

## § XXXX. INDIAN BROOK–CROTON GORGE INTER-MUNICIPAL WATERSHED PROTECTION OVERLAY DISTRICT (WPOD) TOWN OF CORTLANDT

**A. Findings and purpose.** The purpose of the Indian Brook-Croton Gorge Inter-Municipal Watershed Protection Overlay District is to protect the health and welfare of residents living within the boundaries of the of the Indian Brook–Croton Gorge Watershed by minimizing the potential for groundwater and surface water contamination and taking steps to limit the severity of resource degradation. The Indian Brook-Croton Gorge Watershed encompasses portions of five municipalities including the Towns of Cortlandt, New Castle, and Ossining, and the Villages of Croton-on-Hudson and Ossining. Since the actions of upstream municipalities can have as much of an impact on a downstream municipality's land and water resources as those actions carried out locally, a commitment from all municipalities within a watershed is critical to protecting the health of its resources. The intent of this ordinance is to create a partnership for the comprehensive management of the Indian Brook–Croton Gorge Watershed by creating provisions for:

1. Protecting and restoring the natural resources, most significantly the Croton River, Indian Brook Reservoir, existing wetlands and groundwater drinking sources; and
2. Developing and implementing stormwater management practices that will improve water quality; and
3. Promoting sustainable development through land use and environmental regulations; and
4. Preserving and protecting fish, wildlife, and significant habitat; and
5. Educating the public.

### **B. Definitions.**

For purposes of this §XXX, the following definitions shall apply:

**Agricultural Animal Waste:** Manure and other animal waste derived from agricultural industries.

**Aquifer:** A consolidated or unconsolidated geologic formation, group of formations or part of a formation capable of yielding a significant or economically useful amount of groundwater to wells, springs or infiltration galleries.

**Battery Energy Storage System:** A rechargeable energy storage system consisting of batteries, battery chargers, controls, power conditioning systems and associated electrical equipment. The system is typically used to provide standby or emergency power, an uninterruptable power supply, load shedding, load sharing, smoothing and dispatching of intermittent renewable energy sources, or similar capabilities. A battery energy storage system is classified as a Tier 1, Tier 2, or Tier 3 Battery Energy Storage System as follows:

- A. Tier 1 Battery Energy Storage Systems include either:
  - a) Battery energy storage systems for one to two family residential dwellings within or outside the structure with an aggregate energy capacity that shall not exceed:
    1. 40 kWh within utility closets and storage or utility spaces
    2. 80 kWh in attached or detached garages and detached accessory structures
    3. 80 kWh on exterior walls
    4. 80 kWh outdoors on the ground
  - b) Other battery energy storage systems with an aggregate energy capacity less than or

equal to the threshold capacity listed in Table 1.

| <b>Battery Technology</b>    | <b>Capacity</b> |
|------------------------------|-----------------|
| Flow batteries               | 20 Kwh          |
| Lead acid, all types         | 70 Kwh          |
| Lithium, all types           | 20 Kwh          |
| Nickel cadmium (Ni-Cd)       | 70 Kwh          |
| Nickel metal hydride (Ni-MH) | 70 Kwh          |
| Other battery technologies   | 10 Kwh          |

B. Tier 2 Battery Energy Storage Systems include battery energy storage systems that are not included in Tier 1, have an aggregate energy capacity greater than the threshold capacity listed in Table 1, and have an aggregate energy capacity less than 600 kWh.

C. Tier 3 Battery Energy Storage Systems include all the following:

- a) Battery energy storage systems with an aggregate energy capacity greater than or equal to 600kWh
- b) Battery energy storage systems with more than one storage battery technology is provided in a room or indoor area

**Chloride Salt:** Any bulk quantities of chloride compounds and other deicing compounds intended for application to roads, including mixes of sand and chloride compounds in any proportion where the chloride compounds constitute over 8% of the mixture. A bulk quantity of chloride compounds means a quantity of 1,000 pounds or more but does not include chloride compounds in a solid form, including granules, which are packaged in waterproof bags or containers which do not exceed 100 pounds each.

**Building Inspector:** The Building Inspector of the Town of Cortlandt.

**Discharge:** Any intentional or unintentional action or omission in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping into the waters of the *municipality* or onto lands from which the discharged substances or material might flow or drain into said waters, or into waters outside the jurisdiction of the municipality, when damage may result to the lands, waters, or natural resources within the jurisdiction of the municipality.

**Fertilizer:** Any commercially produced mixture generally containing phosphorous, nitrogen and potassium which is applied to the ground to increase nutrients to plants.

