2 The violator has no history of previous violations of this Law;
 - 16.1.3 Environmental damage was minimal;
 - 16.1.4 Violator acted quickly to remedy violation;
 - 16.1.5 Violator cooperated in investigation and resolution.
- 16.2 Alternative remedies may consist of one or more of the following:
- 16.2.1 Attendance at compliance workshops;
 - 16.2.2 Storm drain stenciling or storm drain marking;
 - 16.2.3 River, stream or creek cleanup activities.

SECTION 17. VIOLATIONS DEEMED PUBLIC NUISANCE

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this law is a threat to public health, safety, and welfare, and is declared and deemed a public nuisance, and may be summarily abated or restored at the violator's expense and/or a civil action to abate, enjoin, or otherwise compel and cessation of such nuisance may be taken.

SECTION 18. REMEDIES NOT EXCLUSIVE

The remedies listed in this law are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

SECTION 19. Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State.

ORDINANCE FOR STORMWATER MANAGEMENT AND EROSION & SEDIMENT CONTROL

(An Ordinance to amend the Zoning Law/Subdivision Law/Site Plan Review Law of the Town of Cambria)

ARTICLE 1. GENERAL PROVISIONS – NEW ARTICLE XVI ZONING ORDINANCE

Section 1. Findings of Fact

It is hereby determined that:

- 1.1 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;
- 1.2 This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- 1.3 Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- 1.4 Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- 1.5 Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- 1.6 Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- 1.7 Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- 1.8 The regulation of stormwater runoff discharge 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;
- 1.9 Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

Section 2. Purpose

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

- 2.1 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;
- 2.2 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;
- 2.3 Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- 2.4 Minimize the total annual volume of stormwater runoff which flows from any specific site during the following development to the maximum extent practicable; and
- 2.5 Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

Section 3. Statutory Authority

The Town Board of the Town of Cambria has the authority to enact ordinances for the purpose of promoting the health, safety or general welfare of the Town of Cambria and for the protection and enhancement of its physical environment. The Town Board of the Town of Cambria may include in any such ordinance provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such ordinance.

Section 4. Applicability

- 4.1 This ordinance shall be applicable to all land development activities as defined in this ordinance, Article 2, Section 2.1 through 2.5.

- 4.2 The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plan 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 Cambria, engage the services of a registered professional engineer to review the plans, specifications and related document 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.
- 4.3 All land development activities subject to review and approval by the Town Board of the Town of Cambria under (subdivision, site plan, and/or special permit) regulations located within MS4 R1 District shall be reviewed subject to the standards contained in this ordinance.
- 4.4 All land development activities not subject to review as stated in section 4.3 located within MS4 R1 District 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 5. Exemptions

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

- 5.1 Agricultural activity as defined in this local law.
- 5.2 Silvicultural activity except that landing areas and log haul roads are subject to this law.
- 5.3 Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- 5.4 Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- 5.5 Land development activities for which a building permit has been approved on or before the effective date of this law.
- 5.6 Cemetery graves.
- 5.7 Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- 5.8 Emergency activity immediately necessary to protect life, property or natural resources.
- 5.9 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.
- 5.10 Landscaping and horticultural activities in connection with an existing structure.

ARTICLE 2. ZONING LAW AMENDMENT: STORMWATER CONTROL

The Zoning Law is hereby amended to include Article XI, Section 1129, a new supplemental regulation titled Stormwater Control.

Section 1. Definitions

The terms used in this ordinance or in documents prepared or reviewed under this ordinance 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, that serves as the official guide for stormwater management principles, methods or 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 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 or 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 or stormwater management practices.

Nonpoint Source Pollution - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not 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 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 definitions 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. Stormwater Pollution Prevention Plans

2.1 Stormwater Pollution Prevention Plan Requirement

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

2.2 Contents of Stormwater Pollution Prevention Plans

2.2.1 All SWPPPs shall provide the following background information and erosion and sediment controls:

1. Background information about the scope of the project, including location, type and size and project;
2. Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s);
3. Description of the soil(s) present at the site;
4. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP;
5. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
6. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
7. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
8. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

9. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
10. Temporary practices that will be converted to permanent control measures;
11. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
12. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
13. Name(s) of the receiving water(s);
14. Delineation of SWPPP implementation responsibilities for each part of the site;
15. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
16. Any existing data that describes the stormwater runoff at the site.

2.2.2 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 2.2.3 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.

2.2.3 SWPPP Requirements for Condition A, B and C:

1. All information in Section 2.2.1 of this local law;
2. Description of each post-construction stormwater management practice;
3. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
4. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
5. Comparison of post-development stormwater runoff conditions with pre-development conditions;
6. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
7. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;
8. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with the transfer of title to the property;
9. 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 ordinance.

