

MEETING NO. 25  
REGULAR NO 23

REGULAR BOARD MEETING

DEC. 3, 2007  
7:39 P.M.

The Regular Meeting of the Alden Town Board was held in the Town Hall at 3311 Wende Road on Monday, December 3, 2007 at 7:30 PM. Supervisor Smith called the Meeting to Order. Councilman Weber led in the Pledge of Allegiance. The roll call was taken by the Town Clerk.

PRESENT: Ronald L. Smith, Supervisor  
Mary Riddoch, Councilwoman  
William Weber, Councilman  
Ronald L. Snyder, Councilman  
Arlene A. Cooke, Councilwoman  
RECORDING SECRETARY: Dorothy L. Bycina, Town Clerk  
OTHERS PRESENT: Jennifer Strong, Town Attorney  
Michael Metzger, Town Engineer  
Jerry Sanok, Planning Board

Councilwoman Riddoch moved and Councilman Weber seconded the Motion to approve the Minutes & Synopsis of the Regular Meeting of November 19, 2007. Unanimously carried

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN COOKE AND SECONDED BY COUNCILMAN SNYDER TO WIT;

ACCOUNT	ABST #1	ABST #2	TOTAL
GENERAL FUND "A"		6,819.70	75,053.58
HGHWY FUIND "DA/DB"		133.02	33,482.30
PAART TOWN FUND "B"		8,348.84	24,198.45
WD#2 FUND "WB"			375.20
WD#3 FUND "WC"			2,063.60
WD#4 FUND "WD"			1,299.80
SPECIAL FIRE PROT"SF"		1,200.00	1,359.18
SD#2 FUND "SA"		25.29	358.75
TRUST & AGCY FUND "T"		185.00	185.00
SPECIAL REFUSE FUND :SR:			30,242.43
STREET LIGHTING FUND "SL"			9,012.07
TOTAL	160,918.51	16,711.85	177,630.36
Abst 1A SD#2		3,299.50	3,299.50
ADJUSTED TOTAL	160,918.51	20,011.35	180,929.86
	(PAID 11/19/07)		

UPON ROLL CALL VOTE THE FOREGOING WAS UNANIMOUSLY ADOPTED.

Councilman Weber moved and Councilwoman Riddoch seconded the Motion to enter into the following Public Hearings.

7:32 PM PUBLIC HEARING re LOCAL LAW #3/07  
7:35 PM PUBLIC HEARING re LOCAL LAW #4/07  
7:38 PM PUBLIC HEARING re LOCAL LAW #5/07  
7:41 PM PUBLIC HEARING re LOCAL LAW #6/07  
7:44 PM PUBLIC HEARING re LOCAL LAW #7/07  
7:47 PM PUBLIC HEARING re LOCAL LAW #8/07  
7:50 PM PUBLIC HEARING re LOCAL LAW #9/07  
7:53 PM PUBLIC HEARING re LOCAL LAW #10/07

The Town Clerk read each of the Public Hearing Notices that were published in the Alden Advertiser.

Attorney Jennifer Strong explained the Laws and stated that Local Law #8 & Local Law #9 are required by the State and in order for the Town to adopt these two Laws, it is necessary to adopt Local Laws #3,4,5,6 & 7.

The Supervisor opened the floor for discussion

Paul Loehr/Henskee Rd questioned the area that are under an acre/MS-4 – Attorney Strong stated that if you are draining your pool or watering Flowers – these are not covered by the Law

James Guarino/North Rd questioned if there are any open lots in the MS-4 area. – Town Engineer stated only in a small area.

Ronald Rebman/Broadway questioned why this targeted the Bonnie Lake area. Attorney Strong stated that this is the most populated area. Town Engineer added that the Town had the options to include the entire Town or just the area that is designated as the MS-4 area.

Keith Stone/Crittenden Rd talked about the added responsibility of the Town to enforce these Laws. Town Engineer stated that the State is relinquishing their responsibility of the MS-4 area – forcing the Town to take it over. Engineer Metzger added that the fine for violation of our SPEDS is \$37,500 per day.

James Guarino/Henskee Rd questioned the language on LL#3,4,5,6 & 7. Attorney Strong stated that we added to these Laws that they would have to comply with the Town of Alden's Illicit Discharge in connection with the separate Storm Sewer System Law and the Town of Alden Storm Water Management & Erosion and Sediment Control Law. Mr. Guarino questioned if the Periwinkle Subdivision would be included in this – the Engineer stated that this Subdivision would be grandfathered in.

Councilwoman Riddoch moved and and Councilman Weber seconded the Motion to call the Public Hearings to a close. Unanimously Carried.

Superviosr Smith “Welcomed” the Students from Alden Central to the Meeting.

#### BUSINESS FROM THE FLOOR

James Guarino/Henskee expressed his dissatisfaction with the Board re the Farm Protection Law. Supervisor Smith stated that the Board is working on the Updated Master Plan will begin in 2008 and hope to include the Farmland Protection Plan as part of this Plan. We are risking that the Grant may not be available at that point but to apPly for that Grant with a 25% match we need to first determine the consensus as for the Master Plan update and whether or not the Town wants to go forward with the Farmland Protection Plan before we start applying for Grant Money for that purpose only. Mr. Guarino questioned if there is going to be an Electronic Format available – Supervisor Smith stated that we would want this to be in the start of 2008.

Paul Loehr questioned the previous Work Session re the FarmLand Protection Plan. Supervisor Smith stated that there was some Grant Money available to study the Farmland Protection Plan and the implementation of the Farmland Protection Law We had a meeting with Jason Engle/Marilla and Sue Barnes. It is a separate Grant from the Master Plan Grant and the opinion of the Board at the end of the discussion was that we could include some discussion about Farm Land and Farm Land Protection within the framework of the Master Plan. We definitely want to have a Farm Land Protection Plan in place and thought this should be done as part of the entire Master Plan Update rather than a single issue. Therefore the decision was not to apply at this time for from Farm Land Protection money but wait if there is another round for Farm Land Protection Grant money or if the funding now is still available we hopefully sometime in 2008 can apply for additional money. Mr. Loehr doesn't see the reason for putting this off. Supervisor Smith stated that what we gain is the ability to look at the entire issue of Updating the Master Plan at one time instead of going off in one direction saying we want to implement a Farm Land Protection Plan and without updating a Master Plan that

is 35 years old. There was no huge consensus that the need is there to do Farm Land Protection. We want to study the entire issue and not spend Town money before we have decided that the FarmLand Protection is an issue with the Town of Alden. After a discussion re the Grant, Supervisor Smith stated that he has been told by our Grant writer that she hopes to have unofficial word by the end of the year if there is funding that we will get in the Spring of 2008

#### COMMUNICATIONS

Councilwoman Cooke reported that she is working with Zoladz to design a Patch for the Disaster Program that will include the Town Seal. She referred to an article in the paper re Clean Energy.

#### NEW BUSINESS

Councilwoman Riddoch moved and Councilman Weber seconded the Motion to renew the HOP for Deneda Gasiiecki/12615 W Main St. Unanimously carried.

Councilman Weber moved and Councilwoman Riddoch seconded the Motion to renew the HOP for Joseph Bove/11607 Genesee St. Unanimously carried.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SNYDER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN WEBER TO WIT;

WHEREAS, the Town Board of the Town of Alden is considering the adoption of "Local Law No. 3 of the Year 2007, entitled "Amendment of the Landfill Management Law of the Town of Alden", which will add provisions to the Landfill Management Law to provide for the health, safety, and general welfare of the citizens of the Town of Alden 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; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden

WHEREAS, the Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA; and

WHEREAS, the Town Clerk provided notice to the Erie County Division of Planning on November 6, 2007, for this Proposed Action, as required under Section 239-m of the General Municipal Law and a "no recommendation" was received from the Division on November 9, 2007; and

WHEREAS, the New York State Environmental Quality Review Act requires the Town to determine the Lead Agency status and the Town Board did assume Lead Agency status on November 5, 2007; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the Code of the Town of Alden, Chapter 9D, the Town Board has prepared the Short Form Environmental Assessment Form, which is now on file with the Town Board and the Town's SEQR Intake Officer; and

WHEREAS, the Town of Alden Planning Board has reviewed the Proposed Action and on November 13, 2007, recommended to the Town Board the approval of the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board did determine that the Proposed Action is an Unlisted Action under SEQRA.

2. The Town Board did determine that it should be the Lead Agency for all environmental review of the Proposed Action.

3. The Town of Alden, as Lead Agency, hereby determines that the unlisted action described in the attached SEQR NEGATIVE DECLARATION, NOTICE OF DETERMINATION OF NON-SIGNIFICANCE, which attached notice is hereby made a part of this Resolution, will not have a significant effect on the environment and that an environmental impact statement is not required to be prepared with respect to said Proposed Action.

4. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board of the Town of Alden on December 3, 2007, and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR SMITH, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN WEBER TO WIT;

WHEREAS, the proposed Local Law No. 3 of the Year 2007 entitled "Amendment to the Landfill Management Law for the Town of Alden" was introduced to the Town Board on October 15, 2007;

WHEREAS, a resolution was duly adopted by the Alden Town Board for a public hearing to be held by said Town Board on December 3, 2007;

WHEREAS, notice of said public hearing were duly advertised in the Alden Advertiser, the official newspaper of the Town of Alden;

WHEREAS, said public hearing was duly held on December 3, 2007, and all persons with comments and questions heard;

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to Article 8 State Environmental Quality Review Act (SEQRA) it has been determined by the Alden Town Board, as Lead Agency, that adoption of said proposed Local Law is an Unlisted Action and will not have a significant effect upon the environment;

WHEREAS, the neighboring municipalities were given notice of the proposed Local Law on November 6, 2007;

WHEREAS, the Erie County Division of Planning gave a "no recommendation" to the proposed Local Law on November 9, 2007, pursuant to section 239-m of the General Municipal Law;

WHEREAS, the Planning Board recommended the approval of the local law on November 13, 2007;

WHEREAS, the Alden Town Board, after due deliberation, finds it in the best interest of said the Town of Alden to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS,

1. That the Alden Town Board hereby adopts said Local Law No. 3 of the Year 2007 entitled "Amendment to the Landfill Management Law for the Town of Alden", a copy of which is attached hereto and made a part of this resolution,

2. That the Alden Town Clerk enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Alden, and to give due notice of the adoption of said Local Law to the Secretary of State of New York, post the same on the Town Bulletin Board and publish the same in the Alden Advertiser.

