## APPENDIX A. SURVEY RESULTS

Throughout the creation of this plan, two community outreach charrettes were held in which the public was surveyed in order to gain an understanding of their water quality and natural resource concerns. Information garnered from the charrettes informed the direction of the Upper Hudson Watershed Revitalization Plan.

**Community Outreach Charrette #1:** The first community outreach charrette was held on Thursday February 22, 2018 from 9:30-10:30 am at the Crandall Public Library in Glens Falls, New York. A total of twelve participants completed a survey created by the Advisory Committee.

The following questions were asked of participants in the form of a paper survey:

1. **What municipality do you live in?**
2. **Are you a year-round or seasonal resident?**
3. **How long have you been living in and/or visiting this area?**
4. **What waterbodies in the Upper Hudson River Watershed do you utilize?**
5. **Do you perceive the watershed’s lakes and streams as an asset to your community?**
   - Definitely
   - Somewhat
   - A little
   - Not at all
6. **What do you use these waterbodies for? (Circle all that apply)**
   - Aesthetic Enjoyment
   - Canoeing/Kayaking/Paddling
   - Drinking Water
   - Motor Boating/Sailing
   - Fishing
   - Ice Fishing
   - Swimming
   - Wildlife Viewing
   - Other (please explain)
7. **How often do you use a waterbody in the watershed?**
   - Daily
   - At least once a week
   - At least once a month
   - At least once a year
   - Never
8. **How would you describe the water quality of the waterbody(ies) you use?**
   - Excellent
   - Good
   - Fair
   - Poor
9. What would you say is the biggest concern facing surface waters in the watershed? Please rank choices from 1 – 13 (1 being the biggest concern and 13 being the smallest).

- Stormwater Runoff
- Flooding
- Agricultural Runoff
- Roadside Erosion
- Shoreline Erosion
- Forestry Operations
- Aquatic Invasive Species
- Terrestrial Invasive Species
- Municipal Wastewater Infrastructure/CSOs
- Private Septic Systems
- Source Water Protection
- Failing Culverts
- Dams

10. How much do you think these concerns contribute to water quality impairments?

- A great deal
- Somewhat
- A little
- Not at all

11. What pollutants do you think are the biggest threat to water quality in the watershed? (Rank 1 - 10, 1 being the biggest threat and 10 being the smallest)

- Garbage and floatables (trash and litter)
- Heavy metals from atmospheric deposition (lead, mercury)
- Oil, gas and grease (from leaking vehicles and car maintenance facilities)
- Pesticides/herbicides (used for agriculture and lawn care)
- Pharmaceuticals and Personal Care Projects (prescription pills and soaps)
- Phosphorus and nitrogen (from excess fertilizer use in agriculture and lawn care)
- Road salt and sand (used for winter road maintenance)
- Sediment (sand, gravel, clay from construction sites and erosion)
- Toxic chemicals (from industrial operations)
- Viruses and bacteria (from municipal/septic system wastewater discharges)

12. Are you involved in or familiar with any invasive species management efforts?

- Yes
- No
13. Do you think it’s important to preserve agriculture/open space within the watershed?

Yes  No

14. What estimated % of land use makes up your community? Which of all the categories listed do you think contribute the most to the impairment of water quality of local waterbodies?

(Rank 1 – 5, 1 being the highest and 5 being the lowest)

<table>
<thead>
<tr>
<th>% Land Use</th>
<th>Impairment Ranking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural</td>
<td>_______</td>
</tr>
<tr>
<td>Commercial</td>
<td>_______</td>
</tr>
<tr>
<td>Industrial</td>
<td>_______</td>
</tr>
<tr>
<td>Residential</td>
<td>_______</td>
</tr>
<tr>
<td>Municipal Operations</td>
<td>_______</td>
</tr>
</tbody>
</table>

15. What waterbody uses do you think are most impaired in the watershed? (Rank 1-6, 1 being most impaired and 6 being least impaired)

<table>
<thead>
<tr>
<th>Waterbody Use</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aesthetic Enjoyment</td>
<td>_______</td>
</tr>
<tr>
<td>Aquatic Life</td>
<td>_______</td>
</tr>
<tr>
<td>Drinking Supply</td>
<td>_______</td>
</tr>
<tr>
<td>Fishing</td>
<td>_______</td>
</tr>
<tr>
<td>Habitat/Hydrology</td>
<td>_______</td>
</tr>
<tr>
<td>Recreation</td>
<td>_______</td>
</tr>
</tbody>
</table>

Do you have any specific comments on or projects in your community that you would like to add?
Results: The results of the survey are as follows:

Most of the respondents live in Washington and Warren Counties, with the remainder from Saratoga and Rensselaer Counties.

100% of respondents are year-round residents, and the majority have lived in the watershed for 30 to 40 years.
Respondents visit a variety of waterbodies in the watershed, the most frequent being the Hudson River.

100% of respondents answered ‘definitely’ to the question Do you perceive the watershed’s lakes and streams as an asset to your community?

Respondents most widely use the waterbodies in the watershed for canoeing, kayaking, or paddling followed by aesthetic enjoyment, swimming and wildlife viewing.

Most respondents indicated that they use a waterbody in the watershed at least once a month, with no respondents answering ‘never’. Most respondents describe the quality of the waterbodies they use as ‘good’.
When asked to rank 13 water quality issues on a scale from 1-13 with 1 being the biggest concern and 13 being the smallest, stormwater runoff, agricultural runoff, roadside erosion and aquatic invasive species were the top four concerns among respondents. Dams are considered the smallest concern among respondents. Municipal wastewater infrastructure and combined sewer overflows received responses ranging from 1 to 13, this is indicative of the diversity of the watershed as this is more of an issue in the southern end of the watershed.

Survey participants were asked to rank the land uses they felt contributed the most to the impairment of water quality in local waterbodies. Residential uses ranked first followed by agriculture, municipal operations, industrial uses and lastly commercial uses.

Drinking supply is perceived to be the most impaired use in the watershed, followed by habitat/hydrology, aquatic life, fishing, recreation and aesthetic enjoyment.
APPENDIX B. MODEL LAWS AND ORDINANCES

The following Appendix lists model laws and ordinances, referenced in Section 2.9 of this Plan, that Upper Watershed Communities should reference when seeking to implement policies into their local regulations that will improve and protect water quality within the Upper Hudson River Watershed.

1. Town of Queensbury, New York – Septic Inspection Upon Property Transfer
2. Town of Cortlandt, New York – Steep Slopes Protection Ordinance
3. United States Environmental Protection Agency – Aquatic Buffer Model Ordinance
4. New York State – Model Law to Prohibit Illicit Discharges
5. Town of Lake George, New York – Fertilizer Regulations
6. Town of Clifton Park – Conservation Easement Law
LOCAL LAW NO.: __ OF 2018

A LOCAL LAW ENACTING CHAPTER 137 ENTITLED “SEPTIC INSPECTION UPON PROPERTY TRANSFER” TO THE QUEENSBURY TOWN CODE

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF QUEENSBURY AS FOLLOWS:

SECTION 1. Queensbury Town Code Chapter 137, “Septic Inspection Upon Property Transfer” is hereby enacted as follows:

§ 137-1 Title. This Chapter shall be known as "Septic Inspection Upon Property Transfer."

§ 137-2 Statutory Authority. Enactment of Chapter 137 of the Queensbury Town Code is pursuant to Article 16 of the Town Law and Article 3 of the Public Health Law.

§ 137-3 Findings and Intent. The intent of this Chapter is to better protect waterbodies from exposure to excess nutrients and pollutants. The Town of Queensbury finds that the occurrence of such nutrients and pollutants is increased by the presence of inadequately functioning septic systems proximate to waterbodies. In addition, such septic systems are more likely to be a threat to public health with particularly acute impacts upon the general public through impairing and contaminating precious ecological resources of the Town of Queensbury and rendering drinking water unsafe. In determining the geographic scope of this Chapter, the Town further finds that it is desirable and efficient to rely upon the zoning district boundaries of the Town of Queensbury Waterfront Residential (WR) zone as properties within this zoning district are proximate to waterbodies within the Town. As to waterbodies not surrounded or adjacent to such zoning district, such properties are zoned in such a manner that has adequately
protected and will continue to protect such waterbodies and additional regulation is not currently needed in such areas at this time

§ 137-4 Compliance Required.

A. Applicability.

This Local Law shall apply to conveyances of real property located wholly or partially in the Waterfront Residential Zone, as defined in the Town Code, occurring on January 1, 2019 and thereafter.