**Generator of Hazardous Waste:** Any person or site whose act or process produces hazardous waste.

**Groundwater:** Water contained in interconnected pores and fractures in the saturated zone in an aquifer.

**Hazardous Substance:** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics 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 and as defined in Chapter 263 Storm Sewers of the Town of Cortlandt Town Code.

**Hazardous Waste:** See 6 NYCRR Part 371 and amendments thereto for the identification and listing of hazardous wastes.

**Herbicide:** Any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed, including those substances defined as herbicides pursuant to Environmental Conservation Law § 33-0101, and amendments thereto.

**Low Impact Development (LID):** refers to systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration or use of stormwater in order to protect water quality and associated aquatic habitat.

**Manure:** Animal feces and urine.

**Mining:** Any operation which involves the breaking of the earth's surface for the purpose of extracting and removing raw natural materials (such as topsoil) from the premises for the purpose of sale or off-premises use.

**Municipal Water Supply:** Aquifers and watersheds within the Indian Brook-Croton Gorge Watershed that serve as water sources for municipal water systems.

**Municipal Water System:** A water system which provides piped water to the public for human consumption as defined and regulated by 10 NYCRR Subpart 5-1.

**Natural Recharge:** The replenishment of underground water reserves.

**Non-point Discharge:** Discharges of pollutants not subject to SPDES (State Pollutant Discharge Elimination System) permit requirements.

**Overlay Map:** The overlay map showing the boundaries of the Indian Brook-Croton Gorge Watershed Protection Overlay District.

**Pest:** Any insect, rodent, fungus or weed; or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism (except viruses, bacteria or other microorganisms on or in living man or other living animals) which the Commissioner of Environmental Conservation declares to be a pest as provided in Environmental Conservation Law § 33-0101.

**Pesticide:** Any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, including any substances defined as pesticides pursuant to Environmental Conservation Law § 33-0101 et seq. and amendments thereto.

**Petroleum:** Oil or petroleum of any kind and in any form including but not limited to oil, petroleum fuel oil, oil sludge, oil refuse, oil mixed with other waste, crude oil, gasoline, and kerosene, as defined in 6 NYCRR Part 597.1(7) and amendments thereto.

**Point Source Discharge:** Pollutants discharged from a point source as defined in Environmental Conservation Law §17-0105 and amendments thereto.

**Pollutant:** Any material or byproduct determined or suspected to be hazardous to human health or the environment as defined in Environmental Conservation Law §17-0105 and as defined in as defined in Chapter 263 Storm Sewers of the Town of Cortlandt Town Code.

**Solar Farms:** A tier three energy system as defined in Chapter 255 Solar Energy Systems of the Town of Cortlandt Town Code.

**Solid Waste:** Includes all manner of useless or unwanted or discharged solid or semisolid nontoxic,

domestic, commercial, industrial, institutional, construction and demolition waste materials, except hazardous, toxic, chemical, human or rendering wastes.

**State Pollutant Discharge Elimination System (“SPDES”):** The system established pursuant to Article 17 Title 8 of Environmental Conservation Law for issuance of permits authorizing discharges to the waters of the state of New York.

**Steep Slopes:** Within the Watershed Protection Overlay District a steep slope is defined as any slope greater than 15 percent and as defined in Chapter 259 Steep Slopes in the Town of Cortlandt Town Code.

**Stormwater Hotspots:** 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. For purposes of the Indian Brook Croton Gorge Watershed Protection Overlay District, the following land uses, and activities are deemed stormwater hotspots:

- Vehicle salvage yards and recycling facilities
- Vehicle fueling stations
- Vehicle service and maintenance facilities
- Vehicle and equipment cleaning facilities
- Fleet storage areas (bus, truck, etc.)
- Industrial sites
- Marinas (service and maintenance)
- Outdoor liquid container storage
- Outdoor loading/unloading facilities
- Public works storage areas
- Facilities that generate or store hazardous materials
- Commercial container nursery
- Other land uses and activities as designated by an appropriate review authority

**Stormwater Pollution Prevention Plan (SWPPP):** A plan for controlling stormwater runoff and pollutants from a site during and after construction activities as defined in Chapter 262 Stormwater Management and Erosion and Sediment Control of the Town of Cortlandt Town Code.

**Surface Waters of the State of New York:** Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made 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.

**Wastewater:** Water that is not stormwater, is contaminated with pollutants and is or will be discarded as defined in Chapter 263 Storm Sewers of the Town of Cortlandt Town Code.