3. This Resolution shall take effect immediately.

## SECTION 1. TITLE

This Law shall be known as Local Law No. 3 of the Year 2007 entitled “Amendment to the Landfill Management Law for the Town of Alden”.

## SECTION 2. PURPOSE

The purpose of this local law is to add additional provisions to the Landfill Management Law codified as Chapter 5 of the Code of the town of Alden to amend the Town Code to provide for the health, safety, and general welfare of the citizens of the Town of Alden through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS-4) to the maximum extent practicable as required by federal and state law; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden.

## SECTION 3. AUTHORITY

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

## SECTION 4. AMENDMENT OF CODE

The Code of the Town of Alden is amended by this Local Law No. 3 of the Year 2007 as follows:

Chapter 5 of the Code of the Town of Alden as originally adopted on December 21, 1981, as Local Law No. 5 of the Year 1981 and is hereby amended to read as follows:

Section 5-4 is replaced and amended to read as follows:

§ 5-4 Purpose: construal of provisions.

A. This local law established minimum standards for the design, construction, monitoring, operation and reclamation of a landfill, authorizes the inspection of landfill and waste disposal operations, limits the materials that may be deposited in a landfill and fixes penalties for violations.

B. All applicable regulations under the New York State Environmental Conservation Law shall be considered as part of this local law.

C. Whenever any provision of this local law is a variance or in conflict with any other provisions hereof or any other statute, ordinance or regulation covering any of the same subject matter, the more restrictive provision or the one imposing the higher standard shall govern.

D. The requirements of the Town of Alden Law to Prohibit Illicit Discharges, Activities and Connection to Separate Storm Sewer System Law and the Town of Alden Law Stormwater Management and Erosion and Sediment Control Law of the Alden town Code must be followed.

## SECTION 5. SEPARABILITY

If any section, subsection phrase, sentence or other portion of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, sicy portion

shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

#### SECTION 6. APPLICABILITY

This chapter shall be construed as an exercise of the powers of such town to regulate, control and restrict the use of buildings, structures and land in order to promote the health, safety, morals or general welfare of the community, including the protection and preservation of the property of the town and of its inhabitants and of peace and good order, for the benefit of trade and all other matters related thereto.

#### SECTION 7. EFFECTIVE DATE

This local law shall take effect immediately upon filing with the Secretary of State of New York.

The foregoing Resolution was duly put to a vote on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SNYDER, SECONDED BY COUNCILWOMAN COOKE TO WIT;

WHEREAS, the Town Board of the Town of Alden is considering the adoption of "Local Law No. 4 of the Year 2007, entitled "Amendment to the Dumping Law for the Town of Alden", (the "Proposed Action") which will add provisions to the Dumping Law to provide for the health, safety, and general welfare of the citizens of the Town of Alden 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; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden.

WHEREAS, the Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA; and

WHEREAS, the Town Clerk provided notice to the Erie County Division of Planning on November 6, 2007, for this Proposed Action, as required under Section 239-m of the General Municipal Law and a "no recommendation" was received from the Division on November 9, 2007; and

WHEREAS, the New York State Environmental Quality Review Act requires the Town to determine the Lead Agency status and the Town Board did assume Lead Agency status on November 5, 2007; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the Code of the Town of Alden, Chapter 9D, the Town Board has prepared the Short Form Environmental Assessment Form, which is now on file with the Town Board and the Town's SEQR Intake Officer; and

WHEREAS, the Town of Alden Planning Board has reviewed the Proposed Action and on November 13, 2007, recommended to the Town Board the approval of the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

5. The Town Board did determine that the Proposed Action is an Unlisted Action under SEQRA.

2. The Town Board did determine that it should be the Lead Agency for all environmental review of the Proposed Action.

3. The Town of Alden, as Lead Agency, hereby determines that the unlisted action described in the attached SEQR NEGATIVE DECLARATION, NOTICE OF DETERMINATION OF NON-SIGNIFICANCE, which attached notice is hereby made a part of this Resolution, will not have a significant effect on the environment and that an environmental impact statement is not required to be prepared with respect to said Proposed Action.

6. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board of the Town of Alden on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SNYDER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN COOKE TO WIT;

WHEREAS, the proposed Local Law No. 4 of the Year 2007 entitled "Amendment to the Dumping Law for the Town of Alden" was introduced to the Town Board on October 15, 2007;

WHEREAS, a resolution was duly adopted by the Alden Town Board for a public hearing to be held by said Town Board on December 3, 2007;

WHEREAS, notice of said public hearing were duly advertised in the Alden Advertiser, the official newspaper of the Town of Alden;

WHEREAS, said public hearing was duly held on December 3, 2007, and all persons with comments and questions heard;

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to Article 8 State Environmental Quality Review Act (SEQRA) it has been determined by the Alden Town Board, as Lead Agency, that adoption of said proposed Local Law is an Unlisted Action and will not have a significant effect upon the environment;

WHEREAS, the neighboring municipalities were given notice of the proposed Local Law on November 6, 2007;

WHEREAS, the Erie County Division of Planning gave a "no recommendation" to the proposed Local Law on November 9, 2007, pursuant to section 239-m of the General Municipal Law;

WHEREAS, the Planning Board recommended the approval of the local law on November 13, 2007;

WHEREAS, the Alden Town Board, after due deliberation, finds it in the best interest of said the Town of Alden to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS,

1. That the Alden Town Board hereby adopts said Local Law No. 4 of the Year 2007 entitled "Amendment to the Dumping Law for the Town of Alden", a copy of which is attached hereto and made a part of this resolution,

2. That the Alden Town Clerk enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Alden, and to give due notice of the adoption of said Local Law to the Secretary of State of New York, post the same on the Town Bulletin Board and publish the same in the Alden Advertiser.

3. This Resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on December 3, 2007 and was unanimously adopted.

#### SECTION 1. TITLE

This Law shall be known as Local Law No. 4 of the Year 2007 entitled “Amendment to the Dumping Law for the Town of Alden”.

#### SECTION 2. PURPOSE

The purpose of this local law is to add additional provisions to the Dumping Law codified as Chapter 5A of the Code of the town of Alden to amend the Town Code to provide for the health, safety, and general welfare of the citizens of the Town of Alden 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; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden

#### SECTION 3. AUTHORITY

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

#### SECTION 4. AMENDMENT OF CODE

The Code of the Town of Alden is amended by this Local Law No. 4 of the Year 2007 as follows: Chapter 5A of the Code of the Town of Alden as originally adopted on September 21, 1992 is hereby amended to read as follows:

Section 5A-1 is hereby replaced and amended to read as follows:

##### §5A-1. Dumping of material outside landfills.

A. No person, firm, association or corporation shall dump, pump or deposit or permit to be dumped, pumped or deposit any garbage, rubbish, trash, decaying vegetable matter or organic waste of any kind, toxic or chemical wastes, radioactive materials or sewage treatment plant sludge or residue, building materials, construction and demolition material, rubble, house parts, tree limbs, roots or stumps, sand, gravel, rock or soil of any nature of discarded motor vehicles, trailers or parts therefrom unless a permit for the same has been applied for and issued by the Town Board of the town of Alden, pursuant to this ordinance, on any lot or parcel of land within the Town of Alden, whether said land is vacant, improved or unimproved in nature, excepting those activities as follows:

- 1) Septic systems for which an Erie County Health Department permit has been issued.
- 2) Agricultural or horticultural activities which, where properly zoned involve the regular and customary deposition of materials on the ground.
- 3) Quarry operations and other aggregate activities properly zoned, which involve dumping and depositing materials as a regular and customary activity.
- 4) Depositing of topsoil not materially altering existing grades and for landscape purposes

5) Depositing of dredge and excavated materials and fill by the Town of Alden Highway Department where the Highway Superintendent determines that the placement of said materials will not affect any stream, creek or drainage system or the floodway thereto.

B. No person, firm, association or corporation shall dump or deposit any of the materials in Subsection A or any material or fill of any nature into the streambed of any drainage ditch, creek, stream, waterway or watercourse of any nature be placed any area designated as a floodplain on the Housing and Development Floodplain Map, nor shall materials of fill nature be placed along the banks of the streambeds, drainage ditches streams, creeks or waterways and watercourses by dumping or depositing by any means whatsoever unless a permit for the same has been applied for and by the Town Board of the Town of Alden

C. No person, firm association or corporation shall pipe drainage ditch, stream, creek, waterway or watercourse nature, unless a permit for the same is issued by the Town Board of the Town of Alden.

D. Permit required; permit fee; issuance.

1) Application for a permit shall be made by the property owner to the Town Clerk of the Town of Alden and shall contain a description of the plot of land, the name and address of the property owner, the zoning classification, the purpose of filling the property and the duration of such activity.

2) Upon presentation to the Town Board, the Town Board shall refer such application to the Township Building Inspector and Town Engineer of Planning Board.

3) The Building Inspector, Town Engineer or Planning Board may require the applicant to submit a site plan, the topography of the property in question, drainage of the property, location of streams or drainage ditches thereon and on adjacent lots, property abutting the applicant's property, present development on the property and proposed development thereon.

4) The Building Inspector and Town Engineer shall make recommendations to the Town Board within fifteen (15) days after such referral or the Planning Board will make recommendation to the town Board within thirty (30) days after such referral, or the town Board may act on the application which the Building Inspector's, Town Engineer's or Planning Board's recommendation.

5) The permit fee, payable to the Town Clerk at the time an approved permit is issued, shall be in the amount of one hundred dollars (\$100)

6) The Town Clerk of the Town of Alden shall issue the permit after the same has been approved by the Town Board. Such permit shall be valid only for the year in which issued.

E.. Enforcement. The building Inspector of the Town of Alden is charged with enforcement of the provisions of this section.