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 ordinance.

2.4 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.

2.5 Contractor Certification

2.5.1 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."

2.5.2 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.

2.5.3 The certification statement(s) shall become part of the SWPPP for land development activity.

2.6 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 3. 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:

3.1 Technical Standards

For the purpose of this ordinance, 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:

3.1.1 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)

3.1.2 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).

3.2 Water Quality Standards

3.2.1 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 4. Maintenance and Repair of Stormwater Facilities

4.1 Maintenance During Construction

4.1.1 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 ordinance. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

4.1.2 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 inches of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and also copies to the site log book.

4.2 Maintenance Easement(s)

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or development 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 Cambria to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easements

shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Cambria.

4.3 Maintenance After Construction

The owner or operator of permanent stormwater management practices installed in accordance with this ordinance shall be operated and maintained to achieve the goals of this ordinance. Proper operation and maintenance also includes as a minimum, the following:

- 4.3.1 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 ordinance;
- 4.3.2 Written procedures for operation and maintenance and training new maintenance personnel;
- 4.3.3 Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Article 2, Section 3.2.

4.4 Maintenance Agreements

The Town of Cambria 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 A of this ordinance entitled Sample Stormwater Control Facility Maintenance Agreement. The Town of Cambria, 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 ordinance and includes adequate and perpetual access and sufficient area, by easements or otherwise, for inspection and regular maintenance.

Section 5. Severability and Effective Date

5.1 Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance 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 ordinance.

5.2 Effective Date

This ordinance shall become effective upon posting in the Town of Cambria Town Clerk's Office and publishing in the local newspaper as required by law.

ARTICLE 3. SUBDIVISION REGULATION AMENDMENT

Sections 3 and 4 of the Subdivision Regulations of the Town of Cambria are hereby amended by adding the following to the information requirements:

A. For Preliminary Subdivision Plat add:

Stormwater Pollution Prevention Plan: A Preliminary Stormwater Prevention Plan (SWPPP) consistent with the requirements of Article 1 and 2 of this ordinance shall be required for Preliminary Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this ordinance. The approved Preliminary Subdivision Plat shall be consistent with the provisions of this ordinance.

B. For Final Subdivision Plat approval add:

Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this ordinance and with the terms of preliminary plan approval shall be required for Final Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this ordinance. The approved Final Subdivision Plat shall be consistent with the provisions of this ordinance.

ARTICLE 4. SITE PLAN REVIEW REGULATION AMENDMENT

Sections 505, 605 and 704 of the Town Cambria Zoning Ordinance are hereby amended by adding the following to the information requirements:

Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this ordinance shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this ordinance. The approved Site Plan shall be consistent with the provisions of this ordinance.

ARTICLE 5. EROSION & SEDIMENT CONTROL LAW AMENDMENT

The Erosion & Sediment Control Law of the Town of Cambria is hereby amended by adding the following clause:

Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this ordinance shall be required. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this ordinance. The approved erosion control permit shall be consistent with the provisions of this ordinance.

ARTICLE 6. ZONING MAP AMENDMENT

The Zoning Map of the Town of Cambria is hereby amended by adding a new District entitled MS4 R1 District as follows:

Article IV A - MS4 R1:

Section 406 - Regulations in MS4 R1 District shall be as set forth in Sections 400, 401, 402, 403, 404 and 405 of the Zoning Ordinance of the Town of Cambria.

New Section 407 - the provisions for Stormwater Management and Erosion & Sediment Control as set forth in this ordinance shall be solely applicable to the new Zoning Map classification MS4 R1, as amended.

Section 408 - the boundary of Zoning Map classification MS4 R1 shall as established under Section 101 and 102 of Article I of the Zoning Ordinance of the Town of Cambria.

ARTICLE 7. ADMINISTRATION AND ENFORCEMENT – Add to Article XVI, new Section 1201(3)

Section 1. Construction Inspection

1.1 Erosion and Sediment Control Inspection

The Town of Cambria 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 Cambria enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

- 1.1.1 Start of construction
- 1.1.2 Installation of sediment and erosion control measures
- 1.1.3 Completion of site clearing
- 1.1.4 Completion of rough grading
- 1.1.5 Completion of final grading
- 1.1.6 Close of the construction season
- 1.1.7 Completion of final landscaping
- 1.1.8 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.

1.2 Stormwater Management Practice Inspections

The Town of Cambria 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.

1.3 Inspection of Stormwater Facilities After Project Completion

Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants or with businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records, sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

1.4 Submission of Reports

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

1.5 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 Cambria the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph 1.3.