**Wastewater Treatment System:** Any treatment plant, sewer, disposal field, lagoon, pumping station, septic system, collection and distribution pipes, on-site disposal systems and seepage units, constructed drainage ditch or surface water intercepting ditch, or other system not specifically mentioned in this definition, installed for the purpose of transport, treatment, neutralization,

stabilization, storage, or disposal of wastewater and as defined in Chapter

**Water body:** Any body of water which exists at least three months of the year as defined in Chapter 179. Freshwater Wetlands, Water Bodies and Watercourses.

**Watercourse.** Any identifiable channel through which water flows continuously or intermittently as defined in Chapter 179. Freshwater Wetlands, Water Bodies and Watercourses of the Town of Cortlandt Town Code.

**Watershed.** The geographic region within which water drains to a particular wetland, water body, or watercourse as defined in Chapter 179. Freshwater Wetlands, Water Bodies and Watercourses.

**Watershed Protection Overlay District:** Indian Brook-Croton Gorge Inter-Municipal Watershed Protection Overlay District. The Watershed for specific municipal water supplies, as designated on the official Watershed Protection Overlay District Map[1] and described in § XXX-3 of this chapter.

**Water Supply:** The groundwater resources of the watershed, or the groundwater resources used for a particular well or community water system in the Indian Brook-Croton Gorge watershed.

**Well:** Any present or future artificial excavation used as a source of public or private water supply which derives water from the interstices of the rocks or soils which it penetrates including bored wells, drilled wells, driven wells, infiltration galleries, and trenches with perforated piping, but excluding ditches or tunnels, used to convey groundwater to the surface.

**Wellhead Buffer:** An area surrounding a municipal water system well, designated as a critical area for protecting the well, created by a two hundred foot radius around each protected well.

**Wetland Buffer Areas:** An area surrounding a wetland, watercourse or water body that is subject to the regulations specified herein. Within the Indian-Brook Croton Gorge Watershed Protection Overlay District it is defined as the land area within 150 linear feet along the surface, away from, and around the perimeter of the outermost boundary of a wetland or watercourse or water body. A buffer is intended to provide protection from human activity and other encroachment associated with development.

### C. Applicability.

1. The provisions of this section shall be applicable to all new land use, construction, or subdivision. Existing land use, construction, improvements and subdivisions within the Indian Brook-Croton Gorge Inter-Municipal Watershed Protection Overlay District. Existing land use, construction, improvements and subdivision initiated or completed prior to the effective date of adoption of this chapter are not subject to the requirements herein.
2. These prohibitions, restrictions, and principles shall be applied within the Watershed Protection Overlay District through the existing building permit, site plan review, and code enforcement procedures of each municipality in the Indian Brook-Croton Gorge Inter-Municipal Watershed Protection Overlay District by its officers and boards. Additionally, all development in the watershed shall be in accordance with New York State Department of Environmental Conservation regulations related to environmental protection and stormwater management.

3. Site plan review by the agency having approving jurisdiction is required for all new activities or property uses in the Watershed Protection Overlay District, except one- and two-family residences, and shall take into consideration the requirements and principles outlined in this chapter.
4. Within the Watershed Protection Overlay District, all major subdivisions shall be designed as a conservation/cluster subdivision with a minimum of 30% of the parcel permanently preserved. Town Board authorization of a cluster subdivision proposed within the WPOD is not required.

#### **D. Boundaries.**

1. The boundaries Indian Brook-Croton Gorge Inter-Municipal Watershed Protection Overlay District is established on a map entitled "Indian Brook–Croton Gorge Inter-Municipal Watershed Protection Overlay District, Westchester County, NY 2023" (watershed map), which is adopted simultaneously herein. The areas included encompass the entire watersheds of Indian Brook and the Croton Gorge and their tributaries which are sub-watersheds of the larger Croton Bay Watershed. The Indian Brook-Croton Gorge Watershed includes watersheds and aquifers that function as sources of supply for municipal water systems. The particular municipal water supplies protected under this chapter include:
  - i. **Indian Brook Reservoir/Indian Brook Basin** - serves as a drinking water source for portions of the Town and Village of Ossining, and portions of the Town of New Castle
  - ii. **Croton Gorge Basin and Croton River Aquifer** - a water source for the Village of Croton-on-Hudson water system and a water source for individual wells within portions of the Town of Cortlandt and the Town of New Castle.
2. Where uncertainty exists as to the boundaries shown on the Watershed Map, the following shall apply:
  - i. Where area boundaries are indicated as approximately following a street, railroad, or highway line or centerlines thereof, such lines shall be construed as said boundaries.
  - ii. Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a survey plat prepared by a registered land surveyor may be submitted to the municipality as evidence that one or more properties along these boundaries do not lie within the protected area.
  - iii. Where the boundaries lie at a scaled distance of more than 25 feet from any parallel lot line, the boundaries shall be determined by use of the scale appearing on the watershed map.
  - iv. Where the boundaries lie at a scaled distance of less than 25 feet from any parallel lot line, the boundaries shall be construed to be the lot line.
  - v. When a large parcel is bisected by the boundary, the applicant may submit a detailed topographical map of the property as documentation of those portions of the property that are within as well as outside the boundary.
  - vi. Where other uncertainty exists, the authorized Approval Agency shall interpret the Watershed Map as to location of such boundaries. The municipality may, at the applicant's expense, consult with agencies or others in determination of a project's location within a protected area and applicability of these standards.

