

Genesee/Finger Lakes Regional Planning Council



Controlling Sediment in the Black and Oatka Creek Watersheds

Revising Local Laws

June 2006

Acknowledgements

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Front Cover: Main Street Bridge over Oatka Creek, Village of LeRoy
Credit: Jason Haremza, Spring 2003

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A report submitted to the Great Lakes Commission in fulfillment of Task 5 of the overall requirements for the “Controlling Sediment in the Black and Oatka Creek Watersheds” project. This report was partially funded by the Great Lakes Commission Program for Soil Erosion and Sediment Control.



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GENESEE/FINGER LAKES
Regional Planning Council

Mission Statement

The Genesee/Finger Lakes Regional Planning Council (G/FLRPC) will identify, define, and inform its member counties of issues and opportunities critical to the physical, economic, and social health of the region. G/FLRPC provides forums for discussion, debate, and consensus building, and develops and implements a focused action plan with clearly defined outcomes, which include programs, personnel, and funding.

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I. EXECUTIVE SUMMARY

The *Controlling Sediment in the Black and Oatka Creek Watersheds* project was funded in part by a grant awarded by the Great Lakes Commission (GLC) Program on Erosion and Sediment Control. As stated on the GLC website, the Program's purpose is to "protect and improve water quality in the Great Lakes by reducing soil erosion and controlling sedimentation through financial incentives, information and education, and professional assistance."¹

The project consists of five major components:

- **Task 1** – Erosion and Sediment Control - Municipal Meetings (Black Creek)
- **Task 2** – Report: *Identification and Analysis of the Riparian Corridor in the Black and Oatka Creek Watersheds*
- **Task 3** – Report: *Municipal Law Review and Analysis*
- **Task 4** – Report: *Water Resource Issue Identification and Prioritization*
- **Task 5** – Technical Assistance to the Towns of Bethany, Sweden and Warsaw and Report: *Revising Local Laws*

Funds for this project were applied for in February 2004 and awarded in June 2004. Tasks 1 and 2 were completed in autumn of 2005; tasks 3, 4 and 5 were completed in June 2006.

Each one of the 24 municipalities in the two watersheds (the watersheds share parts of six municipalities) could receive assistance from Genesee/Finger Lakes Regional Planning Council (G/FLRPC) in revising their local laws based on the assessment and the models in Task 2 and 3 in relation to their existing local laws, existing State and Federal laws and regulation, assessment and recommendations of the riparian corridors, and land use patterns, issues and concerns. This involved an initial meeting with each municipality's town/village, and planning board to explain the assessment and analysis process and to seek a working relationship. Applications were distributed to all municipalities in the watershed for Assistance to Municipalities in Revising Local Laws. The deadline for applications was October 3, 2005. Four municipalities sent in an application requesting assistance. G/FLRPC staff worked with three of those towns.

The following compilation is intended to satisfy the requirements of *Task 5: Revising Local Laws*. The document brings together major findings from the technical assistance work Genesee/Finger Lakes Regional Planning Council provided to the Towns of Bethany, Sweden, and Warsaw.

¹ Great Lakes Commission Program on Erosion and Sediment Control. <http://www.glc.org/basin/background.html>. Last visited 6/5/06.

All information related to Tasks 1–5 of this project – including background information, maps, fact sheets, forms and completed reports – may be viewed and downloaded at the following webpage:

Project Website:

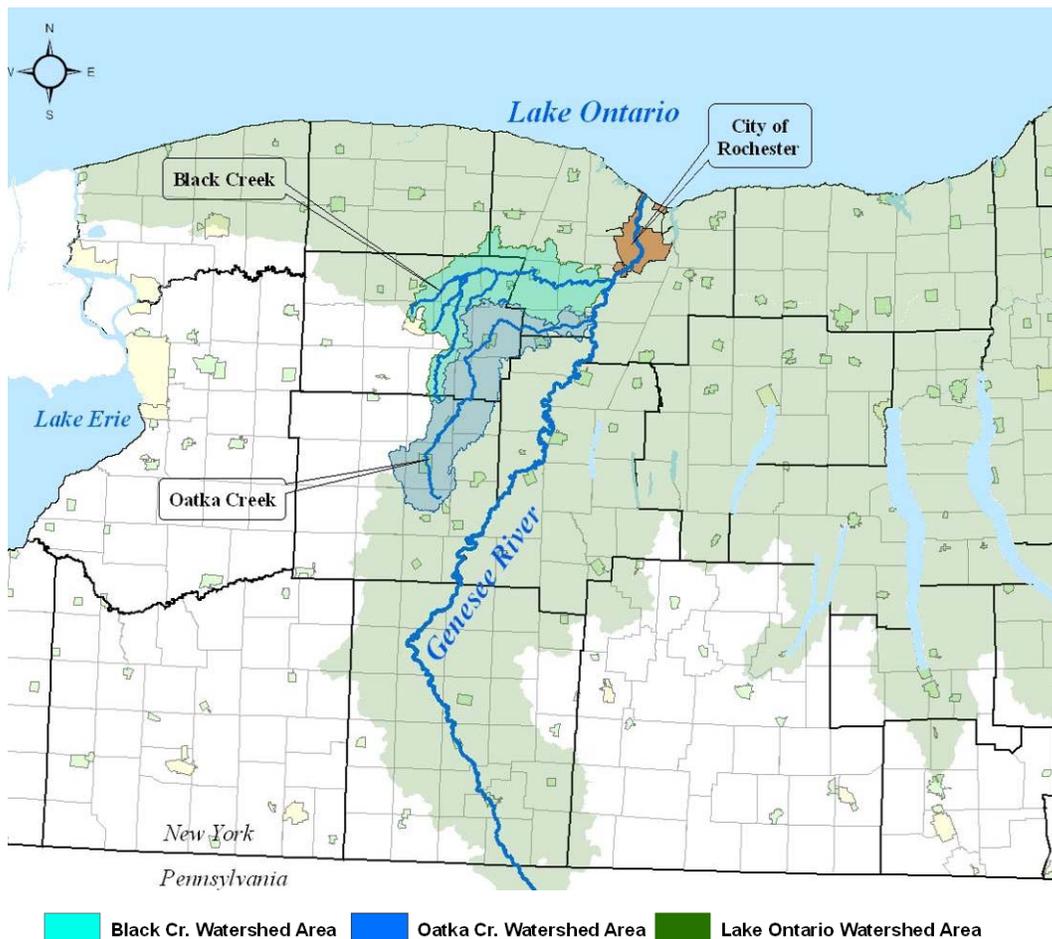
<http://gflrpc.org/Publications/ControllingSediment/ControllingSediment.htm>

II. INTRODUCTION

The Black and Oatka Creek watersheds are adjacent sub-drainage basins that comprise a significant portion of the Lower Genesee River drainage basin. Eventually all of the water contributed by these two watersheds enters the Genesee River, where it then flows north through the City of Rochester and into Lake Ontario at the lake's southern shore, known locally as the Port of Rochester.

Human activity within all watersheds can have a direct impact on land and water use patterns. If improperly managed, these activities can have cumulative, negative impacts on local and regional water quality. Recognizing the importance of protecting area land and water resources, concerned citizens, local governments, and public and private organizations have been putting forth significant efforts over the past three decades to better understand the physical, chemical and ecological complexities of the Black and Oatka Creek watersheds.

Overview of the Black and Oatka Creek Watersheds/Lake Ontario Drainage



Through the efforts of the Black Creek Watershed Coalition, the Oatka Creek Watershed Committee, various public agencies and area academic institutions, watershed characterizations (also called “state of the basin” reports) have been completed for each watershed. A watershed characterization is intended to be a comprehensive assemblage of the wide body of data that is available relative to the health and function of a drainage basin. Chemical, physical, ecological, demographic, historic and other types of pertinent data are collected on the focus area in an effort to establish baseline information and to better understand how these various attributes function, interact and change over time.

After this data has been adequately reviewed, the next logical step in the watershed planning process is the development of a watershed management plan. Watershed management plans are intended to develop a framework and implementation strategy for the future management of water resources within an area of concern. Along with municipal support and stakeholder involvement, watershed management plans depend on a body of reliable and robust data from which to draw conclusions from. The watershed management planning process, when conducted in a comprehensive and equitable manner, will ideally lead toward the efficient implementation of watershed management goals that are intended to benefit local water resources and the overall public good.

In the process of moving from a watershed characterization report to a watershed management plan in the Black and Oatka Creek watersheds, it is important that every stakeholder recognize the wide array of water quality issues that have been identified thus far. Tasks 2, 3 and 5 of this *Controlling Sediment in the Black & Oatka Creek Watershed* project are an integral part of this process. Task 2 produced the *Identification & Analysis of the Riparian Corridor in the Black & Oatka Creek Watersheds* report, which studied and made recommendations on many of the severely eroded streambanks in the two watersheds. Task 3 produced the *Municipal Law Review and Analysis* assessment report, which presented a comprehensive inventory of the regulatory mechanisms that govern land use and ultimately water resources in the 28 municipalities that are present within the two watersheds. Task 5 provided technical assistance and local law review to the Towns of Bethany, Sweden and Warsaw in an effort to address and integrate water quality best management practices.

Task 5: Revising Local Laws provided technical assistance to municipalities that expressed interest and commitment to revising their local laws. Each one of the 24 municipalities in the two watersheds (the watersheds share parts of six municipalities) could receive assistance from Genesee/Finger Lakes Regional Planning Council (G/FLRPC) in revising their local laws based on the assessment and the models in Task 2 and 3 in relation to their existing local laws, existing State and Federal laws and regulation, assessment and recommendations of the riparian corridors, and land use patterns, issues and concerns. This involved an initial meeting with each municipality’s town/village, and planning board to explain the assessment and analysis process and to seek a working relationship. Applications were distributed to all municipalities in the watershed for Assistance to Municipalities in Revising Local Laws. The deadline for applications was October 3, 2005. Four municipalities sent in an application requesting assistance. G/FLRPC staff worked with three of those towns.

The following compilation is intended to satisfy the requirements of *Task 5: Revising Local Laws*. The document brings together major findings from the technical assistance work Genesee/Finger Lakes Regional Planning Council provided to the Towns of Bethany, Sweden, and Warsaw.