F. The requirements of the Town of Alden Law to Prohibit Illicit Discharge, Activities and Connection to Separate Storm Sewer System Law and the Town of Alden Law Stormwater Management and Erosion and Sediment Control Law of the Alden Town Code must be followed. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

## SECTION 5. SEPARABILITY

If any section, subsection phrase, sentence or other portion of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deem a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

## SECTION 6. APPLICABILITY

This chapter shall be construed as an exercise of the powers of such town to regulate, control and restrict the use of building, structures and land in order to promote the health, safety, morals or general welfare of the community, including the protection and preservation of the property of the town and of its inhabitants and of peace and good order, for the benefit of trade and all other matters related thereto.

#### SECTION 7. EFFECTIVE DATE

This local law shall take effect immediately upon filing with the Secretary of State of New York.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN COOKE , WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SNYDER TO WIT;

WHEREAS, the Town Board of the Town of Alden is considering the adoption of “Local Law No. 5 of the Year 2007, entitled “Amendment to the Drainage Control Law for the Town of Alden” (the “Proposed Action”) which will add provisions to the Drainage Control Law to provide for the health, safety, and general welfare of the citizens of the Town of Alden 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; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden.

WHEREAS, the Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA; and

WHEREAS, the Town Clerk provided notice to the Erie County Division of Planning on November 6, 2007, for this Proposed Action, as required under Section 239-m of the General Municipal Law and a “no recommendation” was received from the Division on November 9, 2007; and

WHEREAS, the New York State Environmental Quality Review Act requires the Town to determine the Lead Agency status and the Town Board did assume Lead Agency status on November 5, 2007; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the Code of the Town of Alden, Chapter 9D, the Town Board has prepared the Short Form Environmental Assessment Form, which is now on file with the Town Board and the Town’s SEQR Intake Officer; and

WHEREAS, the Town of Alden Planning Board has reviewed the Proposed Action and on November 13, 2007, recommended to the Town Board the approval of the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board did determine that the Proposed Action is an Unlisted Action under SEQRA.
2. The Town Board did determine that it should be the Lead Agency for all environmental review of the Proposed Action.
3. The Town of Alden, as Lead Agency, hereby determines that the unlisted action described in the attached SEQR NEGATIVE DECLARATION, NOTICE OF DETERMINATION OF NON-SIGNIFICANCE, which attached notice is hereby made a part of this Resolution, will not have a significant effect on the environment and that an environmental impact statement is not required to be prepared with respect to said Proposed Action.

4. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board of the Town of Alden on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN  
COOKE, WHOT MOVED ITS ADOPTION, SECONDED BY COUNCILMAN  
SNYDER TO WIT;

WHEREAS, the proposed Local Law No. 5 of the Year 2007 entitled "Amendment to the Drainage Control Law for the Town of Alden" was introduced to the Town Board on October 15, 2007;

WHEREAS, a resolution was duly adopted by the Alden Town Board for a public hearing to be held by said Town Board on December 3, 2007;

WHEREAS, notice of said public hearing were duly advertised in the Alden Advertiser, the official newspaper of the Town of Alden;

WHEREAS, said public hearing was duly held on December 3, 2007, and all persons with comments and questions heard;

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to Article 8 State Environmental Quality Review Act (SEQRA) it has been determined by the Alden Town Board, as Lead Agency, that adoption of said proposed Local Law is an Unlisted Action and will not have a significant effect upon the environment;

WHEREAS, the neighboring municipalities were given notice of the proposed Local Law on November 6, 2007;

WHEREAS, the Erie County Division of Planning gave a "no recommendation" to the proposed Local Law on November 9, 2007, pursuant to section 239-m of the General Municipal Law;

WHEREAS, the Planning Board recommended the approval of the local law on November 13, 2007;

WHEREAS, the Alden Town Board, after due deliberation, finds it in the best interest of said the Town of Alden to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS,

1. That the Alden Town Board hereby adopts said Local Law No. 5 of the Year 2007 entitled ""Amendment to the Drainage Control Law for the Town of Alden", a copy of which is attached hereto and made a part of this resolution,
2. That the Alden Town Clerk enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Alden, and to give due notice of the adoption of said Local Law to the Secretary of State of New York, post the same on the Town Bulletin Board and publish the same in the Alden Advertiser.
3. This Resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on December 3, 2007, and was unanimously adopted.

A Local Law known as Local Law No. 5 of the Year 2007 entitled "Amendment to the Drainage Control Law for the Town of Alden ".

Be in enacted by the Town Board of the Town of Alden as follows:

## **SECTION 1. TITLE**

This Law shall be known as Local Law No. 5 of the Year 2007 entitled "Amendment to the Drainage Control Law for the Town of Alden ".

## **SECTION 2. PURPOSE**

The purpose of this local law is to add additional provisions to the Drainage Control Law codified as Chapter 9A of the Code of the Town of Alden to amend the Town Code to provide for the health, safety, and general welfare of the citizens of the Town of Alden 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; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden

## **SECTION 3. AUTHORITY**

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

## **SECTION 4. AMENDMENT OF CODE**

The Code of the Town of Alden is amended by this Local Law No. 5 of the Year 2007 as follows: Chapter 9A of the Code of the Town of Alden as originally adopted on September 7, 1976, as Local Law 4-1976 is hereby amended to read as follows:

Section 9A-4 is hereby replaced and amended to read as follows:

§ 9A-4. General requirements.

- A. Developments shall be protected from flood hazard inundation by stormwater, springs and other surface waters. The design and construction of drainage systems shall be such that watercourses traversing the development and natural water emanating from with development will be carried through and off the development without injury to improvements, building sites or building existing or to be installed with adjacent to the tract. Drainage water enters development shall be received and discharged at locations and as nearly as possible in the manner that exists to construction of the drainage facilities with development. The design of drainage facilities with development shall be such that they will conform ultimate drainage requirements of the land uses with development watershed. The discharged flow downstream at the area of the development shall be conducted in drainage facilities so that the flow effects shall be as near to predevelopment conditions as possibly leaving the development area or reasonably therefrom.
- B. All domestic and industrial sewage, as defined by the Sewer Ordinance of the Town of Alden, shall be excluded from any drainage systems as herein defined.

- C. Drainage easements and additional areas, as dedicated under these provisions, need not be fenced, but shall be identified by monuments, acceptable to the Town Engineer, set at an angle point and at such other locations which allow indivisibility.
- D. Surface waters and drainage, where identified as being significant sources of groundwater replenishment and where such resources are being utilized as a potable water supply, shall not be revised or altered except by approved permit.
- E. The requirements of the Town of Alden Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer System Law and the Town of Alden Law Stormwater Management and Erosion and Sediment Control Law of the Alden Town Code must be followed. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

#### **SECTION 5. SEPARABILITY**

If any section, subsection phrase, sentence or other portion of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

#### **SECTION 6. APPLICABILITY**

This chapter shall be construed as an exercise of the powers of such town to regulate, control and restrict the use of buildings, structures and land in order to promote the health, safety, morals or general welfare of the community, including the protection and preservation of the property of the town and of its inhabitants and of peace and good order, for the benefit of trade and all other matters related thereto.

#### **SECTION 7. EFFECTIVE DATE**

This local law shall take effect immediately upon filing with the Secretary of State of New York.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN COOKE, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SNYDER TO WIT;

WHEREAS, the Town Board of the Town of Alden is considering the adoption of “Local Law No. 6 of the Year 2007, entitled “Amendment to the Excavation and Topsoil Removal Law for the Town of Alden” (the “Proposed Action”) which will add provisions to the Excavation and Topsoil Removal Law to provide for the health, safety, and general welfare of the citizens of the Town of Alden 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; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden.

WHEREAS, the Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA; and

WHEREAS, the Town Clerk provided notice to the Erie County Division of Planning on November 6, 2007, for this Proposed Action, as required under Section 239-m of the General Municipal Law and a “no recommendation” was received from the Division on November 9, 2007; and

WHEREAS, the New York State Environmental Quality Review Act requires the Town to determine the Lead Agency status and the Town Board did assume Lead Agency status on November 5, 2007; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the Code of the Town of Alden, Chapter 9D, the Town Board has prepared the Short Form Environmental Assessment Form, which is now on file with the Town Board and the Town’s SEQR Intake Officer; and

WHEREAS, the Town of Alden Planning Board has reviewed the Proposed Action and on November 13, 2007, recommended to the Town Board the approval of the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

7. The Town Board did determine that the Proposed Action is an Unlisted Action under SEQRA.
2. The Town Board did determine that it should be the Lead Agency for all environmental review of the Proposed Action.
3. The Town of Alden, as Lead Agency, hereby determines that the unlisted action described in the attached SEQR NEGATIVE DECLARATION, NOTICE OF DETERMINATION OF NON-SIGNIFICANCE, which attached notice is hereby made a part of this Resolution, will not have a significant effect on the environment and that an environmental impact statement is not required to be prepared with respect to said Proposed Action.
8. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board of the Town of Alden on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN RIDDOKH, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN WEBER TO WIT;

WHEREAS, the proposed Local Law No. 6 of the Year 2007 entitled “Amendment to the Excavation and Topsoil Removal Law for the Town of Alden” was introduced to the Town Board on October 15, 2007;

WHEREAS, a resolution was duly adopted by the Alden Town Board for a public hearing to be held by said Town Board on December 3, 2007;

WHEREAS, notice of said public hearing were duly advertised in the Alden Advertiser, the official newspaper of the Town of Alden;

WHEREAS, said public hearing was duly held on December 3, 2007, and all persons with comments and questions heard;

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to Article 8 State Environmental Quality Review Act (SEQRA) it has been determined by the Alden Town Board, as Lead Agency, that adoption of said proposed Local Law is an Unlisted Action and will not have a significant effect upon the environment;

WHEREAS, the neighboring municipalities were given notice of the proposed Local Law on November 6, 2007;

WHEREAS, the Erie County Division of Planning gave a “no recommendation” to the proposed Local Law on November 9, 2007, pursuant to section 239-m of the General Municipal Law;

WHEREAS, the Planning Board recommended the approval of the local law on November 13, 2007;

WHEREAS, the Alden Town Board, after due deliberation, finds it in the best interest of said the Town of Alden to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS,

1. That the Alden Town Board hereby adopts said Local Law No. 6 of the Year 2007 entitled “Amendment to the Excavation and Topsoil Removal Law for the Town of Alden”, a copy of which is attached hereto and made a part of this resolution,
2. That the Alden Town Clerk enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Alden, and to give due notice of the adoption of said Local Law to the Secretary of State of New York, post the same on the Town Bulletin Board and publish the same in the Alden Advertiser.
3. This Resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on December 3, 2007 and was unanimously adopted.