**C. Effect of district.** Within the WPOD, all underlying land use district rules remain in effect, except as they are specifically modified by this Chapter. In case of a conflict between this Chapter and the underlying use regulations, the more restrictive shall control. Nothing in this Chapter shall be construed to allow uses that are not permitted by the underlying land use district.

**D. Prohibited uses and practices.** The following uses shall be prohibited in the WPOD District:

1. Disposal of hazardous material or solid waste.
2. Treatment of hazardous material, except remediation programs authorized by a government agency for treating hazardous material that existed on the site prior to the adoption of this land use law
3. The creation or manufacturing of any hazardous materials
4. Dry cleaning, dyeing, printing, photo processing, and any other business that stores, uses, or disposes of hazardous material, unless all facilities and equipment are designed and operated to prevent the release or discharge of hazardous material.
5. Disposal of septage or septic sludge
6. Automobile service and gas filling stations
7. New underground storage of petroleum
8. Petroleum product pipelines
9. Solar Farms
10. Vehicle Storage Yards/Truck terminals
11. Contractor's Yards
12. The bulk storage of deicing salt, except in municipally-approved impervious structures
13. Installation of dams, water diversions, and stream channelization except undertaken directly in relationship to drinking water resources.
14. Clearing of more than 30,000 square feet of vegetation without a site plan approval.
15. Landfill of domestic, industrial, construction and demolition, or hazardous materials.
16. Junkyards
17. Land spreading of sludge or ash, including domestic wastewater or waste industrial process material, except for ash from individual residential heating equipment.
18. New dry wells directly connected to any floor drain, garage drain, wash basin or sink.
19. New fuel storage facilities in any amount greater than 660 gallons.
20. Commercial trash containers and dumpsters which are not under a roof or which are located so that leachate from the receptacle could escape unfiltered and untreated.
21. Any mining activities including consolidated and solution mining activities, unless permitted by the New York State Department of Environmental Conservation
22. Point source discharges, other than discharges authorized by permits issued by the New York State Department of Environmental Conservation.
23. Tier 3 Battery Energy Storage Systems

**E. Performance criteria.**

1. All construction activities (as defined by the agency having approving jurisdiction) that involve soil disturbances greater than 5,000 sf shall comply with the New York State Department of Environmental Conservation (NYSDEC) Stormwater Manual dated 2014. All construction activities shall be required to meet the standards set forth in the SPDES General Permit for construction activities that involve soil disturbances greater than 5,000 sf and all stormwater pollution prevention plans shall meet water quantity and quality controls for all new impervious surfaces as outlined below.