III. TOWN OF BETHANY

Documents Reviewed

- **Comprehensive Plan, 1996 (reviewed draft update from 2004)**
- **Stormwater Management and Erosion Control Law, 1994**
- **Zoning Law, adopted 1985, amended through 2004**
- **Land Separation and Subdivision Regulations, amended through 2000**

Comprehensive Plan

General

A general recommendation would be to proceed with and complete the revisions to the Comprehensive Plan that are currently underway. The plan, the Town's first, was adopted in 1996, and the survey on which the plan is based on dates to 1993. It is a well organized, solid document, but a ten year planning window is fairly standard. Also, technological advances since then have allowed maps and graphics to be much more easily produced and inserted into narrative documents, adding significantly to the document's clarity and value. Finally, since 1996, Genesee County has adopted a Smart Growth Plan in conjunction with its expansion of the public water system in the county. Bethany should continue to review its Comprehensive Plan (and all land use regulations) for consistency with this county document.

Other recommendations to consider for inclusion in a revised comprehensive plan:

1. Page 1, Second Paragraph: Consider revising the phrase "still expanding metropolitan areas of Buffalo and Rochester." It may be helpful to clarify to the reader that these metro areas are expanding in development patterns, but not in population.
2. Existing Conditions, Natural Features Section: In general the discussions of the Town's soil types on pages 3 through 5 is excellent and a feature that far too few towns include in their comprehensive plans. Further recommendations for this section are:
 - a. Clearly show on a map where various types of soil are
 - b. Clearly show on a map the areas where the soils are potentially suited for development (East Bethany and Little Canada) and the areas where the soils are particularly unsuited for development (Bethany Center)
 - c. For areas that could "reasonably be targeted for future residential growth," such as East Bethany and Little Canada, detail how zoning regulates this concept
3. Existing Conditions, Flood Zones Section: Recommend renaming this section to something like "Water Resources" and include a paragraph or two discussing the streams and creeks in the town and the various watershed areas, in addition to the existing language on flood zones (you might even include a bit on Linden Falls and its role in the Town's history). It is good to remind people that streams are great assets and resources

that need protecting, not just “flood hazards.” However, the flood damage prevention law should be specifically referenced, not just merely mentioned. Having the Town’s flood plains mapped (on the zoning map) is a very helpful detail. Further recommendations include:

- a. Creating a new zoning district that just includes flood plain areas and using the permitted use regulations of this new district to limit the amount and type of development that can occur in the floodplains.
4. Existing Conditions, Wetlands Section: Having the Town’s wetlands mapped and included in the comprehensive plan would be a helpful detail. Further, the specific detail on the bottom of page 5 on how wetlands ST-25 and ST-31 can help buffer developed areas from agricultural areas is excellent. However, how are these statements in the plan getting put into action? Further recommendations include:

Creating an overlay district (as is recommended on Page 24 of the Comprehensive Plan) for floodplains and wetlands that allows all current zoning regulations of the underlying districts to remain in place but puts an extra level of scrutiny on development in these sensitive areas (for example, single family homes are not generally subject to site plan review, but perhaps in an floodplain and wetland overlay district, all construction would be subject to site plan review).

5. Community Vision Statement, Environmental Character Section: The language on the bottom on page 15 is outstanding. It helps people understand that a single home built or site developed is not going to greatly alter the character of the community, but collectively, over time, these changes to the landscape accumulate. Recommendations include:
- a. Expand on the topic of scattered incremental development as noted above, its impacts to the Town’s character, and widely publicize this concept to the Town.
 - b. Include a policy statement in this section that reads something to the effect of: “The Town of Bethany recognizes that water quality is best addressed at the watershed level; what occurs in the Town of Bethany has the potential to impact its downstream neighbors and similarly, what occurs in upstream municipalities has the potential to impact Bethany. It is the policy of the Town to actively participate in watershed-wide and regional organizations that address water quality. These can include, but are not limited to the Oatka Creek Watershed Committee and the Black Creek Watershed Committee.
 - c. Include a policy statement on wind energy that reads something to the effect of: “The Town of Bethany recognizes that Genesee County has the 11th highest potential for wind energy development of New York State’s 62 counties and that wind is a potential valuable resource in the Town. Consideration, study, and analysis of this resource is to be encouraged and any wind energy development should proceed with full public participation and a thorough review of the advantages and disadvantages of such development.

6. Land Use Plan, Agricultural Section: This section includes the wording “residential development should be directed to other areas to preserve and protect some agricultural areas” (Page 18, Second Paragraph) If this is a policy statement in the Comprehensive Plan, there should be some sort of implementation technique specified. It has been noted that many communities call zoning districts “Agricultural Districts” but the regulations are actually, and inadvertently, encouraging single family home development. If the Town truly wishes to preserve its prime farmland, and thus limit single family home development in these areas, it needs to consider how to do this using zoning. Regional examples such as the Town of Seneca in Ontario County and the Town of LeRoy in Genesee County are utilizing “zoning allocation techniques” to discourage single family home and frontage development in prime farmland, while preserving the ability of the agricultural land-owner to develop portions of his or her property.
7. Land Use Plan, Hamlet Residential Section: From a development and physical planning standpoint, concentrating development in hamlets is an excellent policy. The Town may also wish to consider allowing/encouraging “small scale retail” in hamlet areas as has been historically the case. However, without public water and sewer, this needs to be carefully considered. Previously in the plan (Page 5), it was noted that Bethany Center may not be suited for further private wells and onsite wastewater disposal (septic systems).
8. Land Use Plan, Residential Section: The statement “No areas are designated for residential development on the Land Use Plan,” is misleading. There are areas designated; they are simply areas with existing development (hamlets) or adjacent to such areas. There is something of a disclaimer to this statement on the bottom of page 21, although further clarification may be helpful.

Also, it is noted that existing Town regulations allow lots as small as 30,000 square feet. To a large degree, lot size in areas not served by public water and sewer is dictated by New York State Health Law, Appendix 75A, which lists the standards for wells and onsite wastewater systems. Even on good soil, it is generally very difficult to achieve the necessary separation between the well and the septic system (using standard technology) on less than one acre (43,560 square feet). On less than ideal soils, much more than an acre may be necessary. It may be helpful here to reference the New York State Health Law governing this issue.

Lack of public water and sewer does not necessarily prohibit clustered site plans. There are techniques for clustered development that use private onsite wastewater systems and wells (see publications by Randall Arendt such as *Rural by Design* and by the Cattaraugus County Department of Planning). In addition, the Hamlet of Springwater, Livingston County, recently completed an innovative “public” septic system that addresses the sewage disposal concerns of an historic and relatively densely developed hamlet area without the expense of a full sewage treatment system. By allowing or encouraging clustered development and additions to established hamlets, the Town may

help preserve its rural landscape character by preventing development to spread out in a linear fashion along existing roads.

Stormwater Management and Erosion Control Law

The fact that the Town of Bethany has such a law puts it at a great advantage in protecting the water resources of the town and the region. The most important issues for the Town to consider, however, is whether the current law meets the needs of the Town and can it, or is it, being effectively enforced. It has been written so broadly as to exclude most construction activities typically found from oversight. In other words, most of the limited development that Bethany has seen in recent years falls below the threshold for regulation under this law.

In addition, since it was developed well before Stormwater Phase II Regulations, the law does not conform with Federal and State stormwater criteria. For example, Bethany's Stormwater Management and Erosion Control law exempts all single family homes from stormwater regulation. Federal and State regulations state that single family homes that disturb more than an acre of land must file stormwater management documentation. A person building a single family home in Bethany might think that they are following the stormwater law, as far as the Town is concerned, but be unaware that they are not following the law as far as the State and Federal regulations are concerned. For this reason, it is recommended that Bethany either:

1. Bring the Town of Bethany Stormwater Management and Erosion Control Law into conformance with the State and Federal Stormwater Phase II Regulations (easily done by abolishing the existing law and adopting the model law developed for this purpose by the New York State Department of State and the New York State Department of Environmental Conservation)

OR

2. Abolish the Town of Bethany Stormwater Management and Erosion Control Law and simply inform landowners and building permit applicants that they must comply with State and Federal Stormwater Phase II Regulations

The Town needs to consider its twelve years of experience with the Stormwater Management Law and whether the law is doing the job it was intended to.

Zoning

Overall the zoning is well ordered, clear, and easy to use. Simple aspects like page numbers and a table of contents seem like basic document details, but many town zoning laws lack these. The inclusion of graphics illustrating yard setbacks for irregularly shaped lots at the end of the law is a great technique. Additional graphical illustrations are encouraged.

As noted in the review of the Town's Comprehensive Plan (Flood Zones and Wetlands section), there are two recommendations coming out of that which have to do with zoning:

1. Creating a new zoning district that includes only flood plain areas. Then, using the permitted use regulations of this new district, the Town could limit the amount and type of development that can occur in the floodplains. This would be a new section, Section 310, in the Zoning Law.
2. An alternative to a completely new zoning district would be to create an overlay district (as is recommended on Page 19 of the Comprehensive Plan). This would also be inserted as “Section 310” in the Zoning Law. The overlay district could include floodplains and wetlands and would allow all current zoning regulations of the underlying districts (Agricultural-Residential, Commercial, etc.) to remain in place but puts an extra level of scrutiny on development in these sensitive areas (for example, single family homes and not generally subject to site plan review, but perhaps in an floodplain and wetland overlay district, *all* construction would be subject to site plan review).

In addition, the following recommendations are related to the Zoning Law:

3. Clearer reference to Schedule A (dimensional requirements) in the text of the Zoning Districts (Section 305-309).
4. Include setbacks from water bodies. One innovative, yet simple, technique that has been used by some towns to protect their waterways is to require a setback (50 feet, for example) from the centerline of all streams appearing on USGS maps. This is very similar to setbacks required for front yards, side yards, etc. By requiring this setback, construction and development activity is kept out of areas adjacent to streams.
5. As noted previously, re-examine the 30,000 square foot minimum lot. If retained, make sure to reference New York State Public Health Law and the requirements for siting wells and onsite wastewater systems.