Section 2. Performance Guarantee

2.1 Construction Completion Guarantee

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Cambria in its approval of the Stormwater Pollution Prevention Plan, the Town of Cambria 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 Cambria as the beneficiary. The security shall be in an amount to be determined by the Town of Cambria based on the 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 Cambria, 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 Cambria. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

2.2 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 Cambria 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 and 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 Cambria may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

2.3 Record Keeping

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

Section 3. Enforcement and Penalties

3.1 Notice of Violation

Then the Town of Cambria 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:

- 3.1.1 the name and address of the landowner, developer or applicant;
- 3.1.2 the address when available or a description of the building, structure of land upon which the violation is occurring;
- 3.1.3 a statement specifying the nature of the violation;
- 3.1.4 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;
- 3.1.5 a statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed;
- 3.1.6 s 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.

3.2 Stop Work Orders

The Town of Cambria 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 Cambria 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.

3.3 Violations

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

3.4 Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this ordinance shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars(\$350.00) or imprisonment for a period not to exceed six (6) 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 (5) years, punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six (6) months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed six (6) months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this ordinance 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.

3.5 Withholding of Certificate of Occupancy

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

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

Schedule A

**SAMPLE STORMWATER CONTROL FACILITY
MAINTENANCE AGREEMENT**

Whereas, the Town of Cambria ("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:

1. This agreement binds the Town 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, repaired, 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 the 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 (5) 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 thirty (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.

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5. The facility owner shall not authorize, undertaken or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Town.
6. 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.
7. The facility owner shall provide to the Town within thirty (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 Niagara 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 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 lien against the property.
10. This agreement is effective _____.

Upon a motion duly made by Councilman Bush and seconded by Councilman Foe, it was resolved to adopt the Ordinance for Stormwater Management and Erosion and Sediment Control (an ordinance to amend the Zoning Law, Subdivision Law and Site Plan Review Law)

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

PROPANE FUEL BIDS

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Blackman, it was resolved to accept the bid submitted by Wendt's Propane for the Town's supply of propane fuel, \$1.7830 (based on NYS contract fuel prices).

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

CONCERNS OF CITIZENS

There was no one present desiring to be heard on any particular matter.

TOWN CLERK REPORTS

The Town Clerk reported receipt of the following:

- Niagara County SPCA Report – October, 2007- Total animal contacts: 30
- Building Inspector's Report – October, 2007 – Total receipts: \$1,275.00
Total est. value of construction: \$225,600.00
- Request for Deputy Town Clerks to attend a Records Seminar to be held in Williamsville, NY on November 13, 2007

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Foe, it was resolved to authorize the Deputy Town Clerks to attend a Records Seminar to be held in Williamsville, NY on November 13, 2007.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

HIGHWAY SUPERINTENDENT REPORTS

The Highway Superintendent reported as follows:

- Request authorization to bid for Used Multi-Purpose Rubber Tired Excavator with a 90-day award clause

Upon a motion duly made by Councilman Bush and seconded by Councilman Blackman, it was resolved to authorize the advertising for bids for a Used Multi-Purpose Rubber Tired Excavator with a 90-day award clause.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

RESOLUTION AUTHORIZING AGREEMENT WITH NYS DEPARTMENT OF TRANSPORTATION FOR MULTI-MODEL PROGRAM – CAPITAL PROJECT

Upon a motion duly made by Councilman Blackman and seconded by Councilman Foe, it was resolved that the following resolution be approved:

RESOLUTION AUTHORIZING THE IMPLEMENTATION AND FUNDING IN THE FIRST INSTANCE OF THE STATE MULTI-MODAL PROGRAM AID (AND STATE ADMINISTERED FEDERAL PROGRAM-AID) ELIGIBLE COSTS, OF A CAPITAL PROJECT, AND APPROPRIATING FUNDS THEREFOR.

WHEREAS, a Project for the mill and repave of Cambria Road between Lower Mountain Road South and Upper Mountain Road, in the Town of Cambria, Niagara County, P.I. N. 5MA009.30A, Contract DO27476 ("the Project") is eligible for funding (under Title 23 U.S. Code, as amended) and New York State's Multi-Modal Program administered by the NYS Department of Transportation ("NYSDOT"); and

WHEREAS, the Town of Cambria desires to advance the Project by making a commitment of advance funding of the non-local share and funding of the full local share of the costs of the Project; and

NOW, THEREFORE, the Town Board, duly convened does hereby

RESOLVE, that the Town Board hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Town Board authorizes payment in the first instance 100% of the cost of construction work for the Project estimated at \$113,741.09; and it is further

RESOLVED, that the Town Highway Superintendent of the Town of Cambria be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Multi-Modal Program Funding on behalf of the Town of Cambria with NYSDOT in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal aid and all Project costs that are not so eligible, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, that this Resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was put to a vote which resulted as follows:

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

Supervisor Ellis indicated the \$50,000.00 from this grant will be encumbered and applied towards the 2008 Highway Fund budget.