2. Any new construction activity which creates new impervious surfaces greater than 1,000 sf shall be treated for water quality volume (WQv), peak flows (cfs) and volume (cf) as outlined in the New York State Department of Environmental Conservation (NYSDEC) Stormwater Management Design Manual, latest edition, and Chapter 262. Stormwater Management and Erosion and Sediment Control of the Town of Cortlandt Town Code and include enhanced requirements for pollutants of concern as outlined and incorporated in the Stormwater Management Design Manual, latest edition.
3. Low Impact Development (LID) Practices - shall be provided to the extent feasible for all new or redevelopment within the watershed including the use of bioretention facilities, rain gardens, vegetated rooftops, rainwater harvesting, and permeable pavements.
4. Pollutant loadings will not damage any wetland, waterbody or watercourse.
5. Grading and removal of vegetation is minimized for all construction.
6. Septic systems must be pumped at least once during every 3-year period.
7. The storage and stockpiling of manure and other animal waste for use in agricultural operations, agricultural use of fertilizers and land application of manure, and pesticide (including herbicide) storage and use shall comply, to the maximum extent possible, with the practices detailed in the most current versions of "Controlling Agricultural Nonpoint Source Water Pollution in New York State - A Guide to the Selection of Best Management Practices to Protect Water Quality," published by the Bureau of Technical Services and Research, Division of Water, or "Agricultural Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State.
8. Fertilizers, pesticides, and herbicides shall not be applied in a manner or at a rate which contributes to or causes a contravention of the water quality standards set forth in 6 NYCRR 700 to 705.
9. Pesticide storage and use (including herbicides) are subject to the approval of, and shall comply with the regulations of, the New York State Department of Environmental Conservation.
10. Disposal of pesticide, including herbicides, is prohibited unless authorized by a permit issued by the New York State Department of Environmental Conservation.
11. Disposal of water used for pesticide makeup water or for washing of pesticide equipment is prohibited unless authorized by a permit issued by the New York State Department of Environmental Conservation.
12. Use of streams as sources of water for the washing of equipment used in conjunction with pesticide or herbicide application is prohibited.
13. Lawn chemicals (pesticides and herbicides) shall not be applied within 25 linear feet of any watercourse, or within a wellhead buffer area.
14. Storage of chloride salts and coal shall be in structures designed to minimize contact with precipitation and constructed on low-permeability pads designed to control seepage and run-off.
15. Chloride salt application. Deicing chloride salt use is restricted to the minimum amount needed for public safety as determined by the Town Highway Superintendent.
16. Any petroleum storage tank(s) installed or replaced after the effective date of this chapter must be aboveground or fully visible for inspection within the basement or other interior space, and secondary containment is required for all new tanks.

**F. General Provisions for Wetlands, Watercourses, Water Bodies, Wetland Buffers Areas and Steep Slopes.** These regulations apply to all wetlands, watercourses, water bodies and buffer areas as defined in Chapter 179. Freshwater Wetlands, Water Bodies and Watercourses of the Town of Cortlandt Town Code and located within the Indian Brook-Croton Gorge Inter-Municipal Watershed Protection Overlay District (regardless of size).

1. Development of wetlands, watercourses, water bodies and buffer areas are to be avoided except where no reasonable alternative exists or where the applicant would otherwise suffer undue hardship if a permit is not issued. In the event such development is approved, impacts shall be minimized to the greatest extent practicable, and a mitigation plan shall be prepared.
2. All applications for permits to disturb wetlands, watercourses, water bodies and buffer areas in the Indian Brook-Croton Gorge Inter-Municipal Watershed Protection Overlay District shall follow the requirements contained in Chapter 179. Freshwater Wetlands, Water Bodies and Watercourses of the Town of Cortlandt Town Code unless a more stringent or restrictive requirement is listed in this section.
3. As a condition of the granting of any wetland permit within the Indian Brook-Croton Gorge Inter-Municipal Watershed Protection Overlay District, the approving authority shall require that the applicant submit a mitigation plan per the requirements listed in Chapter 179. Freshwater Wetlands, Water Bodies and Watercourses of the Town of Cortlandt Town Code.
4. Within the Indian Brook-Croton Gorge Inter-Municipal Watershed Protection Overlay District, the applicant shall be required to create replacement wetlands or restore, recreate or enhance existing wetlands or wetland buffer areas equal to twice the area of wetland or wetland buffer directly impacted.
5. Within the Indian Brook-Croton Gorge Inter-Municipal Watershed Protection Overlay District, no disturbance within 150 feet of any wetlands, watercourses, or waterbodies shall be permitted. Buffers shall be regulated as follows:

#### Buffers

- i. Buffers along wetlands and waterbodies (as defined in Chapter 179. Freshwater Wetlands, Water Bodies and Watercourses of the Town of Cortlandt Town Code) must extend a minimum of 150 feet horizontally away from and paralleling the delineated wetland boundary.
- ii. Buffers along watercourses (Chapter 179. Freshwater Wetlands, Water Bodies and Watercourses of the Town of Cortlandt Town Code) extend a minimum of 150 feet horizontally away from and paralleling the highwater mark or level of bank full discharge. In undeveloped areas, the buffer shall also be extended to include the 100 year floodplain.
- iii. Buffers along steep slopes (Chapter 179. Freshwater Wetlands, Water Bodies and Watercourses of the Town of Cortlandt Town Code) shall extend 150 feet horizontally plus 2 ft per 1% of slope.