Land Separation and Subdivision Regulations

Overall, the Land Separation and Subdivision Law is well ordered, clear, and easy to use. One over-arching concern is the phrase “Town of Bethany Local Law No. 1 of 1995 is hereby repealed.” This appears in Article VIII of the Land Separation Law (page 5). This phrase gives the impression that the entire Town of Bethany Land Subdivision Regulations (which are labeled “Local Law No. 1 of 1995” on Page 1) have been repealed. This discrepancy, which may lead to misunderstanding, should be corrected.

Other recommendations to consider for the Subdivision Ordinance:

1. Article IV, Section 1, Subsection B (Page 20). This section refers to conformity to Official Map and Master Plan. Since “Master Plan” is a term that has largely been replaced by “Comprehensive Plan,” The Town should consider changing the language here to reflect that. Suggested wording might be: “Conformity to Official Map and

Comprehensive Plan or Master Plan.” Any other references throughout the document to ‘Master Plan’ should be similarly addressed.

2. Article IV, Section 2, Subsection A, Paragraph 4 (Page 21). This paragraph refers to standards for streets. The Town may wish to reword the description of minimum lane and minimum width requirements. Currently, the law states: “Roadways shall have a minimum of two lanes, each of which shall be ten feet or wider as specified by the Town Highway Superintendent.” Low speed, low volume residential roads can have lanes at 9 feet wide, and if there is an on-street parking lane, that can be 8 feet wide. The goal of the Town should be to require residential roadways to be as narrow as possible (while still allowing access for fire equipment, school buses, and snowplows) to encourage slow vehicular speeds and reduce the amount of pavement (impervious surface) area. A suggested rewording of this sentence might be: “Roadways shall have a minimum of two lanes. Each travel lane shall be a minimum of 9 feet wide and a maximum of 12 feet wide, or as specified by the Town Highway Superintendent.”
3. Article IV, Section 2, Subsection A, Paragraph 8 (Page 21). This paragraph refers to standards for cul-de-sac streets. The Town should consider adding two items after letter “d”
 - e. All cul-de-sac turn arounds shall have an open, unpaved, vegetated, and landscaped center island in order to improve the aesthetics of the streetscape and reduce the amount of impervious surface.
 - f. So as to promote efficient pedestrian circulation and walkability of residential neighborhoods, any two cul-de-sacs which back up to each other shall have at least a 20 foot wide right-of-way for a pedestrian path to connect the cul-de-sac ends.
4. Article IV, Section 2, Subsection D, (Page 23). This subsection refers to Stormwater Drainage, Erosion and Sediment Control Measures and Easements. The existing language refers all residential subdivision proposals to the Genesee County Soil and Water Conservation District and/or the Town Engineer for their review. This is very good. The Town should consider adding, mainly as a reminder for any subdivision applicant reading this law, some language such as:
 - a. All permitting and design documentation necessary to comply with the State Pollution Discharge Elimination System (SPDES) Phase II Stormwater Permit as administered by the New York State Department of Environmental Conservation, including but not limited to a Stormwater Pollution Prevention Plan (SWPPP) shall be provided with the Preliminary Plat. In addition, the applicant shall comply with the Town of Bethany Stormwater Management and Erosion Control Law of 1994 or its successors.
5. Article IV, Section 2, Subsection F, Paragraph 5 (Page 24). To clarify the language in this paragraph, the Town should consider the following:

- a. The Subdivider shall not be permitted to leave any surface depression which will collect pools of water unless such feature is part of the designed and approved stormwater management system.
6. Article VI, Section 2, Subsection A, Paragraphs 9 and 10 (Page 30). In order to update the language to reflect the current Stormwater Phase II requirements, I would suggest the following for paragraphs 9 and 10:
- 9. The approximate location and size of any proposed water lines, valves, hydrants and sewer lines, stormwater lines or conveyances (including ditches), and fire alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law or Environmental Conservation Law. Profiles of all proposed water, sanitary sewer, and storm sewer lines.
 - 10. All permitting and design documentation necessary to comply with the State Pollution Discharge Elimination System (SPDES) Phase II Stormwater Permit as administered by the New York State Department of Environmental Conservation (NYSDEC), including but not limited to a Stormwater Pollution Prevention Plan (SWPPP) that conforms to the requirements of the NYSDEC.

Other Laws to Consider

The following are laws that the Town of Bethany may wish to consider adopting to help address water quality issues:

- Onsite Wastewater System Inspection Law
- Timber Harvesting Law

IV. TOWN OF SWEDEN

Documents Reviewed

- **Draft Construction Model Ordinance (Stormwater Coalition of Monroe County, 2005)**
- **Draft Post-Construction Model Ordinance (Stormwater Coalition of Monroe County, 2005)**

The Town of Sweden chose a different approach to this project than Bethany or Warsaw. Sweden is part of the Rochester Urbanized Area, and as such, is a regulated municipal separate storm sewer system (MS4). The Stormwater Phase II regulatory requirements for MS4 municipalities are significantly more involved than those for non-MS4 municipalities (i.e. Bethany and Warsaw).

Thus, Sweden requested that G/FLRPC specifically help them meet their local law revision requirements for the Stormwater Phase II. Local laws to regulate construction activities and post-construction situations must be in place by January 2008.

To that end, G/FLRPC reviewed and advised the Town Highway Superintendent, in concert with the Town's consulting engineer, and in coordination with the Stormwater Coalition of Monroe County, on the draft model laws that the Stormwater Coalition had developed. G/FLRPC offered to conduct training for the Town Board on the Stormwater Phase II regulations and what Sweden must do to meet these requirements. This training session is still pending.

V. TOWN OF WARSAW

Documents Reviewed

- **Community Objectives, Goals, and Policies for Land Use Growth, 1986 (referred to as the Comprehensive Plan)**
- **Zoning Law, adopted 1998**
- **Land Subdivision Regulations, 1988**

Comprehensive Plan

General

G/FLRPC strongly recommends that the existing Comprehensive Plan (entitled Community Objectives, Goals, and Policies for Land Use Growth), adopted in 1986, be thoroughly revised, updated and expanded. Any revision should include and emphasize citizen input through surveys, meetings, and workshops. By most standards, the twenty years since the plan's adoption is too long a time period without an update. In addition, the existing plan is very basic, only eight pages long, and lacks any documentation of community input. Finally, technological advances since 1986 have allowed maps and graphics to be easily produced and inserted into narrative documents, adding significantly to the document's clarity and value. Images, maps, and graphics are especially beneficial in comprehensive planning documents.

The plan is divided into sections:

- Overall Community Objectives
- Goal: Agricultural development is important and should be protected in Wyoming County
- Goal: Retain Appropriate areas of the Town for agriculture
- Goal: Encourage the development of residential neighborhoods which serve all income groups and support the concept of maintaining the Village as the community center
- Goal: Maintain a continuing program directed toward preservation of all residential areas and elimination of blight or deterioration whether present or future
- Goal: Encourage the development and maintenance of commercial facilities needed to serve the projected population of both the Town and the Village in an efficient and accessible manner
- Strengthen and protect existing industrial areas in the Town and Village of Warsaw; encourage new industrial development which would not compromise the community's basic character
- Goal: Provide an adequate circulation system for land uses which is in scale with the demand
- Protect important environmental resources from the adverse effects of development
- Goal: Provide high-quality community facilities and services at an acceptable cost to local taxpayers

All of these goals, and their corresponding policies, are good general statements. However, as with many comprehensive planning documents, the goals and policies are overly general. That is, they are so vague as to be difficult to implement. A recommendation for any revised comprehensive planning document would be to include an implementation matrix showing how each policy will be addressed, and by whom, and with an estimated time frame and cost.

Other recommendations to consider for inclusion in a revised and expanded comprehensive plan:

1. A description and map of the Town's soil types and how these types are suitable or unsuitable for development, on-site wastewater treatment systems, farming, etc.
2. A section termed "Water Resources" (or similar) and include a paragraph or two discussing the streams and creeks in the town and the various watershed areas, in addition to flood zones. It is beneficial to remind readers and policy-makers that streams are great assets and resources that need protection and are not simply "flood hazards" that must be dealt with.
3. The previous recommendation notwithstanding, the Town's flood damage prevention law should be specifically referenced, not just merely mentioned. Including a map of the Town's flood plains (both by themselves and overlaid on a zoning map) in the comprehensive plan would be a helpful detail.
4. The revised comprehensive plan might recommend the creation of a new zoning district that just includes flood plain areas and using the permitted use regulations of this new district to limit the amount and type of development that can occur in the floodplains.
5. Alternatively, the revised comprehensive plan might recommend the creation of an overlay zoning district for floodplains, wetlands, and steep slopes. The existing zoning law does have an overlay district for floodplains, but expanding this overlay district would enhance the level of environmental protection. Since an expanded overlay district would address several environmentally sensitive areas, such it would be known as an "Environmental Protection Overlay District" or EPOD. An overlay district allows all current zoning regulations of the underlying districts to remain in place but puts an extra level of scrutiny on development in these sensitive areas (for example, single family homes are not generally subject to site plan review, but perhaps in an EPOD, *all* construction would be subject to site plan review). A description and map of the Town's wetlands, floodplains, and steep slopes and how these might affect development would be a helpful detail.
6. Include a policy statement in this section that reads something to the effect of: "The Town of Warsaw recognizes that water quality is best addressed at the watershed level; what occurs in the Town of Warsaw has the potential to impact its downstream neighbors and similarly, what occurs in upstream municipalities has the potential to impact Warsaw. It is the policy of the Town to actively participate in watershed-wide and regional

organizations that address water quality. These can include, but are not limited to the Oatka Creek Watershed Committee.