B. Property Transfer Inspections.

1. Prior to any conveyance of real property in the Town of Queensbury Waterfront Residential (WR) Zone where the property utilizes an On-site Wastewater Treatment System (OWTS), the OWTS must be inspected by the Town of Queensbury Building and Codes Enforcement Office (herein referred to as the Building and Codes Enforcement Office). The inspection shall include a septic tank pump out by a NYSDEC registered septic hauler and all seepage pits and septic drainfield distribution boxes (D-box) accepting effluent from a septic tank must be uncovered and opened by the property owner or their agent prior to inspection. The property transfer inspection and pump out shall be arranged by the property owner as early in the conveyance of real property process as possible in order to obtain an accurate and timely assessment of the OWTS. The property owner must make arrangements with the Building and Codes Enforcement Office to schedule the inspection no less than forty eight (48) hours advance notice and shall coordinate with the septic hauler to be on-site simultaneously. The cost of the inspection, as set forth in the Town’s Fee Schedule Ordinance, shall be paid to the Town of Queensbury prior the inspection.

2. No such conveyance shall take place subject to this Chapter until and unless 1) the owner/seller has obtained from the Building and Codes Enforcement Office a letter of acknowledgement demonstrating satisfactory compliance with this Section; 2) the owner/seller has obtained a variance/waiver from the Town Board in accordance with this Chapter; or 3) the
conveyance is exempt from the property transfer inspection requirements and the owner/seller complies with all applicable provisions for exemption set forth in this Chapter.

3. As used herein, the term “conveyance of real property” shall mean the transfer of the title of real estate, in the form of a deed or other legal instrument, whether or not recorded in the Office of the Warren County Clerk. It shall be violation of this law not to have the property inspected prior to the conveyance of real property.

4. Upon satisfactory inspection in accordance with the protocol set forth in paragraph 5 below, the Building and Codes Enforcement Office will issue to the property owner a letter of acknowledgment confirming that the OWTS is functioning properly.

5. The OWTS inspection shall utilize the New York On-site Wastewater Treatment Training Network (OTN) materials, including the OTN System Inspection Request Form, Findings Worksheet and Site Report (Inspection Findings) all of which shall be available in the Building and Codes Enforcement Office. The following minimum standards shall apply to each inspection:

   a. All septic tanks must be within two hundred fifty (250) gallons of the minimum volume requirement;
   b. All holding tanks shall be equipped with a float switch and high level alarm located in a conspicuous place to indicate when pump out is necessary. A copy of pump out records shall be submitted during the inspection prior to conveyance of real property;
   c. For an aerobic treatment system or enhanced treatment unit (ETU), the new owner must send a signed copy of an updated service contract to the Town within thirty (30) days after the conveyance of real property;
   d. If the on-site wastewater treatment system is determined to be failing or inadequate, a written Notice of Violation will be issued. An approved compliance agreement to correct the violation must be obtained prior to conveyance of real property.

C. Exemption from Property Transfer Inspection. The following conveyances of real property shall be exempt from the provisions of this law in the following situations and pursuant to the terms identified below:
1. The property to be sold or transferred will not be inhabited, and the new owner plans to demolish the existing structure. In order to qualify for the exemption, a notarized affidavit must be submitted to the Building and Codes Enforcement Office stating that a) the dwelling will not be inhabited and that it will be demolished with no immediate plans to rebuild or b) the dwelling will not be inhabited, it will be demolished and rebuilt in which case the Affidavit shall be accompanied by a site plan including adequate detail to demonstrate a lawful OWTS together with a check payable to the Town of Queensbury in the amount of Two Thousand Dollars ($2,000). Such funds will be held in a non-interest bearing escrow account and will be released in the former case, upon issuance of a Demolition permit and, in the latter case, upon issuance of a Certificate of Occupancy from the Building and Codes Enforcement Office.

2. An OWTS inspection was not able to be completed prior to the conveyance of real property due to inclement weather. In order to qualify for the exemption, a notarized affidavit from the new property owner to complete the requisite OWTS inspection within six (6) months of the date of the conveyance of real property, or June 1, whichever comes first, must be filed with the Building and Codes Enforcement Office. A check payable to the Town of Queensbury in the amount of Two Thousand Dollars ($2,000) will be held in a non-interest bearing escrow account and shall be released upon the completion of a satisfactory OWTS inspection from the Building and Codes Enforcement Office.

3. During the OWTS inspection, a failure of the septic system was determined. Due to winter and frozen conditions, the repair to an existing OWTS could not occur or a new OWTS could not be installed before the conveyance of real property. In order to qualify for the exemption, a notarized affidavit from the new property owner to complete the installation or repair of the septic system within six (6) months from the date of the conveyance of real property, or June 1, whichever comes first, must be filed with the Building and Codes Enforcement Office. A check payable to the Town of Queensbury in the amount of Two Thousand Dollars ($2,000) will be held in a non-interest bearing escrow account and shall be
released upon the completion of the repair or installation of a new septic system and a
satisfactory OWTS inspection from the Building and Codes Enforcement Office.

4. There is record of the property’s OWTS having passed Town inspection within
the last three (3) years.

5. Failure to complete the inspection, obtain the permit or complete all
repairs/installations identified in the preceding paragraphs of this section within the time
provided or any subsequent deadline established by the Building and Codes Enforcement
Office will result in forfeiture of the moneys held in escrow and the Town may use such funds
toward abating the conditions caused by each such violation of this Chapter.

D. Failure of OWTS. Failure of an existing OWTS occurs when the standards for
lawful OWTS as set forth in Chapter 136 and this Chapter are not met. While not exhaustive,
some examples of a failing system include the following:

1. Lack of a pre-treatment vessel (i.e. septic tank, aerobic treatment unit, ETU, etc.)
prior to effluent discharge to any subsurface treatment (soil treatment area or absorption field);

2. There is a discharge of effluent directly or indirectly to the ground’s surface,
with surface breakouts, ponding or saturated soils over the soil treatment area;

3. Direct pipe surface discharge of grey water (into a dry well, over an
embankment, into a roadside ditch or stream/tributary, etc.);

4. A dye test results in the presence of dye on the ground surface or adjacent /
downstream waterbody;

5. There is a backup of sewage into the home, building, septic tank or facility as a
result of a septic tank overload or malfunction, or a clogged soil treatment area;

6. The septic tank requires pumping more than four times per year and/or sewage is
observed flowing back into the septic tank from the secondary treatment area during pump out;

7. Presence of a metal septic tank that is undersized and/or corroded;
8. A cesspool, defined as a covered hole or pit used to receive untreated sewage from a house or building constructed as a primary source of wastewater disposal.

9. A holding tank that discharges effluent to surrounding sub-surface areas.

10. No septic tank, seepage pit, enhanced treatment unit or soil treatment area (STA) shall be permitted to discharge to any natural outlet or adjoining property.

E. Access to Parcel for Inspection. On properties for which an OWTS inspection has been requested by the owner or owner’s agent pursuant to this Chapter, the Building and Codes Enforcement Office shall be permitted by the property owner to make a physical inspection of the lands and premises in order to determine compliance with this Chapter.

§ 137-5 Review.

Appeals from determinations of the Building and Codes Enforcement Office and/or requests for variance/waivers from the provisions of this Section must be sought from the Town of Queensbury Town Board as the Local Board of Health within 60 days.

A. Forms for such Appeals and/or requests for variance and waivers will be made available to the public in the Building and Codes Enforcement Office. Such forms must be properly filled out and must be submitted to the Building and Codes Enforcement Office with payment of the applicable fee as established by the Town Board.

B. In evaluating appeals from determinations of the Building and Codes Enforcement Office, the Town Board may consider whatever information it deems relevant, including any evidence or information submitted by the Applicant and any information obtained from the Building and Codes Enforcement Office and/or Town Engineer. In the event additional information is needed, the Town Board may direct a subsequent inspection of the OWTS at issue, in which case the Applicant will not be required to make any additional inspection payments.

C. In regard to any request for variance or waivers, such Applications will be governed by the procedure set forth in Town Code Section 136-44.1(c)(1)-(3). The Town Board should take into consideration all matters it deems relevant, including the age of the OWTS,
whether it appears to be functioning, its proximity to any waterbody, its age, the circumstances concerning the request for variance or waiver and the hardship to the property owner in the event no variance or waiver is granted.