#### Buffer vegetation

- i. Planting within buffers shall be based on a site-specific planting plan designed to maximize the buffer's capacity to intercept stormwater runoff, stabilize banks, improve water quality, and provide habitat. Planting shall incorporate:
  - a. a diverse mix of perennial native species
  - b. trees and shrubs with dense ground cover to protect soil
  - c. salt tolerant plants in areas where road salt is used
  - d. steep slopes: native perennial grasses; trees and woody shrubs along the water's edge
  - e. bank erosion control: plants with fibrous root systems; deep-rooted woody species

#### Allowable buffer uses

- i. unpaved foot paths, recreational access, revegetation planting and mitigation planting per the requirements listed above, manual removal of invasive species, removal of trees that pose a safety hazard.

Restricted buffer uses

- i. new impervious surfaces, construction of roads, structures or pipelines
- ii. removal of vegetation or trees (except for safety purposes)
- iii. excavation and grading
- iv. additional lawn
- v. constructed stormwater measures are to be used outside the buffer to direct stormwater sheet flow to the buffer
- vi. mining
- vii. septic tank drain fields
- viii. agriculture and livestock
- ix. de-icing application of road salt
- x. waste disposal or dumping of trash, yard waste and debris
- xi. application of pesticides, herbicides and fertilizers
- xii. dams, water diversions, stream channelization
- xiii. All other activities not specifically listed above are subject to Federal, State and local permit procedures

## 6. Special provisions.

These special provision apply to new development in previously developed areas where there is no available area for required buffer:

- i. The protected buffer shall be as wide as the site allows, subject to the above-listed conditions where possible, and maintaining as much vegetated cover as possible within 150 feet of wetland or watercourse, especially in areas where bank erosion is evident.
- ii. Alternative or additional conservation practices (including low impact development (LID)) to reduce runoff load into a wetland or watercourse shall be applied.

**G. Wellhead Buffers and Stormwater Hotspots.** Within the Indian Brook-Croton Gorge Inter-Municipal Watershed Protection Overlay District, no disturbance within 200 feet of any wellhead or stormwater hotspot shall be permitted. Wellhead buffer areas and stormwater hotspots shall be protected as follows:

- 1. Construction activities within 200 feet of a wellhead is prohibited except those used for municipal water system purposes such as pumping, treatment, and control facilities and equipment. Wellhead buffer areas shall not be used for any purpose other than municipal water supply, except when a permit has been issued by the Town Board for nonintrusive recreation uses such as picnicking, nature study, fishing, or hiking. The wellhead buffer shall be posted prohibiting trespass for any purpose except as permitted in this subsection.
- 2. Buffers adjacent to stormwater hotspots (as defined above) shall extend 200 feet horizontally away from hotspot source.

**H. Enforcement.**

- 1. Compliance orders. The Director of Code Enforcement/Town Engineer/Building Inspector is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of this chapter. Upon finding that any such condition or activity exists, the Director of Code Enforcement/Town Engineer/Building Inspector shall issue a compliance order.
  - i. The compliance order shall:
    - a. Be in writing;

- b. Be dated and signed by the Director of Code Enforcement/Town Engineer/Building Inspector;
  - c. Specify the condition or activity that violates this chapter
  - d. Specify the provision or provisions which is/are violated by the specified condition or activity;
  - e. Specify the period of time which the Director of Code Enforcement/Town Engineer/Building Inspector deems to be reasonably necessary for achieving compliance;
  - f. Direct that compliance be achieved within the specified period of time; and
  - g. State that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.
- 2. The Department of Code Enforcement shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by registered mail. The Department of Code Enforcement shall be permitted, but not required, to cause the compliance order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.

**I. Penalties for offenses.**

- 1. Any person who shall violate any provision of this chapter shall be subject to the applicable penalties under this chapter, and any other applicable code or ordinance, without limitation. The chapter penalties are:
  - i. Fines. The person who violates any provision of this chapter shall be liable for a civil penalty of not more than \$250 for each day or part thereof during which such violation shall be continued.
  - ii. Alternatively, or in addition to any action to recover civil penalties provided by Subsection i, the Town Attorney may institute any appropriate action or proceedings to prevent, restrain, enjoin, correct or abate any violation of or to enforce any provision of this chapter.

**J. Severability.**

Should any section or provision of this article be declared, adjudged or ordered null, void, voidable, or invalid by a court of competent jurisdiction, such finding of invalidity shall not affect the validity of the remaining portions of this article.

**K. When effective.**

This chapter shall take effect upon filing with the New York Secretary of State.