7. Include language in the comprehensive plan that help readers and policy-makers understand cumulative effects. A single home built or site developed is not going to greatly alter the character of the community, but collectively, over time, these changes to the landscape accumulate and *do* alter the character of the community.
8. Also, it is noted that existing Town zoning allow lots as small as 30,000 square feet in Rural Residential Districts. To a large degree, lot size in areas not served by public water and sewer is dictated by New York State Health Law, Appendix 75A, which lists the standards for wells and on-site wastewater systems. Even on good soil, it is generally very difficult to achieve the necessary separation between the well and the septic system (using standard technology) on less than one acre (43,560 square feet). On less than ideal soils, much more than an acre may be necessary. It may be helpful for the revised comprehensive plan to consider rural lot sizes and include a reference the New York State Health Law governing this issue.
9. It should be noted that lack of public water and sewer does not necessarily prohibit clustered site plans. There are techniques for clustered development that use private onsite wastewater systems and wells (see publications by Randall Arendt such as *Rural by Design* and by the Cattaraugus County Department of Planning). In addition, the Hamlet of Springwater, Livingston County, recently completed an innovative “public” septic system that addresses the sewage disposal concerns of an historic and relatively densely developed hamlet area without the expense of a full sewage treatment system. By allowing or encouraging clustered development and additions to established hamlets, the Town may help preserve farmland and its rural landscape character by preventing development to spread out in a linear fashion fronting on existing roads.

Zoning

Overall the zoning is well ordered, clear, and easy to use.

Recommendations to consider for the Zoning Ordinance:

1. The inclusion of a map showing the zoning districts would be extremely helpful when reading the document. Even if it is an “unofficial” map, or an insert in the back that can be changed when district boundaries change, having this visual aid is strongly recommended.
2. The Town needs to carefully consider the differences between its Agricultural Zoning District Regulations and its Rural Residential District Regulations. They are very similar, and both allow single family homes as a permitted use. It has been noted that many communities call districts “Agricultural Districts” but the regulations are actually, and inadvertently, encouraging single family home development. If the Town truly wishes to

preserve its prime farmland, and thus limit single family home development in these areas, it needs to consider how to do this using zoning. Regional examples such as the Town of Seneca in Ontario County and the Town of LeRoy in Genesee County are utilizing “zoning allocation techniques” to discourage single family home and frontage development in prime farmland, while preserving the ability of the agricultural landowner to develop portions of his or her property.

3. The inclusion of graphics illustrating yard setbacks and other dimensional regulations are a great technique to help readers understand regulatory concepts.
4. As noted in the review of the Comprehensive Plan, there are two recommendations for the Comprehensive Plan related to zoning (items 4 and 5 in the previous section). Therefore, depending on the schedule and outcome of any Comprehensive Plan revision, the Town may want to consider these zoning changes:
 - a. The creation of a new zoning district that just includes flood plain areas and using the ‘permitted use regulations’ of this new district to limit the amount and type of development that can occur in the floodplains.
 - b. The creation of an overlay zoning district for floodplains, wetlands, and steep slopes. The current zoning has an overlay district for floodplains, but expanding this would enhance the level of environmental protection. Since it addresses several environmentally sensitive areas, such an overlay district is known as an “Environmental Protection Overlay District” or EPOD. An overlay district allows all current zoning regulations of the underlying districts to remain in place but puts an extra level of scrutiny on development in these sensitive areas (for example, single family homes are not generally subject to site plan review, but perhaps in these areas, *all* construction would be subject to site plan review). A description and map of the Town’s wetlands, floodplains, and steep slopes and how these might affect development would be a helpful detail.
5. Clearer reference to Schedule I (dimensional requirements) in the text of the Zoning Districts (Article IX).
6. Consider using setback regulations to protect water bodies. This innovative, yet simple, technique has been used by some towns to protect their waterways. In addition to the front, side, and rear setback requirements already established, the zoning language would include a setback (50 feet, for example) from the centerline of all streams appearing on USGS maps. This requirement helps keep construction and development out of areas adjacent to streams.
7. Strongly recommend that the Town re-consider its parking regulations (Article X, Section 1000, and Schedule II). Surface parking lots create a large amount of impervious surface, which exacerbates stormwater runoff problems. Not only does the volume of water quickly running off the surface of the parking lot create problems, but the greater the

surface area, the greater the amount of nonpoint source pollutants entering the drainage system. The Town of Warsaw appears to have excessive requirements for parking. To use one example, a 15,000 square foot retail building (the approximate size of many chain drugstores) would require 100 parking spaces (1 per 150 square feet of gross floor area). If that same store were built in other communities in the Genesee-Finger Lakes Region, some of which have much different parking requirements, it would require as few as 30 parking spaces (2 per 1000 square feet of gross floor area).

Land Subdivision Regulations

Overall, the Land Subdivision Regulations are fair. Inclusion of a Table of Contents is a basic recommendation. Also, the Regulations are 18 years old, so it is strongly recommended the Town of Warsaw update this law. If the comprehensive plan is updated in the near future, then that should occur before updating the Subdivision Regulations. Changes to the Subdivision Regulations should be based on the goals and objectives of the revised Comprehensive Plan.

Other recommendations to consider for the Subdivision Ordinance:

1. Article IV, Section 3, Street Design, Subsection I (Page 21). This paragraph refers to standards for cul-de-sac streets. G/FLRPC recommends adding the following wording to letter "I"

All cul-de-sac turn arounds shall have an open, unpaved, vegetated, and landscaped center island in order to improve the aesthetics of the streetscape and reduce the amount of impervious surface.

2. Article IV, Section 6, Drainage Improvements, Subsections B and C (Page 23). This subsection should be reworded to reflect prevailing attitudes regarding runoff. Conceptually, the language needs to move away from the requirement of simply placing a big enough pipe to handle all upstream runoff. Present stormwater guidelines and regulations place great emphasis on retaining water on-site as much as possible, to infiltrate back into the ground through the use of retention and detention ponds, rain gardens, wet meadows, etc.

The Town should consider changing the title and language in Subsections B and C to something similar to:

B. Drainage

In accordance with the State Pollution Discharge Elimination System (SPDES) Phase II Stormwater Permit as administered by the New York State Department of Environmental Conservation, the subdivider shall ensure that no net increase in runoff occur from the proposed subdivision. Runoff and stormwater shall be accommodated on-site through the use of retention and detention facilities and other techniques specified in the *New York Standards and Specifications for Erosion and Sediment*

Control (or its successors). All drainage facilities shall be designed in conformance with the *New York Standards and Specifications for Erosion and Sediment Control* (or its successors).

C. Compliance with Stormwater Regulations

All permitting and design documentation necessary to comply with the State Pollution Discharge Elimination System (SPDES) Phase II Stormwater Permit as administered by the New York State Department of Environmental Conservation, including but not limited to a Stormwater Pollution Prevention Plan (SWPPP) shall be provided with the Preliminary Plat.

3. Article IV, Section 7, Parks, Open Spaces, and Natural Features, Subsection E (Page 25). The Town may wish to review its suggested list of appropriate trees. The Town should confirm with the Wyoming County Soil and Water Conservation District and/or the Wyoming County Cornell Cooperative Extension that the trees listed are non-invasive and appropriate for use as street trees. Native species should be encouraged.
4. Article V, Section 3, Subsection A, Paragraphs 9 and 10 (Page 28). In order to update the language to reflect the current Stormwater Phase II requirements, it is recommend the Town make the following changes to paragraphs 9 and 10:
 9. The approximate location and size of any proposed water lines, valves, hydrants and sewer lines, stormwater lines or conveyances (including ditches), and fire alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law or Environmental Conservation Law. Profiles of all proposed water, sanitary sewer, and storm sewer lines.
 10. All permitting and design documentation necessary to comply with the State Pollution Discharge Elimination System (SPDES) Phase II Stormwater Permit as administered by the New York State Department of Environmental Conservation (NYSDEC), including but not limited to a Stormwater Pollution Prevention Plan (SWPPP) that conforms to the requirements of the NYSDEC.

Other Laws to Consider

The following are laws that the Town of Warsaw may wish to consider adopting to help address water quality issues:

- Erosion and Sediment Control Law
- On-site Wastewater System Inspection Law
- Timber Harvesting Law

Appendices

A: LIST OF ACRONYMS AND ABBREVIATIONS

ACE: Army Corps of Engineers
BCWC: Black Creek Watershed Coalition
Benthos: Benthic Macroinvertebrate
BMP: Best Management Practice
CAFO: Concentrated Animal Feeding Operation
CCE: Cornell Cooperative Extension
DEC: Department of Environmental Conservation
DOH: Department of Health
DOS: Department of State
EPA: Environmental Protection Agency
EPOD: Environmental Protection Overlay District
GLC: Great Lakes Commission
G/FLRPC: Genesee/Finger Lakes Regional Planning Council
GRBAS: Genesee River Basin Action Strategy
MCL: Maximum Contaminant Level
MS4: Municipal Separate Storm Sewer System
NOI: Notice of Intent
NPDES: National Pollution Discharge Elimination System; in New York State, this is administered by the State, see SPDES
NPS: Non-Point Source
NYSDEC: see DEC
OWTS: On-site Wastewater Treatment Systems
PWL or WI/PWL: Waterbody Inventory/Priority Waterbodies List
RAP: Remedial Action Plan
RIBS: Rotating Intensive Basin Studies
SPDES: State Pollution Discharge Elimination Systems
SWCD: Soil and Water Conservation District
SWPPP: Storm Water Pollution Prevention Plan
stor./appl: Storage/Application
USGS: United States Geologic Survey
WEC: The Water Education Collaborative
WQCC: Water Quality Coordinating Committee
WWTP: Waste Water Treatment Plant

B1: MODEL LAW:

Stormwater Management and Sediment and Erosion Control

*New York State Department of Environmental Conservation
New York State Department of State*

Controlling stormwater runoff and the resulting erosion from areas where the soil has been disturbed, such as construction sites, is a key aspect of protecting water quality. The Federal Clean Water Act, which in New York State is administered by the State Department of Environmental Conservation, mandates that all construction activities that disturb one acre or more of soil must demonstrate how the site work will prevent erosion and sedimentation. Procedurally, this is accomplished by having the owner of the parcel being developed file what is called a 'Notice of Intent' (NOI) with the DEC.