D. The above remedies shall be exhausted prior to any judicial review.

§ 137-6 Notice of Violation and Penalties

A. If a property owner fails to complete an inspection required by this local law, or to allow access to the property for the required inspection, or if the property owner fails to comply with any other provision of this law, a Notice of Violation may be issued by the Building and Codes Enforcement Office mandating the compliance with the inspection requirements.

B. In the event the property owner in its capacity as grantor was issued a Notice of Violation and such violation continues for a period of six (6) months, the current property owner (or grantee) too shall be deemed to be in violation of this local law and may be subject to enforcement proceedings.

C. An offense against any provision of this local law shall constitute a violation, punishable by a fine not exceeding Nine Hundred and Fifty Dollars ($950), or imprisonment for a term not exceeding 15 days, or both. Each week such violation continues after notification to the person in violation shall constitute a separate violation.

SECTION 2. Severability

If any clause, sentence, paragraph, subdivision, section, or part of this Local Law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this Local Law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.
SECTION 3. Effective Date

This Local Law shall take effect immediately upon filing with the New York State Secretary of State.
Chapter 259

STEEP SLOPES

GENERAL REFERENCES

Building construction — See Ch. 131.  
Excavations and topsoil removal — See Ch. 157.  
Flood damage prevention — See Ch. 175.  
Recreational areas — See Ch. 228.  
Sewers — See Ch. 241.  
Subdivision of land — See Ch. 265.  
Diversion of watercourses — See Ch. 301.  
Zoning — See Ch. 307.

§ 259-1. Legislative intent.

The way in which presently undeveloped acreage in the Town is developed is of critical importance to the public interest. The standards for lot count contained in Chapter 307, Zoning, which exclude environmentally sensitive lands from the acreage upon which lot count is based, are designed to provide for flexibility in the siting of buildings and other facilities so that the disturbance or alteration of steep slope areas and other environmentally sensitive lands can be avoided. Nonetheless, the Town recognizes that disturbance or alteration of steep slope areas may be necessary in some cases involving only moderately steep slopes (grades of between 15% and 30%), and in exceptional cases involving grades of 30% or greater in which compelling circumstances have been clearly demonstrated, including that no other reasonable use of the site, lot or parcel is possible without disturbance to the steep slope area. The purpose of this chapter is to establish regulations which prevent improper disturbance or alteration of steep slopes. The intent is not to restrict general development in the Town, but to guide land use proposals into areas where they best preserve and enhance these natural resources and preserve and protect the visual and environmental character of the land.

§ 259-2. Findings.

A. Steep slopes and adjacent watercourses and wetlands have been or are in jeopardy of being damaged or destroyed by unregulated filling, excavating, building, clearing and other such acts which are inconsistent with the natural condition or acceptable uses of steep slopes. Steep slopes in the Town of Cortlandt are environmentally sensitive land forms and valuable natural resources which are of benefit to the entire Town and the surrounding region. The environmental sensitivity of steep slopes often results from such features as rock outcrop, shallow soils over bedrock, bedrock fractures, groundwater seeps, watercourses and other wetlands found on or immediately adjacent to steep slopes.
B. Protection of steep slopes is a matter of concern to the entire Town. The establishment of regulatory and conservational practices in this critical area is needed to protect the public health, safety and general welfare. Experience has demonstrated that effective protection of steep slopes requires preservation wherever possible. Experience has further demonstrated that where steep slopes have to be disturbed, careful review and regulation, including stringent mitigating measures, is required.

C. The Town’s experience with past development has shown that the improperly managed disturbance of steep slopes can aggravate erosion and sedimentation beyond rates experienced in natural geomorphological processes. Erosion and sedimentation often include the loss of topsoil, a valuable natural resource, and can result in the disturbance of habitats, degradation of the quality of surface water, the silting of wetlands, alteration of drainage patterns, obstruction of drainage structures and intensification of flooding.

D. The Town’s experience with past development has shown that the inadequately controlled disturbance of certain steep slopes can lead to the failure of slopes and the mass movement of earth; rock- and landslides; damage to natural environment, man-made structures and personal safety; and the degradation of aesthetics.

E. Steep slopes, including vegetation and rock cliffs, are an important environmental feature that contribute to the character and desirability of the Town of Cortlandt and help contribute to and maintain the value of residential property in the Town. Overdevelopment or improperly managed disturbance are detrimental to the character and desirability of the Town and can result in public and private expenditures for corrective measures; negative effects on property values; and unnecessary and unwarranted increases in the costs of providing and maintaining public services and facilities, such as streets, water, sewers, emergency services, sanitation services, parks, and recreation.

F. Regulation of development on steep slopes is consistent with the legitimate interests of landowners to make reasonable use of their land. Regulation can prohibit the degradation of steep slopes and allow reasonable use of private property by encouraging flexible design of development so as to avoid disturbance of steep slopes. Regulation can also permit environmentally sound disturbance of steep slopes conducted in accordance with acceptable management and engineering practices to permit reasonable use of private property.

G. Regulation of development on steep slopes will not preclude the Town from continuing to meet its social, economic and other essential responsibilities, particularly its responsibility to provide affordable housing. In order to ensure the availability of affordable housing, the Town has adopted many provisions in Chapter 307, Zoning, and Chapter 265, Subdivision of Land, which enable the development of a variety of housing types to meet the needs of Town residents for
affordable housing. These provisions allow the renting of rooms within homes and the development of accessory apartments, two-family and multifamily dwellings, boardinghouses and housing for senior citizens. The Town’s 2002 Master Plan recommends additional measures to promote affordable housing, such as the development of new villages or hamlets and senior citizen complexes in which affordable housing would be required. Several moderately priced townhouse developments have been approved pursuant to § 281 of the New York State Town Law. Further, the Town’s commitment to promoting affordable housing in suitable areas is demonstrated by the Town’s endorsement of and cooperation with state and county funding agencies in the approval of below-market housing.

H. These regulations are enacted with the intent of providing a reasonable balance between the rights of the individual property owner to the fair use of his property and the rights of present and future generations. Therefore, this chapter recognizes the rights of owners of property exhibiting steep slopes to use their property for reasonable purposes consistent with other regulations and controls, provided that such use, in the judgment of the appropriate agencies or officials of the Town of Cortlandt, does not result in a significant loss or degradation of steep slopes or loss of the visual and open space benefits which steep slopes have been found to provide.

I. It is declared to be the intent of the Town of Cortlandt to preserve steep slopes to the greatest extent practicable and to regulate their use within the Town to protect the public interest by ensuring the maximization of benefit found to be provided by the preservation of steep slopes and by ensuring the minimization of detrimental effects through the practice of properly managed disturbance of steep slopes as set forth in § 259-4.

§ 259-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CUSTOMARY LANDSCAPING — Land maintenance involving tree trimming and pruning, the removal of dead and diseased vegetation, lawn and garden care and the planting of decorative trees, shrubs and plants.

DISTURBANCE — Excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

EXCAVATION — Any act by which earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced or spread.

FILL — Any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, dumped, transported or moved by person or persons to a new location.
§ 259-3  CORTLANDT CODE  § 259-6

STEEP SLOPES — Ground areas with a slope greater than 15% with a minimum area of 500 square feet which possesses one dimension of a minimum of 10 feet. Measurements shall be made along a horizontal plane.

§ 259-4. Exempt and regulated activities.

A. Exempt activities. Any customary landscaping not involving regrading is allowed without the need for obtaining a permit, provided that any such activities conform to all other applicable laws and regulations of the Town of Cortlandt.

B. Regulated activities. It shall be unlawful to create any disturbance or to cut any tree with a diameter greater than four inches when measured from 1 1/2 feet from ground level, on any steep slope, as defined by this section, other than an exempt activity, as defined herein, without a specific written permit as required by this section. It shall additionally be unlawful to create any steep slope, other than as part of an exempt activity, without such permit. Such prohibitions apply to all sites, lots, or parcels of land, or any portion of any such site, lot, or parcel, located in the Town, without exception.

§ 259-5. Approval authority.

The approval authority with respect to applications hereunder shall be as follows:

A. The Zoning Board of Appeals shall be the approval authority with respect to any application which requires the issuance of any other permit or approval by it pursuant to the local laws and ordinances of the Town of Cortlandt.

B. The Planning Board shall be the approval authority with respect to any application which requires the issuance of any other permit or approval by it pursuant to the local laws and ordinances of the Town of Cortlandt, including any application which also requires the issuance of any permit or approval by the Zoning Board of Appeals.