A Local Law known as Local Law No. 6 of the Year 2007 entitled "Amendment to the Excavation and Topsoil Removal Law for the Town of Alden ".

Be in enacted by the Town Board of the Town of Alden as follows:

#### **SECTION 1. TITLE**

This Law shall be known as Local Law No. 6 of the Year 2007 entitled "Amendment to the Excavation and Topsoil Removal Law for the Town of Alden ".

#### **SECTION 2. PURPOSE**

The purpose of this local law is to add additional provisions to the Excavation and Topsoil Law codified as Chapter 11 of the Code of the Town of Alden to amend the Town Code to provide for the health, safety, and general welfare of the citizens of the Town of Alden 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; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden

#### **SECTION 3. AUTHORITY**

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

#### **SECTION 4. AMENDMENT OF CODE**

The Code of the Town of Alden is amended by this Local Law No. 6 of the Year 2007 as follows: Chapter 11 of the Code of the Town of Alden as originally adopted on October 5, 1987, as Local Law 2-1987, is hereby amended to read as follows:

Section 11-4 is hereby replaced and amended to read as follows:

- §11-4. Permit required.
- A. No person shall excavate, remove topsoil or alter topsoil for any purpose, other than the exceptions described under §11-5, without an excavation permit issued Town Board.
  - B. No such permit shall be issued except upon submitted evidence satisfactory to the issuing authority and finding and determination based upon such evidence proposed operation will not cause erosion or otherwise or adversely affect natural drainage, creeks or other sources of supplies of water, both surface and ground or nearby flora, fauna or other vegetation. In determining the sufficiency of evidence, proof of compliance with promulgated by the United States Department of Agriculture Soils Conservation Service and by the New York Department of Environmental Conservation may be sufficient evidence for such permit.
  - C. All excavation, topsoil removal and topography operations requiring permits shall be conducted according to standards set forth below, including restoration of the area.
  - D. The applicant shall comply with all bonding fee schedules, etc., as required by this local law.
  - E. The requirements of the Town of Alden Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer System Law and the Town of Alden Law Stormwater Management and Erosion and Sediment Control Law of the Alden Town Code must be followed. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

#### **SECTION 5. SEPARABILITY**

If any section, subsection phrase, sentence or other portion of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

#### **SECTION 6. APPLICABILITY**

This chapter shall be construed as an exercise of the powers of such town to regulate, control and restrict the use of buildings, structures and land in order to promote the health, safety, morals or general welfare of the community, including the protection and preservation of the property of the town and of its inhabitants and of peace and good order, for the benefit of trade and all other matters related thereto.

#### **SECTION 7. EFFECTIVE DATE**

This local law shall take effect immediately upon filing with the Secretary of State of New York.

THE FOLLOWING RESOLUTION WAS OFFERED BY  
COUNCILMAN WEBER, WHO MOVED ITS ADOPTION, SECONDED BY  
COUNCILWOMAN RIDDOCH TO WIT;

WHEREAS, the Town Board of the Town of Alden is considering the adoption of “Local Law No. 7 of the Year 2007, entitled “Amendment to the Flood Management Prevention Law for the Town of Alden” (the “Proposed Action”) which will add provisions to the Flood Management Prevention Law to provide for the health, safety, and general welfare of the citizens of the Town of Alden 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; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden.

WHEREAS, the Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA; and

WHEREAS, the Town Clerk provided notice to the Erie County Division of Planning on November 6, 2007, for this Proposed Action, as required under Section 239-m of the General Municipal Law and a “no recommendation” was received from the Division on November 9, 2007; and

WHEREAS, the New York State Environmental Quality Review Act requires the Town to determine the Lead Agency status and the Town Board did assume Lead Agency status on November 5, 2007; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the Code of the Town of Alden, Chapter 9D, the Town Board has prepared the Short Form Environmental Assessment Form, which is now on file with the Town Board and the Town’s SEQR Intake Officer; and

WHEREAS, the Town of Alden Planning Board has reviewed the Proposed Action and on November 13, 2007, recommended to the Town Board the approval of the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

9. The Town Board did determine that the Proposed Action is an Unlisted Action under SEQRA.
2. The Town Board did determine that it should be the Lead Agency for all environmental review of the Proposed Action.
3. The Town of Alden, as Lead Agency, hereby determines that the unlisted action described in the attached SEQR NEGATIVE DECLARATION, NOTICE OF DETERMINATION OF NON-SIGNIFICANCE, which attached notice is hereby made a part of this Resolution, will not have a significant effect on the environment and that an environmental impact statement is not required to be prepared with respect to said Proposed Action.
10. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board of the Town of Alden on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN WEBER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN RIDDOCH TO WIT;

WHEREAS, the proposed Local Law No. 7 of the Year 2007 entitled "Amendment to the Flood Management Prevention Law for the Town of Alden" was introduced to the Town Board on October 15, 2007;

WHEREAS, a resolution was duly adopted by the Alden Town Board for a public hearing to be held by said Town Board on December 3, 2007;

WHEREAS, notice of said public hearing were duly advertised in the Alden Advertiser, the official newspaper of the Town of Alden;

WHEREAS, said public hearing was duly held on December 3, 2007, and all persons with comments and questions heard;

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to Article 8 State Environmental Quality Review Act (SEQRA) it has been determined by the Alden Town Board, as Lead Agency, that adoption of said proposed Local Law is an Unlisted Action and will not have a significant effect upon the environment;

WHEREAS, the neighboring municipalities were given notice of the proposed Local Law on November 6, 2007;

WHEREAS, the Erie County Division of Planning gave a "no recommendation" to the proposed Local Law on November 9, 2007, pursuant to section 239-m of the General Municipal Law;

WHEREAS, the Planning Board recommended the approval of the local law on November 13, 2007;

WHEREAS, the Alden Town Board, after due deliberation, finds it in the best interest of said the Town of Alden to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS,

1. That the Alden Town Board hereby adopts said Local Law No. 7 of the Year 2007 entitled "Amendment to the Flood Management Prevention Law for the Town of Alden", a copy of which is attached hereto and made a part of this resolution,
2. That the Alden Town Clerk enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Alden, and to give due notice of the adoption of said Local Law to the Secretary of State of New York, post the same on the Town Bulletin Board and publish the same in the Alden Advertiser.
3. This Resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on December 3, 2007 and was unanimously adopted.

A Local Law known as Local Law No. 7 of the Year 2007 entitled "Amendment to the Flood Management Prevention Law for the Town of Alden".

Be in enacted by the Town Board of the Town of Alden as follows:

#### **SECTION 1. TITLE**

This Law shall be known as Local Law No. 7 of the Year 2007 entitled "Amendment to the Flood Management Prevention Law for the Town of Alden".

#### **SECTION 2. PURPOSE**

The purpose of this local law is to add additional provisions to the Flood Management Prevention Law codified as Chapter 12 of the Code of the Town of Alden to amend the Town Code to provide for the health, safety, and general welfare of the citizens of the Town of Alden 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; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden

### **SECTION 3. AUTHORITY**

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

### **SECTION 4. AMENDMENT OF CODE**

The Code of the Town of Alden is amended by this Local Law No. 7 of the Year 2007 as follows: Chapter 12 of the Code of the Town of Alden as originally adopted on January 22, 1991, as Local Law 1-1991 is hereby amended to read as follows:

Section 12-8 is hereby replaced and amended to read as follows:

- §12.8 Interpretation; Coordination and conflict with other provisions.
- A. This local law includes all revisions to the National Flood Insurance Program through November 1, 1989, and shall supercede all previous laws adopted for the purpose of flood damage prevention.
  - B. The requirements of the Town of Alden Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer System Law and the Town of Alden Law Stormwater Management and Erosion and Sediment Control Law of the Alden Town Code must be followed.
  - C. In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

### **SECTION 5. SEPARABILITY**

If any section, subsection phrase, sentence or other portion of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

## **SECTION 6. APPLICABILITY**

This chapter shall be construed as an exercise of the powers of such town to regulate, control and restrict the use of buildings, structures and land in order to promote the health, safety, morals or general welfare of the community, including the protection and preservation of the property of the town and of its inhabitants and of peace and good order, for the benefit of trade and all other matters related thereto.

## **SECTION 7. EFFECTIVE DATE**

This local law shall take effect immediately upon filing with the Secretary of State of New York.

THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR SMITH, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SNYDER TO WIT;

WHEREAS, the Town Board of the Town of Alden is considering the adoption of “Local Law No. 8 of the Year 2007, entitled “Local Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer System of the Town of Alden.” (the “Proposed Action”) which will add provisions to the Subdivision Regulations to provide for the health, safety, and general welfare of the citizens of the Town of Alden 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; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden.

WHEREAS, the Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA; and

WHEREAS, the Town Clerk provided notice to the Erie County Division of Planning on November 6, 2007, for this Proposed Action, as required under Section 239-m of the General Municipal Law and a “no recommendation” was received from the Division on November 9, 2007; and

WHEREAS, the New York State Environmental Quality Review Act requires the Town to determine the Lead Agency status and the Town Board did assume Lead Agency status on November 5, 2007; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the Code of the Town of Alden, Chapter 9D, the Town Board has prepared the Short Form Environmental Assessment Form, which is now on file with the Town Board and the Town’s SEQR Intake Officer; and

WHEREAS, the Town of Alden Planning Board has reviewed the Proposed Action and on November 13, 2007, recommended to the Town Board the approval of the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

11. The Town Board did determine that the Proposed Action is an Unlisted Action under SEQRA.
2. The Town Board did determine that it should be the Lead Agency for all environmental review of the Proposed Action.