As has been noted, however, the DEC can use assistance in making sure what the developer says will be done is actually done. Municipalities are encouraged (those in urbanized areas, the so-called "Regulated MS4s," are required) to adopt local laws that require developers to get a local permit for construction activities that disturb soil. By implementing a local permitting process, the municipality is able to enforce good development practices and ideally protect water quality. Because so much of the development permitting process, from zoning approval to building permits, happens at the local level, ensuring that the construction process proceeds in an appropriate manner should happen locally.

The following model law was developed by the Department of Environmental Conservation and the Department of State so that municipalities could implement local oversight of construction and ground disturbance activities. For the Regulated MS4s adopting of this law is a requirement (one of the six Minimum Control Measures). Although this law is designed to ensure compliance with the Minimum Control Measures of the Stormwater Phase II Regulations for regulated MS4s, the model law is certainly applicable for any municipality in New York State. Regardless of whether your municipality is a regulated MS4 or not, all municipalities should consult the 2004 DEC/DOS publication *Stormwater Management Guidance Manual for Local Officials*.

**Model Local Law for Stormwater Management and
Erosion and Sediment Control**

A local law to amend the (Zoning Law/Subdivision Law/Site Plan Review Law/Erosion and Sediment Control Law) of the ((City/Town/Village) of _____), Local law Number _____ of the Year _____.

[Article 1 and Article 2 must be adopted for proper implementation. The municipality and its legal counsel, after reviewing their local codes and this model language, should

pick additional provisions from Articles 3, 4, 5 and 6 to ensure review and enforcement of stormwater pollution prevention plans at the local level.]

Be it enacted by the (City Council/Town Board/Village Board of Trustees) of the ((City/Town/Village) of _____) as follows:

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 municipality;
- 1.7 Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- 1.8 The regulation of stormwater runoff 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.

[The above list is a general set of objectives to reduce the impact of stormwater on receiving waters. Section 2.1 applies to regulated MS4s; a municipality not currently under this program may wish to leave this objective out, although the community may become regulated in the future. The advantage to adopting a local law for all municipalities is that the local government then has control over review and approval of Stormwater Pollution Prevention Plans (SWPPPs) during subdivision and site plan review. The local government may also wish to set some more specific objectives, based on priority water quality (refer to New York State 303 (d) list of priority waters at www.dec.state.ny.us/website/dow/303dcalm.html) and habitat problems (e.g., to reduce phosphorus loads being delivered to recreational lakes, to sustain a Class TS trout fishery).]

Section 3. Statutory Authority

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the (City Council/Town Board/Village Board of Trustees of _____) 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 ((City/Town/Village) of _____) and for the protection and enhancement of its physical environment. The (City Council/Town Board/Village Board of Trustees of _____) 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. Applicability

- 4.1 This local law shall be applicable to all land development activities as defined in this local law.
- 4.2 The municipality 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 ((City Council/Town Board/Village Board of Trustees) of the

(Town/Village/City) of _____), 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 established by said governing board, or (3) accept the certification of a licensed professional that the plans conform to the requirements of this law.

4.3 All land development activities subject to review and approval by the (applicable board of the (City/Town Village) of _____) under (subdivision, site plan, and/or special permit) regulations 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.

[The municipality may elect to include some or all of the exemptions in Section 5]

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 ((City/Town/Village) of _____) 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.

Article 2. Zoning Law Amendment

[Municipalities that do not have zoning should add the language in Article 2 to Article 3 (Site Plan Review Law Amendment) or Article 4 (Subdivision Regulation Amendment) as applicable for their municipality.]

The Zoning Law is hereby amended to include Article ____, a new supplemental regulation titled 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 meaning as set forth in Schedule A of this Local Law.

[Definitions should be incorporated into the appropriate section of the municipality's zoning law which contains definitions.]

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);

[Site map should be at a scale no smaller than 1"=100' (e.g. 1"=500" is smaller than 1"=100")]

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.

[A municipality may choose to reduce the amount of land that may be exposed at any one time.]

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.

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 agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article 2, Section 4 of this local law.

2.3 Plan Certification

The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by a the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.

2.4 Other Environmental Permits

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

2.5 Contractor Certification

2.5.1 Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity : “I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards.”

2.5.2 The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

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

2.6 A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

Section 3. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control

All land development activities shall be subject to the following performance and design criteria:

3.1 Technical Standards

For the purpose of this 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 Water Quality Standards

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

[The New York State technical guidance documents may be ordered from The Department. An order form as well as downloadable versions of the Manuals are available on the Internet at;

<http://www.dec.state.ny.us/website/dow/toolbox/escstandards/index.html>

<http://www.dos.state.ny.us/lgss/stormwaterpub/index.html>

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 ((City/Town/Village) of _____) 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 counsel for the ((City/Town/Village) of _____).

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 Maintenance Agreements

The ((City/Town/Village) of _____) shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule C of this local law entitled Sample Stormwater Control Facility Maintenance Agreement. The ((City/Town/Village) of _____), in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Section 5. Severability and Effective Date

5.1 Severability

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

Approved by: _____ Date _____

Article 3. Subdivision Regulation Amendment

Sections ___ and ___ of the Subdivision Regulations of the ((City/Town/Village) of _____) are hereby amended by adding the following to the information requirements:

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

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

Article 2 of this local law. The approved Final Subdivision Plat shall be consistent with the provisions of this local law.

[If the municipality has only one requirement for a final plan (no preliminary) then use Paragraph A language only.]

Article 4. Site Plan Review Regulation Amendment

Sections ___ and ___ of the Site Plan Review regulations of the ((City/Town/Village) of _____) are hereby amended by adding the following to the information requirements:

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

Article 5. Erosion & Sediment Control Law Amendment

The Erosion & Sediment Control Law of the ((City/Town/Village) of _____) is hereby repealed and replaced with the New York State Model Erosion and Sediment Control Ordinance, March 2003.

[The New York State Model Erosion and Sediment Control Law should be tailored to the municipality by inserting municipality name where appropriate and removing comment lines.]

OR

Section _____ of the Erosion & Sediment Control Law of the ((City/Town/Village) of _____) is hereby amended by adding the following clause: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law shall be required. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved erosion control permit shall be consistent with the provisions of this local law.

[For both options in Article 5, the municipality must also adopt Articles 1, 2, 3 and 4 (as applicable for their municipality) in order to address post-construction stormwater runoff control in stormwater pollution prevention plans.]

Article 6. Administration and Enforcement

[The following provisions for construction inspection, performance guarantees and bonds, and enforcement are important to include in a stormwater control program, but

may already exist in local law. Therefore the municipality and its counsel should review their existing provisions for these activities, compare them with the following provisions, and consider whether revisions or amendments are necessary to achieve the purposes of this local law.]

Section 1. Construction Inspection

1.1 Erosion and Sediment Control Inspection

The ((City/Town/Village) of _____) 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 ((City/Town/Village) of _____) 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 ((City/Town/Village) of _____) 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.

[Inspections may be performed by local government staff or the local government may designate an inspector required to have a Professional Engineer's (PE) license or Certified Professional in Erosion and Sediment Control (CPESC) certificate, as long as the designated inspector is required to submit a report.]

1.4 Submission of Reports

The ((City/Town/Village) of _____) 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 ((City/Town/Village) of _____) the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph 1.3.

Section 2. Performance Guarantee

2.1 Construction Completion Guarantee

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the ((City/Town/Village) of _____) in its approval of the Stormwater Pollution Prevention Plan, the ((City/Town/Village) of _____) 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 ((City/Town/Village) of _____) as the beneficiary. The security shall be in an amount to be determined by the ((City/Town/Village) of _____) 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 ((City/Town/Village) of _____), 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 ((City/Town/Village) of _____). 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 ((City/Town/Village) of _____) 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 ((City/Town/Village) of _____) may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

2.3 Recordkeeping

The ((City/Town/Village) of _____) 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 ((City/Town/Village) of _____) 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;

3.1.4 a description of the remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the completion of such remedial action;

3.1.5 a statement of the penalty or penalties that 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 municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

3.2 Stop Work Orders

The ((City/Town/Village) of _____) 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 ((City/Town/Village) of _____) 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 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 ((City/Town/Village) of _____) may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

Section 4. Fees for Services

The ((City/Town/Village) of _____) 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 ((City/Town/Village) of _____) or performed by a third party for the ((City/Town/Village) of _____)

Schedule A - Definitions

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 - 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 is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Land Development Activity - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre (see Note), 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.

NOTE: A community should review their local site plan, subdivision, zoning and erosion & sediment control laws and ordinances to see if there are minimum land disturbance requirements already specified in those laws. To meet the SPDES guidelines under GP-02-02, the municipality must require SWPPPs for construction activities that result in

land disturbance equal to or greater than one acre, or activities disturbing less than one acre if they are part of a larger common plan of development or sale or in a specified watershed. The municipality may wish to reduce this threshold to a lesser amount of disturbance to conform to local standards which may be stricter than the standards set forth in the state regulations. Many communities regulate land disturbance activities of more than 5000 square feet (1/8 acre), with an exemption if the amount of impervious cover created does not exceed 1000 square feet.

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.

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 municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

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

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

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

Surface Waters of the State of New York - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this 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.

Watercourse - a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Waterway - a channel that directs surface runoff to a watercourse or to the public storm drain.

Schedule B – Stormwater Management Practices

Stormwater Management Practices Acceptable for Water Quality (From: New York State Stormwater Management Design Manual, Table 5.1)		
Group	Practice	Description
Pond	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System	A group of ponds that collectively treat the water quality
	Pocket Pond (P-5)	A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
Wetland	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.
	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.
Infiltration	Infiltration Trench (I-1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.

	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
Filtering Practices	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Underground Sand Filter (F-2)	A filtering practice that treats stormwater as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter (F-3)	A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter in place of sand.
	Bioretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
Open Channels	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.

**B2: MODEL LAW:
On-site Wastewater System Inspection Law**

Ontario County Planning Department

Onsite wastewater treatment systems are widely used in rural areas not served by public sewer systems. When designed and maintained properly, onsite wastewater treatment is an effective way to deal with the issue. However, onsite systems do require regular maintenance and have finite life spans. Municipalities can regulate onsite systems to ensure there is a procedure in place for regular inspections and maintenance.