C. The Town Board shall be the approval authority with respect to any application which requires the issuance of any other permit or approval by it pursuant to the local laws and ordinances of the Town of Cortlandt, including any application which also requires the issuance of any permit or approval by the Zoning Board of Appeals or the Planning Board.

D. The Director of Technical Services or the Deputy Director of Code Enforcement shall be the approval authority with respect to all other regulated activities.

§ 259-6. Standards for approval.

In denying, granting or granting with modifications any application for a permit as required by this section, the approval authority shall consider,
and make specific findings addressing the consistency of the proposed activity with the findings set forth in § 259-2 of this chapter and each of the following standards:

A. Disturbance or alterations of trees and forests and topographical disturbances or alterations on steep slopes shall be in conformance with all provisions of this steep slopes ordinance as well as with all other applicable ordinances and regulations of the Town of Cortlandt, including, by way of example only, the requirements of Chapter 175 regarding flood damage control, Chapter 283 regarding trees, and Chapter 301 regarding diversion of watercourses.

B. Activities within wetlands shall be in conformance with Chapter 179, Freshwater Wetlands, Water Bodies and Watercourses, and, whether within or outside of wetlands, will not adversely affect any wetlands, water bodies, or watercourses.

C. The proposed activity will not result in creep, sudden slope failure, or additional erosion.

D. The proposed activity will not adversely affect existing or proposed wells or sewage disposal systems.

E. The proposed activity will not adversely affect any endangered or threatened species of flora or fauna.

F. The proposed activity is in accordance with the principles and recommendations of the most recent Master Plan of the Town.

G. The proposed activity constitutes the minimum disturbance necessary to allow the property owner a reasonable use of the property.

H. Disturbance or alteration of areas with steep slopes shall additionally be in conformance with the following provisions:

1. The planning, design and development of buildings shall provide the maximum in structural safety, slope stability and human enjoyment while adapting the affected site to, and taking advantage of, the best use of the natural terrain and aesthetic character.

2. The terracing of building sites, including the mounding of septic tile fields, shall be kept to an absolute minimum.

3. Roads and driveways shall follow the natural topography to the greatest extent possible in order to minimize the potential for erosion and shall be consistent with all other applicable ordinances and regulations of the Town of Cortlandt and current engineering practices.

4. Replanting shall consist of indigenous vegetation and shall replicate the original vegetation on the site as much as possible.
(5) The natural elevations and vegetative cover of ridgelines shall be disturbed only if the crest of a ridge and the tree line at the ridge remain uninterrupted. This may be accomplished either by positioning buildings and areas of disturbance below a ridgeline or by positioning buildings and areas of disturbance at a ridgeline so that the elevation of the roofline of the building is no greater than the elevation of the natural tree line. However, under no circumstances shall more than 100 feet along the ridgeline, to a width of 100 feet generally centered on the ridgeline, be disturbed.

(6) Any regrading shall blend in with the natural contours and undulations of the land.

(7) Cuts and fills shall be rounded off to eliminate sharp angles at the top, bottom and sides of regraded slopes. Visible construction cuts and permanent scarring should be minimized.

(8) The angle of cut and fill slopes shall not exceed a slope of one vertical to two horizontal except where retaining walls, structural stabilization or other methods acceptable to the Director of Technical Services are used.

(9) Tops and bottoms of cut and fill slopes shall be set back from structures a distance that will ensure the safety of the structure in the event of the collapse of the cut or fill slopes. Generally, such distance shall be considered to be six feet plus 1/2 the height of the cut or fill. Nevertheless, a structure built on a slope or at the toe of a slope is permitted if it is properly designed to retain the slope and withstand the forces exerted on it by the retained slope.

(10) Disturbance of rock outcrops shall be by means of explosive only if labor and machines are not effective and only if rock blasting is conducted in accordance with all applicable laws and regulations of the Town of Cortlandt, County of Westchester, and the State of New York.

(11) Disturbance of steep slopes shall be undertaken in workable units in which the disturbance can be completed and stabilized in one construction season so that areas are not left bare and exposed during the winter and spring thaw periods (December 15 through April 15).

(12) Disturbance of existing vegetative ground cover shall not take place more than 15 days prior to grading and construction.

(13) Temporary soil stabilization, including, if appropriate, temporary stabilization measures such as netting or mulching to secure soil during the grow-in period, must be applied to an area of disturbance within two days of establishing the final grade, and permanent stabilization must be applied within 15 days of establishing the final grade.
§ 259-7. Permit procedures.

(14) Soil stabilization must be applied within two days of disturbance if the final grade is not expected to be established within 60 days.

(15) Measures for the control of erosion and sedimentation shall be undertaken consistent with the Westchester County Soil and Water Conservation District's Best Management Practices Manual for Erosion and Sediment Control and New York State Guidelines for Urban Erosion and Sediment Control, as amended, or their equivalents satisfactory to the approval authority.

(16) All proposed disturbance of steep slopes shall be undertaken with consideration of the soils limitations characteristics contained in the Identification Legend, Westchester County Soils Survey, 1989, as prepared by the Westchester County Soil and Water Conservation District, in terms of recognition of limitation of soils on steep slopes for development and application of all mitigating measures and as deemed necessary by the approval authority.

(17) Topsoil shall be stripped from all areas of disturbance, stockpiled and stabilized in a manner to minimize erosion and sedimentation and replaced elsewhere on the site at the time of final grading. Stockpiling shall not be permitted on slopes of greater than 10%.

(18) No organic material or rock with a size that will not allow appropriate compaction or cover by topsoil shall be used as fill material. Fill material shall be no less granular than the soil upon which it is placed and shall drain readily.

(19) Compaction of fill materials in fill areas shall be such to ensure support of proposed structures and stabilization for intended uses.

I. Burden of proof.

(1) The presumption in all cases shall be that no disturbance or alteration of any steep slope shall be approved by the approval authority. The applicant shall in all cases have the burden of proof of demonstrating, by clear and convincing evidence, that the proposed activity is fully consistent with each of the findings set forth in § 259-2 and that each of the standards for approval set forth in Subsections A through G above has been fully and completely met.

(2) With respect to applications involving proposed disturbance or alteration of any steep slope with a grade of 30% or greater, the applicant shall have the additional burden of demonstrating, again by clear and convincing evidence, that the applicant's circumstances are compelling and exceptional, including, at a minimum, demonstrating by clear and convincing evidence that no reasonable use of the site, lot, or parcel is possible without disturbance to a steep slope area having a grade of 30% or greater.
A. Application for permit. An application for a permit to disturb or alter a steep slope shall be filed with the approval authority and shall contain the following information and such other information as required by it except when waived by it as not pertinent or necessary for the proposed disturbance:

(1) The name and post office address of the owner and applicant.

(2) The street address and Tax Map designation of property covered by the application.

(3) A statement of authority from the owner for any agent making application.

(4) A listing of property owners adjacent to, across streets or rights-of-way from and downstream within 500 feet of the property and any additional property owners deemed appropriate by the approval authority.

(5) A statement of the proposed work and purpose thereof.

(6) Copies, in such reasonable number as determined by the approval authority, of plans for the proposed regulated activities drawn to a scale of not less than one inch equals 50 feet (unless otherwise specified by the approval authority). Such plans shall be sealed and show the following:

(a) The location of the proposed construction or area of disturbance and its relationship to property lines, easements, buildings, roads, walls, sewage disposal systems, wells and wetlands within 100 feet of the proposed construction or area of disturbance for adjacent properties at the same elevation and within 500 feet for properties significantly lower.

(b) The estimated material quantities of excavation/fill.

(c) The location and size of areas of soils by soils types in the area of proposed disturbance and to a distance of 100 feet.

(d) The existing and proposed contours [National Geodetic Vertical Datum (NGVD)] at two-foot intervals in the area of proposed disturbance and to a distance of 100 feet beyond.

(e) Cross sections of steep slope areas.

(f) Retaining walls or like constructions, with details of construction.

(g) The erosion and sedimentation control plan.

(h) Other details, including specific reports by qualified professionals on soils, geology and hydrology, and borings and/or test pits, as may be determined to be necessary by the approval authority.
(i) A list of all applicable county, state or federal permits which are required for such work or improvements.

(j) An application fee in the amount set forth in a fee schedule established by the Town Board.

B. Referral. The approval authority shall refer any application submitted to it pursuant to this chapter to the Conservation Advisory Council for review and report. The Conservation Advisory Council shall report back to the approval authority within 30 days of the date of referral or within such greater period as may be specified by the approval authority (at the time of referral). Failure to comply with the specified time period shall be interpreted by the approval authority as indicating no objection to the application.

