

ARTICLE 21
Stormwater Management Regulations

Section 21.01. APPLICABILITY

A. This Article shall be applicable to all land development activities as defined in this Ordinance.

B. 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 Town Board of the Town of Schuyler, 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.

C. All land development activities subject to review and approval by the Planning Board of the Town of Schuyler under subdivision, site plan, and/or special permit regulations shall be reviewed subject to the standards contained in this local law.

D. All land development activities not subject to review as stated in Section 21.01 (C) above 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 21.02. EXEMPTIONS

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

A. Agricultural activity as defined in this local law.

B. Silvicultural activity except that landing areas and log haul roads are subject to this law.

C. 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.

D. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.

E. Any part of a subdivision if a plat for the subdivision has been approved by the Town of Schuyler on or before the effective date of this law.

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

G. Cemetery graves.

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

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

J. 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.

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

Section 21.03. STORMWATER POLLUTION PREVENTION PLANS

A. 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 Article.

B. Contents of Stormwater Pollution Prevention Plans

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

1. Background information about the scope of the project, including location, type and size of project.
2. Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
3. Description of the soil(s) present at the site;

4. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP;
5. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
6. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
7. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
8. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
9. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
10. Temporary practices that will be converted to permanent control measures;
11. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
12. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
13. Name(s) of the receiving water(s);
14. Delineation of SWPPP implementation responsibilities for each part of the site;

15. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and

16. Any existing data that describes the stormwater runoff at the site.

C. Land development activities as defined in this Ordinance and meeting Condition "A", "B" or "C" below shall also include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in Section 21.03(D) below as applicable:

Condition A - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department of Environmental Conservation's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

Condition B - Stormwater runoff from land development activities disturbing five (5) or more acres.

Condition C - Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

D. SWPPP Requirements for Condition A, B and C:

1. All information in Section 21.03(B) of this Article
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 predevelopment conditions;

6. Dimensions, material specifications and installation details for each postconstruction stormwater management practice;
7. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
8. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
9. Inspection and maintenance agreement binding on all subsequent landowners served by the onsite stormwater management measures in accordance with Section 21.06 of this Ordinance.

Section 21.04 PLAN CERTIFICATION

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

A. 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.

B. Contractor Certification

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

C. 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 21.05. 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:

A. 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:

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)

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).

B. Water Quality Standards

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

Section 21.06 MAINTENANCE AND REPAIR OF STORMWATER FACILITIES

A. Maintenance During Construction

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

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.

B. Maintenance Easement(s)

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Schuyler to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Article. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Schuyler.

C. 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:

1. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.
2. Written procedures for operation and maintenance and training new maintenance personnel.
3. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section 21.05(B)

D. Maintenance Agreements

The Town of Schuyler 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 B of this Article entitled Sample Stormwater Control Facility Maintenance Agreement. The Town of Schuyler, 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 21.07. ADMINISTRATION AND ENFORCEMENT

A. Construction Inspection

1. Erosion and Sediment Control Inspection

The Town of Schuyler Stormwater Management Officer may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of Schuyler enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

- a. Start of construction
- b. Installation of sediment and erosion control measures
- c. Completion of site clearing
- d. Completion of rough grading
- e. Completion of final grading
- f. Close of the construction season
- g. Completion of final landscaping
- h. 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.

B. Stormwater Management Practice Inspections

The Town of Schuyler 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.

C. 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.

D. Submission of Reports

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

E. Right-of-Entry for Inspection

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town of Schuyler the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph 21.07(C).

Section 21.08. PERFORMANCE GUARANTEE

A. Construction Completion Guarantee

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Schuyler in its approval of the Stormwater Pollution Prevention Plan, the Town of Schuyler may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Schuyler as the beneficiary. The security shall be in an amount to be determined by the Town of Schuyler based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Schuyler, provided that such

period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Town of Schuyler. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

B. Maintenance Guarantee

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Schuyler with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Schuyler may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

C. Record keeping

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

Section 21.09. ENFORCEMENT AND PENALTIES

A. Notice of Violation.

When the Town of Schuyler determines that a land development activity is not being carried out in accordance with the requirements of this Article, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

1. the name and address of the landowner, developer or applicant;
2. the address when available or a description of the building, structure or land upon which the violation is occurring;
3. a statement specifying the nature of the violation;
4. a description of the remedial measures necessary to bring the land development activity into compliance with this Article and a time schedule for the completion of such remedial action;
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;

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.

B. Stop Work Orders

The Town of Schuyler may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the Town of Schuyler 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 Article.

C. Violations

Any land development activity 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.

D. Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Article shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed six 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 (\$700.00) 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 (\$1,000.00) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this Article 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.

E. Withholding of Certificate of Occupancy

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

F. Restoration of lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Schuyler may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

Section 21.10. FEES FOR SERVICES

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