On-site Wastewater Treatment Model Law

ARTICLE 1 INTRODUCTORY PROVISIONS

Section 101 Title

1. This local law shall be known as the “On-Site Individual Wastewater Treatment System Law of the City, Town, Village of _____.”

Section 102 Applicability

1. This local law shall govern the treatment of sewage by regulating all on-site individual wastewater treatment systems (hereinafter referred to as a wastewater treatment system).

Section 103 Purpose

1. The purpose of this local law is to promote the health, safety, and general welfare of the community, including the protection and preservation of the property of its inhabitants, by regulating wastewater treatment systems so that human sewage and other wastes are disposed of in a manner that will not create a health hazard, adversely affect the environment, create a nuisance, or impair the enjoyment or use of property.

Section 104 Authority

1. Enactment of this local law is pursuant to Article 2 of Municipal Home Rule Law, and Article 3 of the Public Health Law.

ARTICLE 2 DEFINITIONS

Section 201 Words and Terms

1. In addition to the definitions contained in the New York State Public Health Law and Uniform Fire Prevention and Building Code, which are incorporated herein by reference, the following words and terms shall be defined as follows:

ADEQUATELY FUNCTIONING shall mean a wastewater treatment system inspected pursuant to section 502 of this local law that is determined by the authority having jurisdiction as not posing a public health threat by virtue of above ground seepage, or contamination of surface or ground water. For the purpose of this local law an “adequately functioning” system shall always include a watertight vessel.

AUTHORITY HAVING JURISDICTION shall be the Code Enforcement Officer, Health Officer, Watershed Inspector, or other official(s) designated by a local municipality, or other regulatory agency, having the responsibility to enforce the provisions of this local law.

CHANGE OF USE shall mean a use of land with an associated building and wastewater treatment system that is modified so as to likely cause an increase in hydraulic loading (e.g. – change from an existing commercial use to residential use; change of an existing residential use to commercial use; change of a commercial use to a different type of commercial use). A change of use shall also include the removal and replacement of a manufactured or mobile home dwelling.

CONVEYANCE OF REAL PROPERTY shall mean the transfer of the title of real estate from one to another, in the form of a deed or other legal instrument, filed in the Office of the County Clerk.

DESIGN PROFESSIONAL shall mean a person licensed or registered in the State of New York and authorized by *New York State Education Law* to design the systems described in *10NYCRR Appendix 75-A*.

LOCAL GOVERNING BODY shall mean the municipal corporation charged with authority to act as the Local Board of Health as defined by *New York State Public Health Law*.

MINOR ALTERATIONS shall mean routine maintenance and repairs to the wastewater treatment system, including but not limited to the following: replacement of septic tank covers or baffles, replacement of distribution box covers, replacement of cracked pipes, pumping of the septic tank, and replacement of mechanical pumps and devices. “Minor alterations” shall not include replacement of a septic tank, distribution box, or any addition, alteration or rearrangement of water distribution or drainage piping. Like examples of “minor alterations” not specifically listed in this definition shall be determined by the authority having jurisdiction.

NEW CONSTRUCTION shall mean any building constructed or placed on an undeveloped site requiring the installation of a wastewater treatment system and currently not utilizing the same.

ON-SITE WASTEWATERTREATMENT SYSTEM PERMIT shall mean a written permit issued by the authority having jurisdiction.

ON-SITE WASTEWATER TREATMENT SYSTEM shall mean a complete system of piping, watertight vessels or other facilities for the on-site collection, transport and treatment of sewage.

SEWAGE shall mean the combination of human and household waste with water which is discharged to the plumbing system, including the waste from a flush toilet, bath, shower, sink, lavatory, dishwashing or laundry machine, or the water-carried waste from any fixture, equipment or machine.

ARTICLE 3 GENERAL REGULATIONS AND REQUIREMENTS

Section 301 Prohibitions

1. It shall be unlawful to install, construct, alter, replace, enlarge, extend, or otherwise modify any wastewater treatment system unless a wastewater treatment permit is issued by the authority having jurisdiction, except as specifically exempted in section 304 of this local law.
2. It shall be unlawful to change the use of real property, convey real property, or expand a building or dwelling, including its use, by greater than fifty (50) percent, without an inspection of the wastewater treatment system by the authority having jurisdiction, pursuant to sections 501 and 502 of this local law.
3. It shall be unlawful to use or maintain any wastewater treatment system that is not adequately functioning.
4. It shall be unlawful to discharge anything but sewage into a wastewater treatment system. Surface and subsurface water including roof, cellar, foundation and storm drainage shall not be discharged into the wastewater treatment system and shall be disposed of so as to in no way affect the proper functioning of the system.

Section 302 Design Standards for Wastewater Treatment Systems – New Systems

1. Individual Household Systems

(a) Any wastewater treatment system for new individual household construction shall be designed and built according to the requirements of this local law and the requirements, as they may from time to time be amended, of the NYSDOH standards for sewage disposal for individual household systems. Those design requirements are found in *Appendix 75-A of Part 75 of Title 10 of the New York Code of Rules and Regulations (10 NYCRR)*.

2. Intermediate-sized Sewerage Systems

(a) Any wastewater treatment system for new commercial or institutional construction, as well as cluster housing or other multi-home developments, shall be designed and built according to the requirements of this local law and the requirements, as may be from time to time be amended, of the NYSDEC standards for sewage disposal for intermediate-sized sewerage facilities. Those design requirements are found in *NYSDEC manual “Design Standards for Wastewater Treatment Works: Intermediate-sized Sewerage Facilities.”*

Section 303 Design Standards for Wastewater Treatment Systems – Existing Systems

1. Individual Household Systems

(a) Any installation, construction, alteration, replacement, enlargement, extension, repair, or other modification of an existing on-site individual household wastewater treatment system shall be designed and built according to the requirements of this local law and the requirements, as they may from time to time be amended, of the NYSDOH standards for sewage disposal for individual household systems. Those design requirements are found in *Appendix 75-A of Part 75 of Title 10 of the New York Code of Rules and Regulations (10 NYCRR)*.

2. Intermediate-sized Sewerage Systems

(a) Any installation, construction, alteration, replacement, enlargement, extension, repair, or other modification of an existing intermediate-sized sewerage system, shall be designed and built according to the requirements of this local law and the requirements, as may be from time to time be amended, of the NYSDEC standards for sewage disposal for intermediate-sized sewerage facilities. Those design requirements are found in *NYSDEC manual “Design Standards for Wastewater Treatment Works: Intermediate-sized Sewerage Facilities.”*

Section 304 Exemptions

1. Minor alterations to wastewater treatment systems shall not require a wastewater treatment permit provided such repairs are made with like or similar materials so as to replace existing conditions in need of repair, and are done in a safe and sanitary manner.

2. The design standards found in section 303 of this local law shall not apply to existing wastewater treatment systems legally installed, repaired or approved by the authority having jurisdiction, prior to the date of adoption of this local law and after the dates identified in *Paragraphs a and b* identified below, or those systems determined by the authority having jurisdiction to be adequately functioning.

(a) Individual Household Wastewater Treatment Systems legally installed or repaired prior to December 1, 1990.

(b) Intermediate-sized Wastewater Treatment Systems legally installed or repaired prior to January 1, 1988.

Section 305 Site Limitations

1. On sites with topographic, physiographic or other limitations, the authority having jurisdiction shall utilize current technology and design methods to remedy failed or improperly functioning systems, provided that applicable state standards, to the greatest extent possible, are complied with. In considering site limitations, the authority having jurisdiction shall take the following into consideration:

- (a) Distance separations to drinking water supplies and watercourses;
- (b) The imminent health hazards resulting from a currently failed system;
- (c) Existing lot line setbacks and area requirements as related to individual properties; and
- (d) The extent to which the limitations are self-created.

Section 306 Maintenance and Protection

1. Wastewater treatment systems shall be maintained in good working order. There shall be no activities or conditions permitted which would interfere with the proper operation of wastewater treatment systems. It is specifically prohibited to construct or place buildings, to install paving, to plant trees or shrubs, to regrade or place fill, to allow crossing by vehicles, to install above ground pools, or to install driveways or parking areas over sanitary disposal fields.

Section 307 State or Other Agency Approvals

1. In addition to approvals required herein, a review and approval by the New York State Department of Health (NYSDOH) or the New York State Department of Environmental Conservation (NYSDEC), if appropriate, shall be required for the following conditions:

- (a) Any realty subdivision as defined by *Article 11, Title II of the NYS Public Health Law or Article 17, Title 15 of the NYS Environmental Conservation Law*;
- (b) Any alternative system as defined by *Appendix 75-A of Part 75 of Title 10 of the New York Code of Rules and Regulations (10 NYCRR)*;
- (c) Any facility required to be permitted by the NYSDOH; and
- (d) Any on-site individual wastewater treatment system or other system with effluent in excess of 1,000 gallons per day.

2. In addition to approvals required herein, wastewater treatment systems are subject to review and approval by the Canandaigua Lake Watershed Inspector pursuant to *New York State Public Health Law, Section 132.1 of Part 132 of Title 10 of the New York Code of Rules and Regulations (10 NYCRR)*.

Section 308 Use of Design Professionals and the Ontario County Soil and Water Conservation District

1. The authority having jurisdiction shall have the right to require that the property owner retain the services of a design professional to conduct site and soil appraisals (percolation tests and deep holes) and to design and certify that the wastewater treatment system meets the requirements of this local law and the standards of applicable state laws.

2. The local governing body shall have the right to contract with the County Soil and Water Conservation District through its *Uniform Inspection Procedures Program* for site and soil appraisals and inspections performed pursuant to section 501 of this local law.

3. Wastewater treatment systems that are defined as an alternative system pursuant to *10 NYCRR Appendix 75-A* shall be certified by a design professional.

Section 309 Access

1. The authority having jurisdiction shall be permitted by the property owner to make a physical inspection of the lands and premises for which a wastewater treatment system permit or inspection has been requested, in order to determine that all of the requirements of this local law have been complied with.

2. The authority having jurisdiction, upon complaint or show of cause, shall be permitted by the property owner to make a physical inspection of the lands and premises for which a wastewater treatment system is believed to be a cause or potential cause of pollution, or health hazard.