C. Notice. Upon receipt of a completed application under this chapter, the approval authority shall cause notice of receipt of the same to be sent to adjoining property owners and those across the street or right-of-way adjoining the involved property. Such property owners shall have 20 days from said day of notice to submit written comment to the approval authority with regard to said application. The approval authority may waive this notice procedure if it has received responses from the adjoining property owners prior to action by it. In cases where the approval authority is the Director of Technical Services or the Deputy Director of Code Enforcement, the approval authority shall additionally cause such notice to be posted at one or more locations along the street or streets abutting the property.

D. Public hearing. A public hearing shall be held by the approval authority on the application made hereunder at such times, under such circumstances and upon such notice as may be required for the granting of the other permit or approval required of such approval authority pursuant to the local laws and ordinances of the Town of Cortlandt.

E. Action by the approval authority. In approving any application, the approval authority may shall impose such conditions or limitations as it determines necessary to ensure compliance with the intent, purposes and standards of this chapter.

(1) On applications for which no public hearing is required, a determination shall be made to approve, approve with modifications or disapprove the application within 60 days of receipt of a completed application therefor.

(2) On applications for which a public hearing is required, a determination shall be made to approve, approve with modifications or disapprove the issuance of such permit simultaneously with the determination by the approval authority of the other permit or approval for which application was made.
§ 259-7  CORTLANDT CODE  § 259-10

F. Appeal. Any party aggrieved by a decision of the Director of Technical Services or the Deputy Director of Code Enforcement to approve, approve with conditions or disapprove an application may appeal the decision to the Zoning Board of Appeals.

§ 259-8. Duration of permit.

A. Activities specified by the permit shall be undertaken pursuant to any conditions of the permit and shall be completed according to any schedule set forth in the permit.

B. A permit shall expire on completion of the activities specified and shall be valid for a period of two years from the date of approval or for the period of any other permit issued by the approval authority.

C. A permit may be renewed by the approval authority for a period of up two years.

D. The approval authority may revoke or suspend a permit if it finds that the applicant has not complied with any of the conditions or limitations set forth in the permit.


In granting a permit, the approval authority shall require a security in an amount and with surety and conditions satisfactory to it securing to the Town of Cortlandt compliance with the conditions and limitations set forth in the permit.

§ 259-10. Inspection and monitoring.

A. The Environmental Monitor of the Town of Cortlandt shall inspect on behalf of the approval authority, activities undertaken pursuant to a permit so as to ensure satisfactory completion. If upon inspection it is found that any of the activities have not been undertaken in accordance with the permit the applicant shall be responsible for completing those activities according to the permit (in addition to being subject to the sanctions set forth in § 259-11A through D. Failure of the Environmental Monitor to carry out such inspections shall not in any way relieve the applicant or its surety of its responsibilities.

B. The approval authority may require that the applicant submit for review and approval by the Environmental Monitor of the Town of Cortlandt a detailed monitoring program, including but not necessarily limited to written status reports at specified intervals documenting activities undertaken pursuant to a permit. Where such a monitoring program has been required, the applicant shall notify the approval authority and the Environmental Monitor upon reaching stages of the activity as may be required in the permit. No activity requiring inspection shall be approved absent such notification.

A. Any person who violates, disobeys or disregards any provision of this chapter shall be liable to the people of the Town of Cortlandt for a civil penalty not to exceed $3,000 for every such violation. Each week's continuation of a condition violating this chapter shall be deemed a separate violation.

B. In addition to the above civil fine, any person who violates any provision of this chapter shall be guilty of a violation pursuant to the Penal Law, punishable by a fine of not less than $500 nor more than $1,000. For a second and each subsequent offense, the violator shall be guilty of a misdemeanor, punishable by a fine of not less than $1,000 nor more than $2,000 or a term of imprisonment up to 15 days, or both. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

C. In addition to the above civil and criminal penalties, the Town Board and Deputy Director of Code Enforcement, with the advice and consent of the Town Attorney, shall have the right to seek equitable relief to restrain and/or remedy any violation of any provisions of this chapter.

D. The Deputy Director of Code Enforcement shall have the power to direct a violator to cease violation of this chapter and, with the consultation of the approval authority, satisfactorily restore the affected area within a specified period of time. The exercise of such power may be with or without the imposition of a fine.
Aquatic Buffer Model Ordinance

This ordinance focuses primarily on stream buffers. Communities creating coastal buffers may wish to incorporate additional features. For an example of a coastal buffer ordinance, see the Rhode Island ordinance.

Section I. Background
Buffers adjacent to stream systems and coastal areas provide numerous environmental protection and resource management benefits that can include the following:

1) Restoring and maintaining the chemical, physical, and biological integrity of the water resources
2) Removing pollutants delivered from urban stormwater
3) Reducing erosion and sediment entering the stream
4) Stabilizing stream banks
5) Providing infiltration of stormwater runoff
6) Maintaining base flow of streams
7) Contributing the organic matter that is a source of food and energy for the aquatic ecosystem
8) Providing tree canopy to shade streams and promote desirable aquatic organisms

This benefit applies primarily to forested buffer systems. In some communities, such as prairie settings, the native vegetation may not be forest. See the example ordinance from Omaha, Nebraska, for an example.

9) Providing riparian wildlife habitat
10) Furnishing scenic value and recreational opportunity

It is the desire of the (Natural Resources or Planning Agency) to protect and maintain the native vegetation in riparian and wetland areas by implementing specifications for the establishment, protection, and maintenance of vegetation along all stream systems and/or coastal zones within our jurisdictional authority.

Section II. Intent
The purpose of this ordinance is to establish minimal acceptable requirements for the design of buffers to protect the streams, wetlands, and floodplains of (jurisdiction); to protect the water quality of watercourses, reservoirs, lakes, and other significant water resources within (jurisdiction); to protect (Jurisdiction’s) riparian and aquatic ecosystems; and to provide for the environmentally sound use of (jurisdiction’s) land resources.

Section III. Definitions
Active Channel The area of the stream channel that is subject to frequent flows (approximately once per one and a half years) and that includes the portion of the channel below the floodplain.

Best Management Practices (BMPs) Conservation practices or management measures that control soil loss and reduce water quality degradation caused by nutrients, animal wastes, toxics, sediment, and runoff.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buffer</td>
<td>A vegetated area, including trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream system, lake, reservoir, or coastal estuarine area. Alteration of this natural area is strictly limited.</td>
</tr>
</tbody>
</table>
| Development                 | 1) The improvement of property for any purpose involving building  
                                2) Subdivision or the division of a tract or parcel of land into two or more parcels  
                                3) The combination of any two or more lots, tracts, or parcels of property for any purpose  
                                4) The preparation of land for any of the above purposes |
| Nontidal Wetlands           | Those areas not influenced by tidal fluctuations that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. |
| Nonpoint Source Pollution   | Pollution that is generated by various land use activities rather than from an identifiable or discrete source and is conveyed to waterways through natural processes, such as rainfall, stormwater runoff, or groundwater seepage rather than direct discharges. |
| One Hundred-Year Floodplain | The area of land adjacent to a stream that is subject to inundation during a storm event that has a recurrence interval of 100 years. |
| Pollution                   | Any contamination or alteration of the physical, chemical, or biological properties of any waters that will render the waters harmful or detrimental to  
                                1) Public health, safety, or welfare  
                                2) Domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses  
                                3) Livestock, wild animals, or birds  
                                4) Fish or other aquatic life |
| Stream Channel              | Part of a watercourse either naturally or artificially created that contains an intermittent or perennial base flow of groundwater origin. Base flows of groundwater origin can be distinguished by any of the following physical indicators:  
                                1) Hydrophytic vegetation, hydric soil, or other hydrologic indicators in the area(s) where groundwater enters the stream channel in the vicinity of the stream headwaters, channel bed, or channel banks  
                                2) Flowing water not directly related to a storm event  
                                3) Historical records of a local high groundwater table, such as well and stream gauge records. |
| Stream Order                | A classification system for streams based on stream hierarchy. The smaller the stream, the lower its numerical classification. For example, a first-order stream |
does not have tributaries and normally originates from springs and/or seeps. (See Figure 1.)

Stream System
A stream channel together with one or both of the following:
1) 100-year floodplain
2) Hydrologically related nontidal wetland

Streams
Perennial and intermittent watercourses identified through site inspection and US Geological Survey (USGS) maps. Perennial streams are those which are depicted on a USGS map with a solid blue line. Intermittent streams are those which are depicted on a USGS map with a dotted blue line.