BICENTENNIAL COMMITTEE

Councilman Bush reported the Committee met on November 1st with the representative from Zambelli Fireworks. They have proposed a contract price of \$7,600 for 3,140 shots for the Bicentennial Celebration on July 26th. He would like authorization to enter into a contract with them.

Upon a motion duly made by Councilman Bush and seconded by Councilwoman Kroening, it was resolved to authorize the Supervisor to enter into a contract with Zambelli Fireworks Co. for the fireworks display on July 26, 2007 at a cost of \$7,600.00.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

Councilman Bush also reported that the aluminum Bicentennial signs which are posted throughout the Town are available for sale to the public at a cost of \$35.00.

PERSONNEL POLICY/BENEFITS AMENDMENTS

The following amendments to the Personnel Policy were presented for the Board's consideration:

Page 1 – Paragraph 1 (Opening Paragraph)

The following personnel policies and benefits schedule are in effect **for non-union employees of the** Town of Cambria. They shall be adopted annually by resolution of the Town Board at the January Organizational meeting. **Union employees are subject to terms and conditions called out in the currently negotiated contract.**

Page 2 – Paragraph J, Item 1, second paragraph:

Previously retired and current part-time employees who are provided medical coverage based upon their spouses employment ,will continue to be covered after their spouse's death based upon the surviving spouse's membership in the New York State Retirement System. (see paragraph J, items 3 and 4)

Page 3, Paragraph J, Item 6

The Town of Cambria will augment the medical insurance coverage provided for full-time employees and elected officials by reimbursing for costs associated with **medical care**. This self-insurance fund will be administered by the Supervisor's Office and will reimburse up to \$300.00 for a single participant and up to \$600.00 for a family participant. Full-time employees/elected officials may file quarterly (March 31; June 30; September 30; December 31) for reimbursement by submitting receipts for **vision, dental care and/or physician co-pays** with a voucher to the Supervisor's Office for approval and processing. Reimbursement payments will be made by check from the Trust Fund on or about the end of the quarter.

Page 3, Paragraph K, item 3

Employees shall become eligible to retire from the Town upon reaching fifty five (55) years of age and having a minimum of ten (10) years employment with the Town.

Page 4, Paragraph M, Line 3

The immediate family of an employee shall include siblings, spouse, children or **step-children, grandfather, grandmother**, father, mother, or person occupying the position of a parent of the employee or of his spouse.

Upon a motion duly made by Councilman Bush and seconded by Councilman Blackman, it was resolved to approve the amendments to the Personnel/benefits schedule as presented.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

PROCUREMENT FORM – PURCHASE OF MATERIALS FOR HYDRANT INSTALLATIONS ON BAER/SHAWNEE ROADS

Upon a motion duly made by Councilman Foe and seconded by Councilman Blackman, it was resolved to authorize the purchase of materials for hydrant installations from Blair Supply Co. at a cost of \$7,702.00.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

AGREEMENT WITH MODERN DISPOSAL FOR RECYCLABLE AND MIXED SOLID WASTES

Upon a motion duly made by Councilwoman Kroening and seconded by Councilman Bush, it was resolved to authorize the Town Supervisor to enter into a contract with Modern Disposal commencing November 16, 2008 through December 31, 2010.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

Upon a motion duly made by Councilman Bush and seconded by Councilman Blackman, it was resolved to approve the Addendum to the Agreement with Modern Disposal for the Disposal of Tires Contract K-3.

Ayes: Blackman, Bush, Ellis, Foe, Kroening -Motion Carried-

PUBLIC HEARING – WATER ORDINANCE AMENDMENT

A public hearing on proposed amendments to the Water Ordinance was scheduled for December 13th at 8:00 pm.

ADDITIONAL MATTERS

- Cell Phone Use Policy was presented for the Board's consideration and review prior to the December meeting.
- Natural Gas Line along Upper Mountain Road – Supervisor Ellis indicated he has been in contact with National Fuel regarding service to this particular area of town. Robert Klavoon presented the Board with a memorandum regarding the matter.

ADJOURNMENT

The meeting was adjourned by motion made by Councilman Foe and seconded by Councilwoman Kroening. Time: 9:10 PM.

Respectfully submitted,

Lou Ann Murawski
Town Clerk