ARTICLE 4 REQUIREMENTS FOR NEW WASTEWATER TREATMENT SYSTEMS

Section 401 Application Material

1. Applications for wastewater treatment system permits shall be by the property owner or a duly authorized agent, accompanied by the appropriate fee, to the authority having jurisdiction, which shall include the following information:

- (a) The name, address and telephone number of the applicant;
- (b) Specific location of the property on which the wastewater treatment system is located or proposed, including the tax map number for said property;
- (c) A sketch plan on a tape location map or survey map of the premises on which the wastewater treatment system is located or proposed, showing the location of wells, springs and other sources of water supply, and the location of all watercourses on the premises;
- (d) Evidence to demonstrate that there is no public sewer available into which the sewage can be discharged or that it is impractical to discharge sewage into a community sewerage system;
- (e) Documentation of substantiating data relating to site conditions, percolation tests, deep hole data, and topography of land; and
- (f) The authority having jurisdiction may conduct such investigations, examinations, tests and site evaluations as it deems necessary to verify information contained in the application.

Section 402 Administrative Review

1. The authority having jurisdiction shall not issue a wastewater treatment system permit unless:

- (a) All pertinent site data has been submitted, verified and certified as required by this local law; all permit fees have been paid and that the wastewater treatment system complies with all specifications of state and local laws.

2. The authority having jurisdiction may disapprove an application if it is determined that any of the following requirements have not been met:
 - (a) That the wastewater treatment system, as proposed, will not conform to the requirements of state and local laws;
 - (b) That the applicant has failed to supply all the data necessary to make a determination as to whether or not such wastewater treatment system conforms to state and local laws; and
 - (c) The applicant has failed to pay all necessary fees.
3. When the authority having jurisdiction shall deny the application for a wastewater treatment permit, within seven (7) working days after taking such action, the authority having jurisdiction shall furnish the applicant with a written notice of denial setting forth in detail the reason for such action.
4. No Certificate of Occupancy shall be issued and no persons shall occupy any building unless the wastewater treatment system has been approved in accordance with the provisions of this local law.

Section 403 Inspection Certifications

1. Installation of the wastewater treatment system shall be under the direct supervision of the authority having jurisdiction.
2. The applicant shall be prohibited from covering any component of the system without proper authorization. Any change of construction approved by the authority having jurisdiction shall be noted on the original drawings before the system is back filled. As built plans shall be provided to the authority having jurisdiction.
3. The authority having jurisdiction may, by written notice, order all work stopped on any wastewater treatment system, which is in violation of this local law.

Section 404 Fees

1. The fees for any permit or inspection performed pursuant to this local law shall be determined from time to time by the local governing body.

ARTICLE 5 REQUIREMENTS FOR EXISTING WASTEWATER TREATMENT SYSTEMS

Section 501 Circumstances Requiring Inspection of Existing Systems

1. The authority having jurisdiction shall conduct an on-site inspection of an existing wastewater treatment system as follows:
 - (a) Prior to a change of use - The owner of the property shall arrange for a wastewater treatment system inspection before any change of use is undertaken. The authority having jurisdiction shall determine whether the change represents an increased hydraulic loading to the

system. In instances where a site plan approval, special use permit, or variance is required the authority having jurisdiction shall incorporate the wastewater treatment system inspection report into the review process of the appropriate Planning Board, Zoning Board of Appeals, or Board of Appeals;

(b) Prior to a conveyance of real property - The owner of the property shall arrange for a wastewater treatment system inspection prior to the conveyance of real property. In addition, property owners may request a wastewater treatment inspection for real estate transactions or other certifications to lending institutions, purchase offer conditions of buyers of real property, or other requests, or investigations; and

(c) Expansion greater than fifty (50) percent - The owner of the property shall arrange for a wastewater treatment system inspection as an integral part of the building permit application process. The authority having jurisdiction shall determine whether expansion of the building or dwelling, including its use, represents an increased hydraulic loading to the system. For the purpose of this local law an existing wastewater treatment system shall be defined as an accessory structure and as such subject to regulation pursuant to *Part 1230 of Subchapter E, Conversions, Alterations, Additions and Repairs to Existing Buildings of the New York State Uniform Fire Prevention and Building Code*.

Section 502 Inspection Procedure

1. All existing on-site wastewater treatment systems requiring an inspection pursuant to this local law shall be performed by the authority having jurisdiction in accordance with the specifications established as follows:

(a) The septic tank, inspection ports, distribution boxes, or other distribution devices shall be uncovered and accessible to the inspector. In the event any component of the system cannot be reasonably located, the inspector shall so note on the inspection report;

(b) Sanitary disposal fields shall be staked out or otherwise identified by general area of location;

(c) At the discretion of the authority having jurisdiction, the septic tank shall be pumped at the expense of the property owner, in order to ensure that the tank is not leaking, and that the inlet and outlet baffles are in place and properly functioning;

(d) At the discretion of the authority having jurisdiction, drop and distribution boxes shall be checked for blockages and function;

(e) The authority having jurisdiction shall visually inspect buildings on the property noting the number of bedrooms, the layout and location of all water-using fixtures and plumbing, including but not limited to faucets, sinks, toilets, drains, overflows, laundry equipment, floor drains, sump pumps, water softeners, and related systems that may impose an improper or potential adverse hydraulic loading on the disposal field;

(f) Verify connection of all drains to an appropriate disposal system;

(g) All outside areas, to include nearby lawns, slopes, hillsides, ditches and watercourses, swales, and the shoreline of ponds, lakes and wetlands shall be observed for above ground seepage and to note the quantity and general quality of surface water where it occurs;

(h) Conduct dye testing, and other methods as may be necessary to determine system function.

Section 503 Report of Findings

1. Upon completion of the inspection, the authority having jurisdiction shall document all procedures and furnish the owner with a report of findings.
2. The report of findings shall contain, at a minimum, the location, address, name of owner, representative present, dates of testing/inspection, procedures used, observations and sketches showing fixture, drain and system layout to adequately document the wastewater treatment system inspection.

ARTICLE 6 COMPLIANCE AND REPORTING

Section 601 Deficiencies and Corrections

1. Upon discovery of a wastewater treatment system which is not adequately functioning or determined to have been illegally installed, the authority having jurisdiction, shall immediately notify the property owner in writing of the failure or unacceptable condition. It shall be the responsibility of the property owner to forward notice of such report to other involved or interested parties. As part of the report, the authority having jurisdiction shall determine a course of corrective action and establish a reasonable time frame for completion of necessary remedies.
2. Upon receipt of such notice the property owner shall be given thirty (30) days to obtain a wastewater treatment permit.
3. Remedy of a wastewater treatment system, which is not adequately functioning or determined to have been illegally installed, shall require the property owner to submit an application for a wastewater treatment permit in accordance with section 401 of this local law.

ARTICLE 7 COMPLAINTS

Section 701 Notification

Complaints shall be made to the authority having jurisdiction with supporting information that a wastewater treatment system may be deficient (i.e. - observed failure to ground water, surface water, or aboveground seepage, odor, or otherwise creating a public nuisance).

2. Upon receipt of a bonafide complaint or upon personal observation of said wastewater treatment system, the authority having jurisdiction shall notify the property owner and the inhabitants of said property in writing, within seven (7) business days of receipt of the complaint or personal observation, that an inspection pursuant to section 502 of this local law is required. A copy of such notice shall be sent to the Clerk of the local governing body.

ARTICLE 8 ADMINISTRATIVE RELIEF

Section 801 Appeals

1. Appeals of any actions, omissions, decisions or rulings of the authority having jurisdiction shall be made to the Clerk of the local governing body and must be instituted within (30) days of the act, omission, decision, or ruling from which relief is sought.
2. Within thirty (30) days of receipt of a written appeal of an action, omission, decision, or ruling of the authority having jurisdiction the local governing body, convening as the Local Board of Health, shall give notice of a public hearing to be held on the appeal.
3. Within thirty (30) days of final adjournment of a public hearing, the local governing body shall affirm, modify or deny the action, decision or ruling of the authority having jurisdiction or correct any omission, approve, or approve with conditions or disapprove the appeal.
4. The decision of the local governing body shall be in writing and shall contain findings and the factual basis for each finding from the record of the hearing, which shall support the decision of the local governing body. The local governing body's discretion in considering an appeal under this local law shall not extend to granting variances from this local law but shall rather be limited to reviewing the authority having jurisdiction's interpretation or applications of the terms hereof. Variances from the substantive requirements (e.g. septic tank sizes, setback distances, etc.) remain under the jurisdiction of the NYSDOH and the NYSDEC.

ARTICLE 9 ENFORCEMENT

Section 901 Violation

1. In any instance where a wastewater treatment system is located, installed, constructed, altered, enlarged, or extended in violation of this local law, or in any instance where this local law is otherwise violated, the local governing body may maintain an action or proceeding in the name of the municipality in a court of competent jurisdiction to compel compliance with the terms of this local law or to restrain by injunction, the violation of this local law.

Section 902 Alternative Remedies

1. Any violation or threatened violation of any of the provisions of this local law, in addition to other remedies herein provided, the local governing body may institute any appropriate action or proceeding to prevent unlawful construction, alteration, repair, or reconstruction, to restrain, correct or abate such violation to prevent the use of the wastewater treatment system or to prevent any illegal act, conduct, business or use regarding such wastewater treatment system.

Section 903 Misrepresentation

1. Any permit or approval granted under this local law which is based upon or is granted in reliance upon any material misrepresentation, or upon failure to make material fact or circumstances known, by or on behalf of an applicant, shall be void.

Section 904 Penalties

1. Any person who violates any provision of this local law shall be subject to a fine not to exceed the sum of \$250 or by imprisonment of not more than seven (7) days, or both. Each week such violation continues after notification to the person in violation shall constitute a separate violation. Such violation notice shall be served by certified mail, return receipt requested, or by personal service.