Defining the term “stream” is perhaps the most contentious issue in the definition of stream buffers. This term determines the origin and the length of the stream buffer. Although some jurisdictions restrict the buffer to perennial or “blue line” streams, others include both perennial and intermittent streams in the stream buffer program. Some communities do not rely on USGS maps and instead prepare local maps of all stream systems that require a buffer.

Water Pollution
A land use or activity that causes a relatively high risk of potential water pollution.

Hazard

Section IV. Applications
A) This ordinance shall apply to all proposed development except for that development which meets waiver or variance criteria as outlined in Section IX of this regulation.
B) This ordinance shall apply to all timber harvesting activities, except those timber harvesting operations which are implementing a forest management plan that has been deemed to be in compliance with the regulations of the buffer ordinance and has received approval from (state forestry agency).
C) This ordinance shall apply to surface mining operations except that the design standards shall not apply to active surface mining operations that are operating in compliance with an approved (state or federal agency) surface mining permit.
D) The ordinance shall not apply to agricultural operations that are covered by an approved Natural Resources Conservation Service (NRCS) conservation plan that includes the application of BMPs.

Communities should carefully consider whether exempt agricultural operations from the buffer ordinance because buffer regulations may take land out of production and impose a financial burden on family farms. Many communities exempt agricultural operations if they have an approved NRCS conservation plan. In some regions, agricultural buffers may be funded through the Conservation Reserve Program (CRP). For further information, consult the Conservation Technology Information Center (CTIC) at www.ctic.perdue.edu.

Livestock operations near and around streams may be regulated by communities. Livestock can significantly degrade the stream system and accelerate streambank erosion. The King County Livestock Management Ordinance is one example of a local livestock ordinance. For more information, contact the King County Department of Development and Environmental Services at (206) 296-6602.

E) Except as provided in Section IX, this ordinance shall apply to all parcels of land, structures, and activities that are causing or contributing to
1) Pollution, including nonpoint source pollution, of the waters of the jurisdiction adopting this ordinance
2) Erosion or sedimentation of stream channels
3) Degradation of aquatic or riparian habitat

Section V. Plan Requirements
A) In accordance with Section IV of this ordinance, a plan approved by the appropriate agency is required for all development, forest harvesting operations, surface mining operations, and agricultural operations.
B) The plan shall set forth an informative, conceptual, and schematic representation of the proposed activity by means of maps, graphs, charts, or other written or drawn documents so as to enable the agency an opportunity to make a reasonably informed decision regarding the proposed activity.
C) The plan shall contain the following information:

The ordinance can identify the scale of maps to be included with the analyses in items 2) through 7). A 1"=50' to 1"=100' scale will generally provide sufficient detail.

1) A location or vicinity map
2) Field-delineated and surveyed streams, springs, seeps, bodies of water, and wetlands (include a minimum of 200 feet into adjacent properties)
3) Field delineated and surveyed forest buffers
4) Limits of the ultimate 100-year floodplain

The limits of the ultimate floodplain (i.e., the floodplain under “built-out” conditions) might not be available in all locations.

5) Hydric soils mapped in accordance with the NRCS soil survey of the site area
6) Steep slopes greater than 15 percent for areas adjacent to and within 200 feet of streams, wetlands, or other waterbodies

The ordinance may also explicitly define how slopes are measured. For example, the buffer may be divided into sections of a specific width (e.g., 25 feet) and the slope for each segment reported. Alternatively, slopes can be reported in segments divided by breaks in slope.

7) A narrative of the species and distribution of existing vegetation within the buffer

D) The buffer plan shall be submitted in conjunction with the required grading plan for any development, and the forest buffer should be clearly delineated on the final grading plan.
E) Permanent boundary markers, in the form of signage approved by __________________ (natural resources or planning agency), shall be installed prior to final approval of the required clearing and grading plan. Signs shall be placed at the edge of the middle zone (See Section VI.I).

Section VI. Design Standards for Forest Buffers
A) A forest buffer for a stream system shall consist of a forested strip of land extending along both sides of a stream and its adjacent wetlands, floodplains, or slopes. The forest buffer width shall be adjusted to include contiguous sensitive areas, such as steep slopes or erodible soils, where development or disturbance may adversely affect water quality, streams, wetlands, or other waterbodies.
B) The forest buffer shall begin at the edge of the stream bank of the active channel.
C) The required width for all forest buffers (i.e., the base width) shall be a minimum of 100 feet, with the requirement to expand the buffer depending on
   1) Stream order
   2) Percent slope
   3) 100-year floodplain
   4) Wetlands or critical areas

The width of the stream buffer varies from 20 feet to 200 feet in ordinances throughout the United States (Heraty, 1993). The width chosen by a jurisdiction will depend on the sensitivity and characteristics of the resource being protected and the political realities in the community.

B) In third-order and higher streams, 25 feet shall be added to the base width of the forest buffer.
C) The forest buffer width shall be modified if steep slopes are within close proximity to the stream and drain into the stream system. In those cases, the forest buffer width may be adjusted.

Several methods may be used to adjust buffer width for steep slopes. Two examples follow:

**Method A**

<table>
<thead>
<tr>
<th>Percent Slope</th>
<th>Width of Buffer</th>
</tr>
</thead>
<tbody>
<tr>
<td>15%-17%</td>
<td>add 10 feet</td>
</tr>
<tr>
<td>18%-20%</td>
<td>add 30 feet</td>
</tr>
<tr>
<td>21%-23%</td>
<td>add 50 feet</td>
</tr>
<tr>
<td>24%-25%</td>
<td>add 60 feet</td>
</tr>
</tbody>
</table>

**Method B**

<table>
<thead>
<tr>
<th>Percent Slope</th>
<th>Type of Stream Use</th>
<th>Water Contact Recreational Use</th>
<th>Sensitive Stream Habitat</th>
</tr>
</thead>
<tbody>
<tr>
<td>0% to 14%</td>
<td>no change</td>
<td>add 50 feet</td>
<td></td>
</tr>
<tr>
<td>15% to 25%</td>
<td>add 25 feet</td>
<td>add 75 feet</td>
<td></td>
</tr>
<tr>
<td>Greater than 25%</td>
<td>add 50 feet</td>
<td>add 100 feet</td>
<td></td>
</tr>
</tbody>
</table>

D) Forest buffers shall be extended to encompass the entire 100-year floodplain and a zone with a minimum width of 25 feet beyond the edge of the floodplain.
E) When wetland or critical areas extend beyond the edge of the required buffer width, the buffer shall be adjusted so that the buffer consists of the extent of the wetland plus a 25-foot zone extending beyond the wetland edge.

H) Water Pollution Hazards
The following land uses and/or activities are designated as potential water pollution hazards
and must be set back from any stream or waterbody by the distance indicated below:

1) Storage of hazardous substances—(150 feet)
2) Aboveground or underground petroleum storage facilities—(150 feet)
3) Drainfields from onsite sewage disposal and treatment systems (i.e., septic systems)—(100 feet)
4) Raised septic systems—(250 feet)
5) Solid waste landfills or junkyards—(300 feet)
6) Confined animal feedlot operations—(250 feet)
7) Subsurface discharges from a wastewater treatment plant—(100 feet)
8) Land application of biosolids—(100 feet)

For surface water supplies, the setbacks should be doubled.

A community should carefully consider which activities or land uses should be designated as potential water pollution hazards. The list of potential hazards shown above is not exhaustive, and others may need to be added depending on the major pollutants of concern and the uses of water.

I) The forest buffer shall be composed of three distinct zones, with each zone having its own set of allowable uses and vegetative targets as specified in this ordinance. (See Figure 2.)

Although a three-zone buffer system is highly recommended, the widths and specific uses allowed in each zone may vary between jurisdictions.

1) Zone 1, Streamside Zone
   a) Protects the physical and ecological integrity of the stream ecosystem.
   b) Begins at the edge of the stream bank of the active channel and extends a minimum of 25 feet from the top of the bank.
   c) Allowable uses within this zone are highly restricted to
      i) Flood control structures
      ii) Utility right of ways
      iii) Footpaths
      iv) Road crossings, where permitted
   d) Target for the streamside zone is undisturbed native vegetation.

This ordinance assumes that the native vegetation in the stream corridor is forest. In some regions of the United States, other vegetation such as prairie may be native. See the Omaha, Nebraska, buffer ordinance for an example of a stream buffer ordinance that protects nonforested systems.