3. The Town of Alden, as Lead Agency, hereby determines that the unlisted action described in the attached SEQR NEGATIVE DECLARATION, NOTICE OF DETERMINATION OF NON-SIGNIFICANCE, which attached notice is hereby made a part of this Resolution, will not have a significant effect on the environment and that an environmental impact statement is not required to be prepared with respect to said Proposed Action.

12. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board of the Town of Alden on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR SMITH, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SNYDER TO WIT;

WHEREAS, the proposed Local Law No. 8 of the Year 2007 entitled "Local Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer System of the Town of Alden" was introduced to the Town Board on October 15, 2007;

WHEREAS, a resolution was duly adopted by the Alden Town Board for a public hearing to be held by said Town Board on December 3, 2007;

WHEREAS, notice of said public hearing were duly advertised in the Alden Advertiser, the official newspaper of the Town of Alden;

WHEREAS, said public hearing was duly held on December 3, 2007, and all persons with comments and questions heard;

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to Article 8 State Environmental Quality Review Act (SEQRA) it has been determined by the Alden Town Board, as Lead Agency, that adoption of said proposed Local Law is an Unlisted Action and will not have a significant effect upon the environment;

WHEREAS, the neighboring municipalities were given notice of the proposed Local Law on November 6, 2007;

WHEREAS, the Erie County Division of Planning gave a "no recommendation" to the proposed Local Law on November 9, 2007, pursuant to section 239-m of the General Municipal Law;

WHEREAS, the Planning Board recommended the approval of the local law on November 13, 2007;

WHEREAS, the Alden Town Board, after due deliberation, finds it in the best interest of said the Town of Alden to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS,

1. That the Alden Town Board hereby adopts said Local Law No. 8 of the Year 2007 entitled "Local Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer System of the Town of Alden", a copy of which is attached hereto and made a part of this resolution,

2. That the Alden Town Clerk enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Alden, and to give due notice of the adoption of said Local Law to the Secretary of State of New York, post the same on the Town Bulletin Board and publish the same in the Alden Advertiser.

3. This Resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on December 3, 2007 and was unanimously adopted.

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

## **TITLE**

This Law shall be known as Local Law No. 8 of the Year 2007 entitled "Local Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer System of the Town of Alden."

## **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 Alden 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 Hazardous Materials. 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.
- 2.6 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.
- 2.7 Illicit Discharge. Any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 6 of this law.
- 2.8 Industrial Activity. Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.
- 2.9 MS4. Municipal Separate Storm Sewer System.
- 2.10 MS4 Area. Portions of the Town in which these regulations apply, also described as Urbanized Area.
- 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 Alden;
  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 40 CFR 122.2
- 2.12 Municipality. The Town of Alden.
- 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 discarded 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 the Town of Alden 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 Town of Alden 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 Town of Alden'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 Town of Alden'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 Town of Alden 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 Town of Alden'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 Town of Alden 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 Town of Alden 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 or town official designated by the Town of Alden to enforce this local law. The SMO may also be designated by the Town of Alden 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 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 Urbanized Area. A land area comprising one or more places and the adjacent densely settled surrounding area urban fringe that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile (as defined in 55 FR 42592).
- 2.25 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 area 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.

#### **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 Area 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 Area 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 Town of Alden 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 storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water 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 period 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 Area 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 Town of Alden's MS4 Area, or allows such a connection to continue.

## **SECTION 7. PROHIBITION AGAINST ACTIVITIES CONTAMINATING STORMWATER**

- 7.1 Activities that are subject to the requirements of this section are those types of activities that:
  - 7.1.1 Cause or contribute to a violation of the Town of Alden's MS4 SPDES permit.
  - 7.1.2 Cause or contribute to the Town of Alden being subject to the Special Conditions as defined in Section 2 (Definitions) of this local law.
- 7.2 Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the Town of Alden's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the Town of Alden's MS4 SPDES permit authorization.

## **SECTION 8. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

- 8.1 Best Management Practices  
Where the SMO has identified illicit discharges as defined in Section 2 or activities contaminating stormwater as defined in Section 7 the Town of Alden may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.
  - 8.1.1 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 Area through the use of structural and non-structural BMPs.
  - 8.1.2 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 7, 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 Area.
  - 8.1.3 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 9. SUSPENSION OF ACCESS TO MS4 AREA. Illicit Discharges in Emergency Situations.**

- 9.1 The SMO may, without prior notice, suspend MS4 area 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 area or to minimize danger to persons.

- 9.2 Suspension due to the detection of illicit discharge. Any person discharging to Town of Alden's MS4 Area in violation of this law may have their MS4 Area 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 Area access and the reasons therefore. 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 Area access to premises terminated pursuant to this Section, without the prior approval of the SMO.

## **SECTION 10. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.**

Any person subject 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 Town of Alden prior to the allowing of discharges to the MS4 Area.

## **SECTION 11. ACCESS AND MONITORING OF DISCHARGES.**

- 11.1 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.
- 11.2 Access to Facilities.
- 11.2.1 The SMO shall be permitted to enter and inspect facilities subject 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.
- 11.2.2 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.
- 11.2.3 The Town of Alden shall have the right to set up on any facility subject 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.
- 11.2.4 The Town of Alden has the right to require the facilities subject 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.
- 11.2.5 Unreasonable delays in allowing the Town of Alden access to a facility subject to this law is a violation of this law. A person who is the operator of a facility subject to this law commits an offense if the person denies the

Town of Alden reasonable access to the facility for the purpose of conducting any activity authorized or required by this law.

11.2.6 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.

11.3 Fees. Fees permitted under this local law shall be set by resolution of the Alden Town Board.

## **SECTION 12. 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 Area, 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 Town of Alden 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 Town of Alden within three 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 years.

## **SECTION 13. ENFORCEMENT.**

13.1 Notice of Violation.

When the Town of Alden'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:

13.1.1 The elimination of illicit connections or discharges;

13.1.2 That violating discharges, practices, or operations shall cease and desist;

13.1.3 The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

13.1.4 The performance of monitoring, analyses, and reporting;

13.1.5 Notification that the payment of a fine may be assessed upon a finding of guilt by  
a court of law; and

13.1.6 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.

### 13.2 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 of this local law punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

### **SECTION 14. APPEAL OF NOTICE OF VIOLATION.**

Any person receiving a Notice of Violation may appeal the determination of the SMO to the Alden Town Board within 15 days of its issuance, which shall hear the appeal within 30 days after the filing of the appeal, and within five 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 15. CORRECTIVE MEASURES AFTER APPEAL.**

- 15.1 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 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.
- 15.2 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 16. 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 from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

### **SECTION 17. ALTERNATIVE REMEDIES.**

- 17.1 Where 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 Town Prosecutor and concurrence of the Town SMO, where:
  - 17.1.1 The violation was unintentional
  - 17.1.2 The violator has no history of previous violations of this Law.
  - 17.1.3 Environmental damage was minimal.
  - 17.1.4 Violator acted quickly to remedy violation.
  - 17.1.5 Violator cooperated in investigation and resolution.

17.2 Alternative remedies may consist of one or more of the following:

17.2.1 Attendance at compliance workshops

17.2.2 Storm drain stenciling or storm drain marking

17.2.3 River, stream or creek cleanup activities

**SECTION 18. VIOLATIONS DEEMED A 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 nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**SECTION 19. 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 20. ADOPTION OF LAW.**

This law shall be in full force and effect upon filing with the New York Secretary of State.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SNYDER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN COOKE TO WIT;

WHEREAS, the Town Board of the Town of Alden is considering the adoption of "Local Law No. 9 of the Year 2007, entitled "A local law to create a Stormwater Management and Erosion and Sediment Control Law of the Town of Alden" (the "Proposed Action") which will add provisions to the Subdivision Regulations to provide for the health, safety, and general welfare of the citizens of the Town of Alden 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; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden.

WHEREAS, the Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA; and

WHEREAS, the Town Clerk provided notice to the Erie County Division of Planning on November 6, 2007, for this Proposed Action, as required under Section 239-m of the General Municipal Law and a "no recommendation" was received from the Division on November 9, 2007; and

WHEREAS, the New York State Environmental Quality Review Act requires the Town to determine the Lead Agency status and the Town Board did assume Lead Agency status on November 5, 2007; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the Code of the Town of Alden, Chapter 9D, the Town Board has prepared the Short Form Environmental Assessment Form, which is now on file with the Town Board and the Town's SEQR Intake Officer; and

WHEREAS, the Town of Alden Planning Board has reviewed the Proposed Action and on November 13, 2007, recommended to the Town Board the approval of the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

13. The Town Board did determine that the Proposed Action is an Unlisted Action under SEQRA.
2. The Town Board did determine that it should be the Lead Agency for all environmental review of the Proposed Action.
3. The Town of Alden, as Lead Agency, hereby determines that the unlisted action described in the attached SEQR NEGATIVE DECLARATION, NOTICE OF DETERMINATION OF NON-SIGNIFICANCE, which attached notice is hereby made a part of this Resolution, will not have a significant effect on the environment and that an environmental impact statement is not required to be prepared with respect to said Proposed Action.
14. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board of the Town of Alden on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SNYDER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN COOKE TO WIT;

WHEREAS, the proposed Local Law No. 9 of the Year 2007 entitled "Stormwater Management and Erosion and Sediment Control Law of the Town of Alden" was introduced to the Town Board on October 15, 2007;

WHEREAS, a resolution was duly adopted by the Alden Town Board for a public hearing to be held by said Town Board on December 3, 2007;

WHEREAS, notice of said public hearing were duly advertised in the Alden Advertiser, the official newspaper of the Town of Alden;

WHEREAS, said public hearing was duly held on December 3, 2007, and all persons with comments and questions heard;

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to Article 8 State Environmental Quality Review Act (SEQRA) it has been determined by the Alden Town Board, as Lead Agency, that adoption of said proposed Local Law is an Unlisted Action and will not have a significant effect upon the environment;

WHEREAS, the neighboring municipalities were given notice of the proposed Local Law on November 6, 2007;

WHEREAS, the Erie County Division of Planning gave a "no recommendation" to the proposed Local Law on November 9, 2007, pursuant to section 239-m of the General Municipal Law;

WHEREAS, the Planning Board recommended the approval of the local law on November 13, 2007;

WHEREAS, the Alden Town Board, after due deliberation, finds it in the best interest of said the Town of Alden to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS,

1. That the Alden Town Board hereby adopts said Local Law No. 9 of the Year 2007 entitled "Stormwater Management and Erosion and Sediment Control Law of the Town of Alden", a copy of which is attached hereto and made a part of this resolution,
2. That the Alden Town Clerk enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Alden, and to give due notice of the adoption of said Local Law to the Secretary of State of New York, post the same on the Town Bulletin Board and publish the same in the Alden Advertiser.
3. This Resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on December 3, 2007 and was unanimously adopted.