ARTICLE 10 MISCELLANEOUS PROVISIONS

Section 1001 Conflict of Law

1. In any case where a provision of this local law is found to be in conflict with a provision of any ordinance or local law, or with a provision of any statute, rule, regulation, or order of the State of New York, the provision which established the higher standard for the promotion of the health, welfare and safety of the citizens of the municipality shall prevail. In any case where a provision of this local law is found to be in conflict with a provision of any other ordinance or local law existing on the effective date of this local law, which established a lower standard for the promotion of the health, welfare and safety of the citizens of the municipality, the provisions of this local law shall be deemed to prevail.

Section 1002 Severability

1. The provisions of this local law shall be several, and if any clause, sentence, paragraph, subdivision, section, or part of this local law shall be judged by competent jurisdiction as being invalid, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined to the part thereof directly involved in the controversy in which such judgement shall have been rendered.

Section 1003 Savings Clause

1. The adoption of this local law shall not affect or impair any act done, offense committed or right accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this local law takes effect.

Section 1004 Effective Date

1. This local law shall take effect immediately upon filing with the New York State Secretary of State pursuant to *Article 3 of Municipal Home Rule Law*

**B3: MODEL LAW:
Timber Harvesting Law**

Canandaigua Lake Watershed Council

Any time vegetation is removed and soil exposed, the potential for damaging erosion and sedimentation exists. Most of the time, soil disturbance is thought of in association with development and construction. But harvesting timber is another activity that disturbs soil and which municipalities can regulate.

Timber Harvesting Model Law

I - Purpose

The purpose of this chapter is to promote the health and safety of the residents of the Town of _____ by protecting the natural environment as affected by timber harvesting. The town recognizes that timber resources are of significant value and will be harvested. The town also recognizes that if harvesting practices are carried out poorly, they can result in significant and direct environmental damage to the property and to the adjacent lands and waters. This chapter requires the landowner and his agent to be responsible for implementation of the best management practices as outlined in this chapter. Proper management practices will limit subsequent environmental damage, particularly from soil erosion and sediment-laden run-off. Therefore, the following requirements are intended to regulate those harvesting activities that are most likely to cause environmental damage, such as stream crossings, location of landings, haul roads and skid trails and reclamation efforts.

II - Conflict with other provisions

Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances or laws, the most restrictive shall govern.

III - Definitions

For the purpose of this Chapter, the following terms shall apply:

ACE – Army Corps of Engineers.

APPLICANT – The landowner in conjunction with his/her (landowner's) agent.

BEST MANAGEMENT PRACTICES – devices and procedures to be considered and used as necessary to protect the values and functions of forested land during harvesting and other forest management operations.

BUFFER STRIP – Strip of land containing grass and/or vegetation/ground cover and/or woods that separates an area of concern from an intensive land use area (logging).

BOARD FOOT - A measure of lumber twelve by twelve by one (12 x 12 x 1) inches.

CLASSIFIED STREAM – A stream protected under Article 15 of the Environmental Conservation Law. A permit is required from the NYS DEC for any work disturbing a classified streams bed or banks.

CLEARCUTTING – A method of timber harvesting where virtually all trees on a site are removed.

CODE ENFORCEMENT OFFICER (CEO) – The official designated by the Town Board to enforce the provisions of the Chapter.

COMMERCIAL TIMBER HARVESTING (LOGGING) – Timber harvest activity that fells trees whose volume is greater than twenty-five (25) standard cords or ten thousand (10,000) board feet of timber as measured by the International Log Rule. The clearing of lands for agricultural, development purposes or utility right-of ways which shall fell trees greater than the aforesaid volumes shall specifically be included within this definition.

HAUL ROADS – A constructed road of dirt and/or gravel utilized for moving cut trees from the point where they are loaded on a truck to exit from the site.

INTERNATIONAL ¼” LOG RULE – The legally recognized NYS method for estimating the amount of lumber in board feet that can be obtained from logs or trees.

LANDINGS – An open or cleared area used for loading logs onto trucks or used for any purpose such as storing logs or servicing equipment.

LANDOWNERS AGENT – The logger, forester and/or consultant representing the landowner.

LOGGING SLASH AND DEBRIS – Any residue of trees or of the associated cutting left on the site after harvesting, including but not limited to trunks, tops and vegetative litter.

STANDARD CORD - Cut wood stacked four feet high by four feet wide by eight feet long.

STREAM – A body of running water flowing continuously or intermittently in a channel on the ground surface.

IV - Permit Requirements

It is hereby required that a timber harvesting permit application is to be filed with the Town CEO by anyone desiring to harvest timber in quantities greater than 25 standard cords of wood or

10,000 board feet of timber as measured by the International Log Rule in any one year within the town. The property owner and the logger shall apply for such permit jointly.

No person, firm, partnership, corporation or other entity shall engage in any logging activity whether the same shall be for profit or otherwise unless the aforesaid entity complies with the provisions of this Chapter and the following:

- A. A timber-harvesting permit, to be issued by the Town Code Enforcement Officer, shall be required before any logging operation is conducted within the town.
- B. A registration fee to be paid in an amount deemed reasonable and set through resolution of Town Board and updated as necessary.

V - Standard Operating Procedures

All timber harvesting pursuant to this Chapter shall comply with the following standards:

- A. 1) No forest haul road or skid road to exceed a slope of 15% for a distance of more than 200 feet. 2) The applicant shall take appropriate measures (waterbars, dips) to divert running water from the roads at intervals in order to minimize erosion. Temporary waterbars are to be installed to protect any stream (including road ditches) on skid roads, landings or other areas of considerable disturbance as forecasted wet weather deems necessary.
- B. There shall be no skidding up and down any stream channel, and all logging slash and debris shall be promptly removed from any such channels.
- C. All streams are to be crossed only when necessary and by the most direct route, at a right angle to the stream channel. All streams to be crossed will have crossing appropriate structures installed to prevent damage to the bed and banks of the stream, i.e. temporary bridges, fords, culverts etc. The landowner and/or agent will be responsible for complying with all NYSDEC and ACE permitting requirements on classified streams.
- D. 1) No harvesting allowed within 15 feet of streams or other surface waters except necessary maintenance. 2) No haul or skid roads (except direct route stream crossing) within a 100-foot set back distance from streams or other surface waters, i.e. lakes and ponds. Trees harvested within this area should be directionally felled away from stream channel. 3) No landings shall be located within buffer strips abutting streams.
- E. Directionally fell trees, within the stream set back distance, so tops land away from waterways.
- F. 1) No haul or skid roads (except main route to landing) within a 100-foot set back from public roads. 2) Landings located in buffer strips abutting roads shall be properly graded and waterbarred to prevent sediment from washing into the drainage ditches along the public roads.
- G. The entrance of haul roads onto town roads shall be done in compliance with town regulations.
- H. All trash and garbage are to be removed on a daily basis.

I. **Site reclamation** – To be performed by the applicant upon completion of the harvesting activity.

1. Haul roads and primary skid trails shall have permanent erosion control and drainage structures installed. Waterbars should be placed at the following intervals:

<u>Grade percent</u>	<u>Feet</u>
<5%	200'
6-15%	150'
>16%	100'

2. Manage and divert overland flow on haul roads and skid trails by properly shaping, sloping, and ditching to prevent erosion.
3. All disturbed areas, such as roadways and landings, prone to erosion, will be stabilized by seeding and mulching.
4. All temporary culverts and bridges at stream crossings shall be removed and stream banks restabilized and protected with waterbars. All reclamation efforts shall be subject to inspection by the town to assure compliance with this provision.

VI - Permit application procedure

The permit application package will include a basic application, a full application, a copy of this chapter, and a “New York State Forestry Best Management Practices for Water Quality, Field Guide”.

1. The **Basic Timber Harvest Application** requires the following information;
 - a. Applicants certificate of insurance for \$250,000/\$500,000 property damage and personal liability, specifically covering damage to roadways and culverts.
 - b. Name/addresses of landowner and logger/forester (agent).
 - c. Physical description of property to be logged, copy of USGS Topographic maps with property boundaries, streams, landings and area to be logged clearly marked.
 - d. Local and county roads to be used for transport by log trucks and heavy equipment.

If the area to be harvested is less than 15% slope and no streams are present in or contiguous to the harvest area, the above steps will complete the information needed and the Town CEO will issue a permit within 5 business days.

If the grade is over 15% and/or a stream is included or adjacent to the harvest area then a full timber harvest plan will be required in addition to the basic application.

2. In addition to the above, the **Full Timber Harvest Application** will require;
 - a. A description of the Best Management Practices applied to the basic plan pertaining to the stream crossings, skid and haul roads and landings.
 - b. The BMP locations will be identified on the project maps in the basic application, described in narrative and subject to inspection by the Town CEO.

3. A copy of all approved permits will be sent to NYSDEC Region #8 Office, Ontario County Soil and Water Conservation District, the Town Highway Superintendent and the contiguous landowners. Notice will also be sent to town and county highway departments whose roads are intended to be used for transport of heavy equipment.

VII - Regulation and penalties for offenses.

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this chapter.
- B. The Code Enforcement Officer, may with due cause and without hindrance, reasonably enter, examine and survey all grounds affected by the timber harvest in a prudent manner, upon complaint or administrative warrant in order to ascertain whether such rules and regulations in this section are complied with by any person regulated by this chapter.
- C. Upon notification by the CEO to the applicant of any violation hereunder, the timber-harvesting permit granted to such applicant shall be suspended and/or revoked. Upon suspension or revocation, as the case may be, all operations shall immediately cease, and the applicant shall take immediate steps to implement the restoration of the property and remove the debris, all as set forth in the application and timber-harvesting permit. Such suspension or revocation notice may contain conditions to be met to obtain reinstatement of the permit.
- D. Any person violating any provision of this chapter shall be guilty of an offense punishable by a fine not to exceed \$300.00 or imprisonment for a period not to exceed fifteen days, or both.
- E. Pursuant to 150.20 of the Criminal Procedure law and in accordance with section 10(4)(a) of the Municipal Home Rule Law, the CEO of the town is hereby authorized to issue and serve appearance tickets in respect to any violation of this chapter.
- F. In addition to or as an alternative to the above provided penalties, the Town Board may also maintain an action in the name of the town in a court of competent jurisdiction to compel compliance with or restrain by injunction any violation of this chapter.