2) Zone 2, Middle Zone
   a) Protects key components of the stream and provides distance between upland development and the streamside zone.
   b) Begins at the outer edge of the streamside zone and extends a minimum of 50 feet plus any additional buffer width as specified in this section.
   c) Allowable uses within the middle zone are restricted to
      i) Biking or hiking paths
      ii) Stormwater management facilities, with the approval of _____________ (local agency responsible for stormwater).
iii) Recreational uses as approved by ______________ (planning agency).
iv) Limited tree clearing with approval from ______________ (forestry agency or planning agency).

d) Targets mature native vegetation adapted to the region.

3) Zone 3, Outer Zone
   a) Prevents encroachment into the forest buffer and filters runoff from residential and commercial development.
   b) Begins at the outward edge of the middle zone and provide a minimum width of 25 feet between Zone 2 and the nearest permanent structure.
   c) Restricts septic systems, permanent structures, or impervious cover, with the exception of paths.
   d) Encourages the planting of native vegetation to increase the total width of the buffer.

Section VII. Buffer Management and Maintenance

A) The forest buffer, including wetlands and floodplains, shall be managed to enhance and maximize the unique value of these resources. Management includes specific limitations on alteration of the natural conditions of these resources. The following practices and activities are restricted within Zones 1 and 2 of the forest buffer, except with approval by ______________ (forestry, planning or natural resources agency)

1) Clearing of existing vegetation
2) Soil disturbance by grading, stripping, or other practices
3) Filling or dumping
4) Drainage by ditching, underdrains, or other systems
5) Use, storage, or application of pesticides, except for spot spraying of noxious weeds or non-native species consistent with recommendations of ______________ (forestry agency)
6) Housing, grazing, or other maintenance of livestock
7) Storage or operation of motorized vehicles, except for maintenance and emergency use approved by ______________ (forestry, planning, or natural resources agency)

B) The following structures, practices, and activities are permitted in the forest buffer, with specific design or maintenance features, subject to the review of ______________ (forestry, planning, or natural resources agency):

1) Roads, bridges, paths, and utilities:
   a) An analysis needs to be conducted to ensure that no economically feasible alternative is available.
   b) The right-of-way should be the minimum width needed to allow for maintenance access and installation.
   c) The angle of the crossing shall be perpendicular to the stream or buffer to minimize clearing requirements
   d) The minimum number of road crossings should be used within each subdivision, and no more than one fairway crossing is allowed for every 1,000 feet of buffer.

2) Stormwater management:
   e) An analysis needs to be conducted to ensure that no economically feasible alternative is available and that the project either is necessary for flood control or significantly improves the water quality or habitat in the stream.
   f) In new developments, onsite and nonstructural alternatives will be preferred over larger facilities within the stream buffer.
g) When constructing stormwater management facilities (i.e., BMPs), the area cleared will be limited to the area required for construction and adequate maintenance access as outlined in the most recent edition of ________________ (refer to stormwater manual).

Rather than placing specific stormwater BMP design criteria in an ordinance, it is often preferable to reference a manual. With this approach, specific design information can be changed over time without going through the formal process needed to change ordinance language.

The Maryland Stormwater Design Manual is one example of an up-to-date stormwater design manual. For more information, go to www.mde.state.md.us. Under topics, choose “Stormwater Design Manual.”

h) Material dredged or otherwise removed from a BMP shall be stored outside the buffer.

3) Stream restoration projects, facilities, and activities approved by ________________ (forestry, planning, or natural resources agency) are permitted within the forest buffer.

4) Water quality monitoring and stream gauging are permitted within the forest buffer, as approved by ________________ (forestry, planning or natural resources agency).

5) Individual trees within the forest buffer that are in danger of falling, causing damage to dwellings or other structures, or causing blockage of the stream may be removed.

6) Other timber cutting techniques approved by the agency may be undertaken within the forest buffer under the advice and guidance of ________________ (state or federal forestry agency) if necessary to preserve the forest from extensive pest infestation, disease infestation, or threat from fire.

C) All plans prepared for recording and all right-of-way plans shall clearly

1) Show the extent of any forest buffer on the subject property

2) Label the forest buffer

3) Provide a note to reference any forest buffer stating: “There shall be no clearing, grading, construction or disturbance of vegetation except as permitted by the agency.”

4) Provide a note to reference any protective covenants governing all forest buffer areas stating: “Any forest buffer shown hereon is subject to protective covenants that may be found in the land records and that restrict disturbance and use of these areas.”

D) All forest buffer areas shall be maintained through a declaration of protective covenant, which is required to be submitted for approval by ________________ (planning board or agency). The covenant shall be recorded in the land records and shall run with the land and continue in perpetuity.

This protective covenant can be kept either by the local government agency responsible for management of environmental resources or by an approved nonprofit organization. An example conservation easement is included later in this section.

E) All lease agreements must contain a notation regarding the presence and location of protective covenants for forest buffer areas and shall contain information on the management and maintenance requirements for the new property owner.

F) An offer of dedication of a forest buffer area to the agency shall not be interpreted to mean that this automatically conveys to the general public the right of access to this area.

G) ________________ (responsible individual or group) shall inspect the buffer annually and immediately following severe storms for evidence of sediment deposition, erosion, or concentrated flow channels and corrective actions taken to ensure the integrity and functions
A local ordinance will need to designate the individual or group responsible for buffer maintenance. Often, the responsible party will be identified in protective covenants associated with the property.

Forest buffer areas may be allowed to grow into their vegetative target state naturally, but methods to enhance the successional process such as active reforestation may be used when deemed necessary by the natural resources or forestry agency to ensure the preservation and propagation of the buffer area. Forest buffer areas may also be enhanced through reforestation or other growth techniques as a form of mitigation for achieving buffer preservation requirements.

Explicit forestry management criteria are often included in a forestry or natural resources conservation ordinance. An example forest conservation ordinance from Frederick County, Maryland is included in the miscellaneous ordinances section of this site.

Section VIII. Enforcement Procedures

A) (director of responsible agency) or his/her designee is authorized and empowered to enforce the requirements of this ordinance in accordance with the procedures of this section.

B) If, upon inspection or investigation, the director or his/her designee is of the opinion that any person has violated any provision of this ordinance, he/she shall with reasonable promptness issue a correction notice to the person. Each such notice shall be in writing and shall describe the nature of the violation, including a reference to the provision within this ordinance that has been violated. In addition, the notice shall set a reasonable time for the abatement and correction of the violation.

C) If it is determined that the violation or violations continue after the time fixed for abatement and correction has expired, the director shall issue a citation by certified mail to the person who is in violation. Each such notice shall be in writing and shall describe the nature of the violation, including a reference to the provision within this ordinance that has been violated and what penalty, if any, is proposed to be assessed. The person charged has 30 days within which to contest the citation or proposed assessment of penalty and to file a request for a hearing with the director or his/her designee. At the conclusion of this hearing, the director or his/her designee will issue a final order, subject to appeal to the appropriate authority. If, within 30 days from the receipt of the citation issued by the director, the person fails to contest the citation or proposed assessment of penalty, the citation or proposed assessment of penalty shall be deemed the final order of the director.

B) Any person who violates any provision of this ordinance may be liable for any cost or expenses incurred as a result thereof by the agency.

C) Penalties that may be assessed for those deemed to be in violation may include the following:

1) A civil penalty not to exceed $1,000.00 for each violation. Every day that such violation(s) continue will be considered a separate offense.

2) A criminal penalty in the form of a fine of not more than $1,000.00 for each violation, imprisonment for not more than 90 days, or both. Every day that such violation(s) continue will be considered a separate offense.

3) Anyone who knowingly makes any false statements in any application, record, or plan required by this ordinance shall upon conviction be punished by a fine of not more than $1,000.00 for each violation, imprisonment for not more than 30 days, or both.
Specific penalties will vary between communities, and should reflect realistically enforceable penalties given the political realities of a jurisdiction.

F) In addition to any other sanctions listed in this ordinance, a person who fails to comply with the provisions of this buffer ordinance shall be liable to the agency in a civil action for damages in an amount equal to twice the cost of restoring the buffer. Damages that are recovered in accordance with this action shall be used for the restoration of buffer systems or for the administration of programs for the protection and restoration of water quality, streams, wetlands, and floodplains.

Section IX. **Waivers/Variances**

A) This ordinance shall apply to all proposed development except for activities that were completed prior to the effective date of this ordinance and had received the following:
   1) A valid, unexpired permit in accordance with development regulations
   2) A current, executed public works agreement
   3) A valid, unexpired building permit
   4) A waiver in accordance with current development regulations.