## **Local Law # 9 of 2007**

### **Stormwater Management and Erosion and Sediment Control**

A local law to create a Stormwater Management and Erosion and Sediment Control Law of the Town of Alden.

## **Article 1. General Provisions**

**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 Town;
- 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 discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- 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 local law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in Section 1 hereof. This local law seeks to meet those purposes by achieving the following objectives:

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

2.2 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;

2.3 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;

2.4 Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;

2.5 Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and

2.6 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**

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the

Town Board of Alden has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the Town of Alden and for the protection and enhancement of its physical environment. The Town Board of Alden

may include in any such local law provisions for the appointment of any municipal officer or employee to effectuate, administer and enforce such local law.

## **Section 4. Applicability**

4.1 This local law shall be applicable to all land development activities as defined in this local law.

4.2 The Town shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may (1) review the plans, (2) upon approval by the Town Board of the Town of Alden, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule adopted by resolution of the Alden Town 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 Alden under the Town Code of the Town of Alden shall be

reviewed subject to the standards contained in this local law

4.4 All land development activities not subject to review as stated in section 4.3 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 Logging activity undertaken pursuant to an approved timber management plan prepared or approved by the County Soil & Water Conservation District or the New York State Department of Environmental Conservation, 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 Any part of a subdivision if a plat for the subdivision has been approved by the Town of Alden on or before the effective date of this law.

5.6 Land development activities for which a building permit has been approved on or before the effective date of this law.

5.7 Cemetery graves.

5.8 Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.

5.9 Emergency activity immediately necessary to protect life, property or natural resources.

5.10 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.

5.11 Landscaping and horticultural activities in connection with an existing structure.

5.12 Activities advanced outside of the MS 4 Area.

## Article 2. Stormwater Control

**Section 1. Definitions.** The terms used in this local law or in documents prepared or reviewed under this local law shall have the following meanings:

**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 Design Manual, most recent version including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

**Developer** - a person who undertakes land development activities.

**Erosion Control Manual** - the most recent version of the “New York Standards and Specifications for Erosion and Sediment Control” manual, commonly known as the “Blue Book”.

**Grading** – reworking the existing earth surface which may include excavation or fill of material, including the resulting conditions thereof.

**Impervious Cover** - those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

**Industrial Stormwater Permit** - a State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**Infiltration** - the process of percolating stormwater into the subsoil.

**Jurisdictional Wetland** - an area that has been determined by the United States Army Corps of Engineers or the New York State Department of Environmental Conservation to be a wetland regulated by the Agency.

**Land Development Activity** - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

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

**Maintenance Agreement** - a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

**MS4 Area** – those portions of the Town of Alden designated as urbanized areas by the Department, and as shown on the attached map.

**Nonpoint Source Pollution** - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**Phasing** - clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

**Pollutant of Concern** - sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

**Project** - land development activity

**Recharge** - the replenishment of underground water reserves.

**Sediment Control** - measures that prevent eroded sediment from leaving the site.

**Sensitive Areas** - cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

**SPDES General Permit for Construction Activities GP-02-01** - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

**SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02** - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards

**Stabilization** - the use of practices that prevent exposed soil from eroding.

**Stop Work Order** - an order issued which requires that all construction activity on a site be stopped.

**Stormwater** - rainwater, surface runoff, snowmelt and drainage

**Stormwater Hotspot** - a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

**Stormwater Management** - the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

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

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

**Stormwater Management Practices (SMPs)** - measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**Stormwater Pollution Prevention Plan (SWPPP)** - a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**Stormwater Runoff** - flow on the surface of the ground, resulting from precipitation

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

**Town** – Town of Alden.

**Urbanized Area** – a land area comprising one or more places and the adjacent densely settled surrounding area urban fringe that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile (as defined in 55 FR 42592).

**Watercourse** - a permanent or intermittent stream or other body of water, either natural or manmade, 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 reviewed until the appropriate board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this local law.

### **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 of 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 discharges(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 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:

1. 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.
2. Condition B - Stormwater runoff from land development activities disturbing five (5) or more acres.
3. Condition C - Stormwater runoff from construction 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 transfer of title to the property.
9. Inspection and maintenance deed restrictions binding on all subsequent landowners served by the on-site permanent stormwater management measures in accordance with Article 2, Section 4 of this local law.
10. For condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.

**2.3 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.

### 2.4 Contractor Certification

2.4.1 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.”

2.4.2 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.

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

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

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 Equivalence to Technical Standards.** Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Article 2, Section 3.1 and the SWPPP shall be prepared by a licensed professional.

#### **3.3 Water Quality Standards**

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

### **Section 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 local law. 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 copied 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 developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Alden to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the Town Attorney.

#### **4.3 Maintenance after Construction**

The owner or operator of permanent stormwater management practices installed in accordance with this law shall be operated and maintained to achieve the goals of this law. 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 law.

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 Facility Maintenance.**

The landowner of a property upon which a permanent Stormwater Management Facility has been constructed must maintain said Facility in full compliance with this local law, as amended from time to time, and within the parameters of the original design approval, or subsequently approved amendments to the design.

## **Article 3. Administration and Enforcement**

### **Section 1. Construction Inspection**

#### **1.1 Erosion and Sediment Control Inspection**

The Town of Alden 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 Alden 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 Alden 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; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; 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 Alden 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 Alden the right to enter the property at reasonable times or at other times deemed necessary by the Stormwater Management Officer 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 Alden in its approval of the Stormwater Pollution Prevention Plan, the Town of Alden 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 Alden as the beneficiary. The security shall be in an amount to be determined by the Town of Alden based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Alden, 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 Alden. 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 Alden with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Alden may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

## **2.3 Recordkeeping**

The Town of Alden 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.**

When the Town of Alden 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 or land upon which the violation is occurring;
- 3.1.3 a statement specifying the nature of the violation and including the code section being violated;
- 3.1.4 a description of the general remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the preparation of a specific plan of such remedial action;
- 3.1.5 a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- 3.1.6 a statement that the determination of violation may be appealed to the Town Board 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 Alden 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 Alden 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 that is commenced or is conducted contrary to this local law, may be restrained by injunction or otherwise abated in a manner provided by law.

## **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 local law shall be guilty of a violation of this local law punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

### **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 Alden 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 Alden may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Alden or performed by a third party for the Town of Alden. Fees permitted under this local law shall be set by resolution of the Alden Town Board.

## **Section 5. Severability and Effective Date**

### **5.1 Severability**

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

### **5.2 Effective Date**

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

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN COOKE WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SNYDER TO WIT;

WHEREAS, the Town Board of the Town of Alden is considering the adoption of "Local Law No. 10 of the Year 2007, entitled "Amendment to the Zoning Law for the Town of Alden" (the "Proposed Action") which will add provisions to the Flood Management Prevention Law to provide for the health, safety, and general welfare of the citizens of the Town of Alden 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; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden.

WHEREAS, the Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA; and

WHEREAS, the Town Clerk provided notice to the Erie County Division of Planning on November 6, 2007, for this Proposed Action, as required under Section 239-m of the General Municipal Law and a "no recommendation" was received from the Division on November 9, 2007; and

WHEREAS, the New York State Environmental Quality Review Act requires the Town to determine the Lead Agency status and the Town Board did assume Lead Agency status on November 5, 2007; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the Code of the Town of Alden, Chapter 9D, the Town Board has prepared the Short Form Environmental Assessment Form, which is now on file with the Town Board and the Town's SEQR Intake Officer; and

WHEREAS, the Town of Alden Planning Board has reviewed the Proposed Action and on November 13, 2007, recommended to the Town Board the approval of the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

15. The Town Board did determine that the Proposed Action is an Unlisted Action under SEQRA.
2. The Town Board did determine that it should be the Lead Agency for all environmental review of the Proposed Action.
3. The Town of Alden, as Lead Agency, hereby determines that the unlisted action described in the attached SEQR NEGATIVE DECLARATION, NOTICE OF DETERMINATION OF NON-SIGNIFICANCE, which attached notice is hereby made a part of this Resolution, will not have a significant effect on the environment and that an environmental impact statement is not required to be prepared with respect to said Proposed Action.
16. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board of the Town of Alden on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN COOKE, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SNYDER TO WIT;

WHEREAS, the proposed Local Law No. 10 of the Year 2007 entitled "Amendment to the Zoning Law for the Town of Alden" was introduced to the Town Board on October 15, 2007;

WHEREAS, a resolution was duly adopted by the Alden Town Board for a public hearing to be held by said Town Board on December 3, 2007;

WHEREAS, notice of said public hearing were duly advertised in the Alden Advertiser, the official newspaper of the Town of Alden;

WHEREAS, said public hearing was duly held on December 3, 2007, and all persons with comments and questions heard;

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to Article 8 State Environmental Quality Review Act (SEQRA) it has been determined by

the Alden Town Board, as Lead Agency, that adoption of said proposed Local Law is an Unlisted Action and will not have a significant effect upon the environment;

WHEREAS, the neighboring municipalities were given notice of the proposed Local Law on November 6, 2007;

WHEREAS, the Erie County Division of Planning gave a "no recommendation" to the proposed Local Law on November 9, 2007, pursuant to section 239-m of the General Municipal Law;

WHEREAS, the Planning Board recommended the approval of the local law on November 13, 2007;

WHEREAS, the Alden Town Board, after due deliberation, finds it in the best interest of said the Town of Alden to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS,

1. That the Alden Town Board hereby adopts said Local Law No. 10 of the Year 2007 entitled "Amendment to the Zoning Law for the Town of Alden", a copy of which is attached hereto and made a part of this resolution,
2. That the Alden Town Clerk enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Alden, and to give due notice of the adoption of said Local Law to the Secretary of State of New York, post the same on the Town Bulletin Board and publish the same in the Alden Advertiser.
3. This Resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on December 3, 2007 and was unanimously adopted.:

A Local Law known as Local Law No. 10 of the Year 2007 entitled "Amendment to the Zoning Law for the Town of Alden ".

Be in enacted by the Town Board of the Town of Alden as follows:

#### **SECTION 1. TITLE**

This Law shall be known as Local Law No. 10 of the Year 2007 entitled "Amendment to the Zoning Law for the Town of Alden ".

#### **SECTION 2. PURPOSE**

The purpose of this local law is to add additional provisions to the Zoning Law codified as Chapter 20 of the Code of the Town of Alden to amend the Town Code to provide for the health, safety, and general welfare of the citizens of the Town of Alden 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; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden

#### **SECTION 3. AUTHORITY**

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Town Board of Alden has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the Town of Alden and for the protection and enhancement of its physical environment. The Town Board of Alden

may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

#### **SECTION 4. AMENDMENT OF CODE**

The Code of the Town of Alden is amended by this Local Law No. 10 of the Year 2007 as follows: Chapter 20 of the Code of the Town of Alden as originally adopted on July 6, 1992 as Local Law 1 of 1992, and amended March 20, 1995 by Local Law 1 of 1995; amended on July 1, 1996; amended on June 5, 2000 by Local Law 4 of 2000; and amended on September 5, 2006, by Local Law 1 of 2006, is hereby amended to read as follows:

Section 20-74.1 is hereby added:

**§ 20-74.1.** The requirements of the Town of Alden Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer System Law and the Town of Alden Law Stormwater Management and Erosion and Sediment Control Law of the Alden Town Code must be followed. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

And

Section 20-75 of the Review Procedures is hereby amended by adding the following:

§ 20-75 (B) (25) Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of the Stormwater Management and Erosion and Sediment Control Law shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards of the Stormwater Management and Erosion and Sediment Control Law. The approved Site Plan shall be consistent with the provisions of the Stormwater Management and Erosion and Sediment Control Law.

#### **SECTION 5. SEPARABILITY**

If any section, subsection phrase, sentence or other portion of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

#### **SECTION 6. APPLICABILITY**

This chapter shall be construed as an exercise of the powers of such town to regulate, control and restrict the use of buildings, structures and land in order to promote the health, safety, morals or general welfare of the community, including the protection and preservation of the property of the town and of its inhabitants and of peace and good order, for the benefit of trade and all other matters related thereto.

#### **SECTION 7. EFFECTIVE DATE**

This local law shall take effect immediately upon filing with the Secretary of State.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN COOKE, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN SNYDER TO WIT;

WHEREAS, the Town Board of the Town of Alden is considering the adoption of a resolution amending the Town of Alden Subdivision Regulations (the "Proposed Action") which will add provisions to the Subdivision Regulations to provide for the health, safety, and general welfare of the citizens of the Town of Alden 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; to establish 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; to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Alden.

WHEREAS, the Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA; and

WHEREAS, the Town Clerk provided notice to the Erie County Division of Planning on November 6, 2007, for this Proposed Action, as required under Section 239-m of the General Municipal Law and a "no recommendation" was received from the Division on November 9, 2007; and

WHEREAS, the New York State Environmental Quality Review Act requires the Town to determine the Lead Agency status and the Town Board did assume Lead Agency status on November 5, 2007; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the Code of the Town of Alden, Chapter 9D, the Town Board has prepared the Short Form Environmental Assessment Form, which is now on file with the Town Board and the Town's SEQR Intake Officer; and

WHEREAS, the Town of Alden Planning Board has reviewed the Proposed Action and on November 13, 2007, recommended to the Town Board the approval of the Proposed Action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

17. The Town Board did determine that the Proposed Action is an Unlisted Action under SEQRA.
2. The Town Board did determine that it should be the Lead Agency for all environmental review of the Proposed Action.
3. The Town of Alden, as Lead Agency, hereby determines that the unlisted action described in the attached SEQR NEGATIVE DECLARATION, NOTICE OF DETERMINATION OF NON-SIGNIFICANCE, which attached notice is hereby made a part of this Resolution, will not have a significant effect on the environment and that an environmental impact statement is not required to be prepared with respect to said Proposed Action.
18. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board of the Town of Alden on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN RIDDOKH WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN WEBER TO WIT:

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to article 8 State Environmental Quality Review Act (SEQRA) it has been determined by the Alden Town Board, as Lead Agency (declared by the Town Board on November 5, 2007, that amendment of said Subdivision Regulations is an Unlisted Action and will not have a significant effect upon the environment, and

WHEREAS, the Erie County Division of Planning gave a “no recommendation” to the proposed amendments to the Subdivision Regulation on November 9, 2007, pursuant to section 239-m of the General Municipal Law, and

WDHERAS, the Planning Board of the Town of Alden has reviewed these local laws and proposed revision to the Town of Alden Subdivision Regulations and has recommend approval of the same on November 13, 2007;

WHEREAS, the Alden Town Board, after due deliberation, finds it in the best interest of said Town of Alden to adopt said revisions.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. Article III, Section 2.4 of the Subdivision Regulations of the Town of Alden is hereby amended by adding the following:

2.4.1 Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan (“SWPPP”) consistent with the requirements of the Prohibition of Illicit Discharges, Activities and Connections to Separate Storm Sewer System Law and the Stormwater Management and Erosion and Sediment Controls Stormwater Management Law (collectively herein the “Stormwater Management Laws”) shall be required for Final Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in the Stormwater Management Laws. The approved Final Subdivision Plat shall be consistent wit the provisions of the Stormwater Management Laws.

2. Article III, Section 4.5 of the Subdivision Regulations of the town of Alden is hereby amended by adding the following:

4.5.1 Stormwater Pollution Prevention Plan: A SWPPP consistent with the requirements of the Stormwater Management Laws shall be required for Final Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in the Stormwater Management Laws. The approved Final Subdivision Plat shall be consistent with the provisions of the Stormwater Management Laws.

and

Article IV, Section 1 of the Subdivision Regulations of the town of Alden is hereby amended by adding the following:

1.4 The requirements of the Town of Alden Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer System Law and the Town of Alden Law Stormwater Management and Erosion and Sediment control Law of the Alden Town Code must be followed. When ever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules regulations or ordinance, the most restrictive, or that imposing the higher standards, shall govern.

3. That the Town Clerk enter said revision to the Subdivision Regulations in the minutes of this meeting and in the Subdivision Regulations book of the town of Alden..

4. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN WEBER WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN RIDDOCH TO WIT:

WHEREAS, Councilman Snyder has advised the Town Board that the Town Hall is in possession of two (2) walk-in freezers (left over from the building’s prior use as an elementary school);

WHEREAS, the Town Hall has no use for the two (2) walk-in freezers.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. That the Town Board hereby determines that the two (2) walk-in freezers are not needed for Town purposes and are surplus property;
2. The Town Board hereby authorizes the disposal/scrapping of the two (2) walk-in freezers; and
3. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR SMITH, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN WEBER TO WIT;

WHEREAS, the Town of Alden is in the process of establishing proposed Water District No. 5 of the Town of Alden, and is desirous of obtaining water from the Erie County Water Authority as least in part through the water lines to be constructed by the Town of Marilla; and

WHEREAS, the Town of Marilla and the Town of Alden believe that it would be in the best interest of the residents of both Towns to jointly plan the construction and pursue finding for the construction of water lines to ensure that any water lines constructed are sufficient to meet the needs of both Towns for water service; and

WHEREAS, a shared municipal services grant has been obtained toward the joint planning of the water system and the parties wish to enter into this agreement addressing cost sharing, responsibilities and project administration pertaining to the grant.

Now therefore, be it resolved as follows:

1. The Town Board approves the Joint Municipal Cooperation Agreement with the Town of Marilla as being consistent with its policies and in the interest of the residents of the Town of Alden;
2. That the Supervisor of the Town of Alden is authorized to sign any and all necessary documents to effectuate this Agreement; and
3. This resolution shall take effect immediately. The foregoing Resolution was duly put to a vote on December 32, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SNYDER, WHO MOVED IT ADOPTION, SECONDED BY COUNCILMAN WEBER TO WIT;

WHEREAS, the Town of Alden is in the process of establishing proposed Water District No. 5 of the Town of Alden, and is desirous of obtaining water from the Erie County Water Authority as least in part through the water lines to be constructed by the Town of Marilla;

WHEREAS, the Town of Marilla and the Town of Alden believe that it would be in the best interest of the residents of both Towns to jointly plan the construction and pursue funding for the construction of water lines to ensure that any water lines constructed are sufficient to meet the needs of both Towns for water service;

WHEREAS, a shared municipal services grant has been obtained toward the joint planning of the water system and the parties wish to enter into this agreement addressing cost sharing, responsibilities and project administration pertaining to the grant; and

WHEREAS, the Grant requires that the Town of Alden establish a Project Implementation Committee.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board hereby established for the purposes of implementing the Alden-Marilla SMSI Grant a Project Implementation Committee of the following persons: Supervisor Ronald L. Smith, Councilperson William Weber; Town Attorney: Jennifer L. Strong and Town Engineer Michael Metzger, whose duties shall be to work towards the implementation of the Grant.
2. This resolution shall take effect immediately.
3. The foregoing Resolution was duly put to a vote on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN COOKE SECONDED BY COUNCILMAN SNYDER (CHANGES MADE WAS OFFERED BY COUNCILMAN WEBER AND SECONDED BY COUNCILWOMAN RIDDOCH) TO WIT:

WHEREAS, the Supervisor has asked the Town Board to consider amending the Town Council Rules of Procedure, to change the time of meeting time of the meeting time of the Town Board Regular Meetings and to change the Order of Business:  
WHEREAS, the Town Clerk has asked the Town Board to consider amending the Town council Rules of Procedure to amend the time for presentations to the Clerk.

WHEREAS, the Town Council Rules of Procedure at section 31 the Rules can be amended by four-fifth (4/5) vote of all Members of the Town Board, upon two weeks notice of the motion to amend the Rules, which notice shall contain the text of the change.

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

1. Notice is hereby given that the Supervisor will on December 3, 2007, request the Town Board adopt a resolution to amend the Town Council Rules of Procedure effective January 2, 1008, as follows (the proposed changes being shown in bold face type).

#### **§1. Regular Meetings**

Regular meetings of the Alden Town Board shall be held at **7:00 p.m.** on the first and third Mondays of each month unless said first or third Monday is a legal holiday, in which events such regular meeting shall be held at **7:00 p.m.** on the following day. Each regular meeting and all adjourned session shall be open for consideration of any matter which, in accordance with the law and these rules, may be properly brought before the Town Board.

#### **§6. Order of business.**

A. The order of Business of each meeting of the council shall be as follows:

- 1) **Pledge of Allegiance**
- 2) **Invocation**
- 3) **Calling the roll of Board Members by the Clerk**
- 4) **Offer of the minutes and synopsis of the proceedings of previous Meetings.**
- 5) **Approval of Vouchers**
- 6) **Business from the Floor**
- 7) **Presentation of communication from Board Members and other town officials**
- 8) **New Business**
- 9) **Unfinished and Tabled Business**
- 10) **Reports of committees, officials, and personnel**
- 11) **Announcements from the Supervisor**

- 12) Notice of Meetings
- 13) Memorial Adjournment

**§ 8. Time for presentations to the Clerk**

All petitions, resolutions, offers, reports, motions (except incidental ones) and other items of business or communications of whatever nature shall be submitted to the Town Clerk before **4:30 p.m. on Thursday** for presentation at the regular meeting on the following Monday, unless said **Thursday** is a legal holiday, in which event all matters shall be presented to the Town Clerk before **4:30 p.m. on Wednesday**. All matters presented to the clerk in accordance with this rule shall be included on the agenda for the ensuing meeting. The agenda for the ensuing meeting shall be prepared and available at the Town Hall no later than **12 noon on the last business day preceding the ensuing meeting**. The Town Board shall not consider nor act upon any matters which are not timely or scheduled on the agenda delivered to the Town Board members as aforesaid, except by unanimous consent by all members of the board. This rule need not apply to special meetings, which are covered in § 2 and in § 62 of the Town Law of the State of New York.

2. This Resolution shall take effect immediately.

This resolution was duly put to a roll call vote at a regular meeting on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN RIDDOKH WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN WEBER TO WIT;

WHEREAS, the Alden Town Planning Board has advised the Alden Town Board that there is a vacancy on the Board, for a term expiring May 2013.

WHEREAS, the Town has advertised the vacancy in the Alden Advertiser and has received many applications, said applications having been carefully reviewed by the Planning Board who made recommendations to the Town Board;

WHEREAS, the top two candidates (the third having declined an interview) have been interviewed by a Town Committee;

WHEREAS, after due deliberation the Town Committee has recommended to the Town Board that Gary D. Wagner be appointed to the Planning Board.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. That the Town Board hereby appoints Gary D. Wagner, to the Town of Alden Planning Board, his term to expire on May, 2013 and to be paid pursuant to the Town's schedule of salaries; and
2. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a roll call vote on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN WEBER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN RIDDOKH TO WIT

WHEREAS, the Town Board of the Town of Alden is considering the establishment of the Periwinkle Meadows Street Lighting District (the "Proposed Action"); and

WHEREAS, the Town Board of the Town of Alden feels that the Proposed Action is an Unlisted Action under SEQRA; and'

WHEREAS, the Town Board of the Town of Alden believes that the Town of Alden is: the agency primarily responsible for undertaking such decisions; is the agency with the broadest governmental powers for investigating the impact of the Proposed Action; and has the greatest capacity for providing the most thorough environmental assessment of the Proposed Action; and is the Most local agency with permitting authority; and

WHEREAS, the Town Building Inspector is hereby directed to send notice to the Eire County Division of Planning as required under Section 239-m of the General Municipal Law and to send notice to all other interested agencies.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA.
2. The Town Board has determined that it should be the Lead Agency for all environmental review of the Proposed Action.
3. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at the regular meeting of the Town Board of the Town of Alden on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR SMITH WHO MOVED ITS ADOPTION SECONDED BY COUNCILWOMAN COOKE TO WIT

WHEREAS, A WRITTEN PETITION DATED October 7, 2007 has been submitted in due form by Austin Development Inc, LLC Developer-Property Owners containing the required signatures, which as been presented and filed with the Town Board of the Town of Alden, County of Erie, New York, for the establishment of a street lighting District, to be known as Periwinkle Meadow Street Lighting District, which is bounded and described on Exhibit A attached hereto and made a part hereof, and

WHEREAS, the improvements proposed consist of the construction and maintenance of a street lighting system to serve the District in accordance with a certain map and plan prepared by Metzger Civil Engineering, PLLC, a part of such petition and heretofore adopted by this Town Board, now on file in the office of the Town Clerk of said Town, and

WHEREAS, it is the intention of the petitioners to construct said street lighting system at its own expense, to transfer said street lighting system to the Town, when completed, without any consideration.

NOW, THEREFORE, BE IT ORDERED that a meeting of the Town Board of the Town of Alden will be held at 3311 Wende Rd., Alden, New York 14004 on December 17, 2007 at 7:35 PM on said day, to consider said petition and to hear all person interested in the subject thereof, concerning the same, and for such other and further action on the part of said Town Board, with relation to the premises.

This Resolution was duly put to a roll call vote on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN SNYDER WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN COOKE TO WIT;

WHEREAS, the Town Board of the Town of Alden is considering an application by Raymond L. and Sharon Weber Francis for the subdivision of two (2) lots. The entire parcel currently consists of approximately 42 +/- acres on Reinhardt e Road in the Town of Alden (currently identified by SBL #96.00-6-11.1). The first proposed lot ("Parcel A") would be 1.84 acres; the second proposed lot ("Parcel B") would be the remainder of parcel (The "Proposed Action");

WHEREAS, the Town Board has determined that the Proposed Action is an Unlisted Action under SEQRA but has determined that it is in the public interest to conduct an uncoordinated review;

WHEREAS, the Town Board believes that the Town of Alden is: the agency primarily responsible for undertaking decision as to subdivision; is the agency with the broadest governmental powers for investigating the impact of the Proposed Action; has the greatest capacity for providing the most thorough environmental assessment of the Proposed Action; and is the most local agent with permitting authority;

WHEREAS, the Town Building Inspector is directed to provide notice to the Erie County Division of Planning for this Proposed Action, as required under Section 239-m of the General Municipal Law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The town Board has determined that the Proposed Action is an Unlisted Action under SEQRA
2. The Town Board has determined that it should be the Lead Agency for all environmental review of the Proposed Action.
3. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board of the Town of Alden on December 3, 2007 and was unanimously adopted.

THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN COOKE WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN RIDDOCH TO WIT:

WHEREAS, The Town Board of the Town of Alden has been informed by the County of Erie that three parcels of land, totaling 47 +/- acres east of Townline Road (further identified as SBL107.00-1-28; 107.00-2-14-1 and 107.00-2-14-3) are being offered to the Town of Alden t no charges by the County of Erie; and

WHEREAS, the Town Board believes that these parcels could be used by the Town for future recreational uses; and

WHEREAS, the Town Board feels that it is in the best interests of the citizens of Alden to promote recreational purposes; and

WHEREAS, the Town Board is interested in accepting the parcels of land for future recreational uses.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board herby declares its intent to accept the parcels from the County of Erie at no charge to the Town for future recreational purposes.
2. That the Supervisor of the Town of Alden is hereby authorized to sign all documents required to effectuate the transfer of title for these three (3) parcels; and
3. This resolution shall take effect immediately.

The foregoing Resolution was duly put to a vote on December 3, 2007 and was unanimously adopted.

Councilwoman Riddoch moved and Councilman Snyder seconded the Motion to renew the HOP for Mary Jane Wojnar/111385 Broadway. Unanimously carried.

Supervisor Smith polled the Board and with no objection the following was added to the Agenda.

THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR SMITH WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN RIDDOCH TO WIT;

WHEREAS, THE Alden Town Board realizes the safety concern with blowing snow at the intersection of Walden (a state highway) and Wende (a county highway) Roads in the Town of Alden;

WHEREAS, the Town of Alden seeks grant monies to install measures to mitigate blowing snow at the intersection of Walden Avenue and Wende Road;

WHEREAS, State Senator Dale Volker has secured \$20,000 in funding through the Multi Medal program to mitigate the aforementioned condition; and

WHEREAS, the town Board after full and careful review and consideration finds that making an application for the grant monies is in the public interest and safety to authorize said application;

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

1. That Grantmakers Advantage, Inc., the town's grant consultants be authorized and directed to complete the necessary application, forms, etc. to be submitted to the New York State Department of Transportation for the purpose of securing this grant,
2. That the Supervisor be and hereby is authorized and directed to execute all documents pertaining to the application and acquisition of said funding.
3. This Resolution shall take effect immediately.

This Resolution was duly put to a vote on December 3, 2007 and was unanimously adopted.

THERE WAS NO UNFINISHED & TABLED BUSINESS

REPORTS FROM STANDING COMMITTEES AND PERSONNEL

Town Attorney Strong requested the following items be placed on the Work Session; Contracts for the State Troopers; Meals on Wheels; Grant Writer; Library and Ted Morgan; SD#2.

Councilman Snyder reported he had Jim Raego/ Raymar was out and checked the Boiler.

Councilwoman Cooke reported on a Meeting she had with Donald Putman and James Gerber re Disaster; and on 12/13 she will attend at WNE D Studio a program on Senior Wellness.

Engineer Metzger received a letter from CSX and an estimate for a Generator for the Town Hall.

Supervisor Smith reported he was a Judge for Christmas in the Park this past weekend and requested Solar Liberty Proposal be on the Work Session.

Supervisor Smith adjourned the Meeting at 9:28 PM with a Minute's silence in Memory of Mark Gallina and Marion Bartnik.

Dorothy L. Bycina  
Town Clerk