B) The director of the agency may grant a variance for the following:
   1) Those projects or activities for which it can be demonstrated that strict compliance with the ordinance would result in a practical difficulty or financial hardship
   2) Those projects or activities serving a public need where no feasible alternative is available
   3) The repair and maintenance of public improvements where avoidance and minimization of adverse impacts to nontidal wetlands and associated aquatic ecosystems have been addressed
   4) Those developments which have had buffers applied in conformance with previously issued requirements

C) Waivers for development may also be granted in two additional forms, if deemed appropriate by the director:
   1) The buffer width may be reduced at some points as long as the average width of the buffer meets the minimum requirement. This averaging of the buffer may be used to allow for the presence of an existing structure or to recover a lost lot, as long as the streamside zone (Zone I) is not disturbed by the reduction and no new structures are built within the 100-year floodplain.
   2) The **planning agency** may offer credit for additional density elsewhere on the site in compensation for the loss of developable land due to the requirements of this ordinance. This compensation may increase the total number of dwelling units on the site up to the amount permitted under the base zoning.

D) The applicant shall submit a written request for a variance to the director of the agency. The application shall include specific reasons justifying the variance and any other information necessary to evaluate the proposed variance request. The agency may require an alternative analysis that clearly demonstrates that no other feasible alternatives exist and that minimal impact will occur as a result of the project or development.

E) In granting a request for a variance, the director of the agency may require site design, landscape planting, fencing, signs, and water quality best management practices to reduce adverse impacts on water quality, streams, wetlands, and floodplains.
Section X. **Conflict With Other Regulations**
Where the standards and management requirements of this buffer ordinance are in conflict with other laws, regulations, and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, timber harvesting, land disturbance activities, or other environmental protective measures, the more restrictive shall apply.
Figure 1: Stream Order (Source: Schueler, 1995)

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Figure 2: Three Zone Buffer System (Adapted from Welsch, 1991)
References


Model Local Law
to
Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer System

Introduction

This model local law is intended to be a tool for communities that are currently or may soon be responsible for meeting the Phase II stormwater management requirements of the National Pollutant Discharge Elimination System (NPDES) regulations, administered by New York State through the State Pollutant Discharge Elimination System (SPDES) regulations. The goal of providing this model law is to assist communities in adopting provisions of local law to meet the new federal and state guidelines for prohibiting illicit discharges to municipal separate storm sewer systems. In designing a model illicit discharge law for a New York State audience, we include suggestions for standard language and concepts that we believe a good illicit discharge law should contain. This local law should not be construed as an exhaustive listing of all the language needed for a local law, but represents a good base that communities can build upon and customize to be consistent with the local conditions and staff resources available in their municipality.

Throughout the local law, there are sections in which you must insert the name of your municipality and the agency that you have given regulatory power over stormwater management issues. These sections are denoted by bold text placed in brackets. By using this document and customizing these sections, you can create a viable local law with minimal editing.

Italicized text with this symbol 5 should be interpreted as comments, instructions, information or optional language to assist the local law writer. The text next to the arrow should be deleted and the optional sections converted to non-italicized text or deleted as appropriate in your final local law. Sections 2.5, 2.9, 7, 8.2, and 9.2 are optional for municipalities that are regulating failing individual sewage treatment systems because stormwater discharge from the MS4 meets one of the Special Conditions in Section 2.18 or for municipalities that choose to include these standards for certain water resource protection objectives.
Model Local Law

to
Prohibit Illicit Discharges, Activities
and Connections to
Separate Storm Sewer System

SECTION 1. PURPOSE/INTENT.

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

1.1 To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;

1.2 To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;

1.3 To prohibit Illicit Connections, Activities and Discharges to the MS4;

1.4 To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this law; and

1.5 To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

SECTION 2. DEFINITIONS.

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

2.1 Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

2.2 Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and
any subsequent amendments thereto.

2.3 Construction Activity. Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

2.4 Department. The New York State Department of Environmental Conservation.

5 The following section in italics is optional for those municipalities that are regulating failing individual sewage treatment systems to address Special Conditions or water resource objectives:

2.5 Design professional. New York State licensed professional engineer or licensed architect.

2.6 Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

2.7 Illicit Connections. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:
1. Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
2. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

2.8 Illicit Discharge. Any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 6 of this law.

5 The following section in italics is optional for those municipalities that are regulating failing individual sewage treatment systems to address Special Conditions or water resource objectives:

2.9 Individual Sewage Treatment System. A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwaters of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

2.10 Industrial Activity. Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.
2.11 MS4. Municipal Separate Storm Sewer System.

2.12 Municipal Separate Storm Sewer System. A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

1. Owned or operated by the ((City/Town/Village) of _________________);
2. Designed or used for collecting or conveying stormwater;
3. Which is not a combined sewer; and
4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40CFR 122.2

2.13 Municipality. The ((City/Town/Village) of _________________)

2.14 Non-Stormwater Discharge. Any discharge to the MS4 that is not composed entirely of stormwater.

2.15 Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner’s agent.

2.16 Pollutant. Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.

2.17 Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

2.18 Special Conditions.
1. Discharge Compliance with Water Quality Standards. The condition that applies where a municipality has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

2. 303(d) Listed Waters. The condition in the municipality’s MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.

3. Total Maximum Daily Load (TMDL) Strategy. The condition in the municipality’s MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September
10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

4. The condition in the municipality’s MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges. Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six (6) months of the TMDL’s approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

2.19 State Pollutant Discharge Elimination System (SPDES) Stormwater Discharge Permit. A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.

2.20 Stormwater. Rainwater, surface runoff, snowmelt and drainage.

2.21 Stormwater Management Officer (SMO). An employee, the municipal engineer or other public official(s) designated by the ((City/Town/Village) of ___________) to enforce this local law. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

2.22 303(d) List. A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

2.23 TMDL. Total Maximum Daily Load.

2.24 Total Maximum Daily Load. The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.

2.25 Wastewater. Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

SECTION 3. APPLICABILITY.

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

SECTION 4. RESPONSIBILITY FOR ADMINISTRATION.

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

SECTION 5. SEVERABILITY.

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

SECTION 6. DISCHARGE PROHIBITIONS.

6.1 Prohibition of Illegal Discharges.
No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in Section 6.1.1. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

6.1.1 The following discharges are exempt from discharge prohibitions established by this local law, unless the Department or the municipality has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

5 These discharge exemptions are allowed by the Federal regulations and the Department; however, municipalities may choose to delete certain exemptions if it is important to control that discharge to protect local water resources.

6.1.2 Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this local law.

6.1.3 Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.

6.1.4 The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.
6.2 Prohibition of Illicit Connections.

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

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

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

5 The following section in italics is optional for those municipalities that are regulating failing individual sewage treatment systems to address Special Conditions or water resource objectives:

SECTION 7. PROHIBITION AGAINST FAILING INDIVIDUAL SEWAGE TREATMENT SYSTEMS

No persons shall operate a failing individual sewage treatment system in areas tributary to the municipality’s MS4. A failing individual sewage treatment system is one which has one or more of the following conditions:

7.1 The backup of sewage into a structure.
7.2 Discharges of treated or untreated sewage onto the ground surface.
7.3 A connection or connections to a separate stormwater sewer system.
7.4 Liquid level in the septic tank above the outlet invert.
7.5 Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.
7.6 Contamination of off-site groundwater.

SECTION 8. PROHIBITION AGAINST ACTIVITIES CONTAMINATING STORMWATER

8.1 Activities that are subject to the requirements of this section are those types of activities that:

8.1.1 Cause or contribute to a violation of the municipality’s MS4 SPDES permit.
8.1.2 Cause or contribute to the municipality being subject to the Special Conditions as defined in Section 2 (Definitions) of this local law.

5 The following section in italics is optional for those municipalities that are regulating failing individual sewage treatment systems to address Special Conditions or water resource objectives:

8.2 Such activities include failing individual sewage treatment systems as defined in Section 7, improper management of pet waste or any other activity that causes or contributes to violations of the municipality’s MS4 SPDES permit authorization.
8.3 Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality’s MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality’s MS4 SPDES permit authorization.

SECTION 9. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

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

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

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

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

5 The following section in italics is optional for those municipalities that are regulating failing individual sewage treatment systems to address Special Conditions or water resource objectives:

9.2 Individual Sewage Treatment Systems - Response to Special Conditions Requiring No Increase of Pollutants or Requiring a Reduction of Pollutants

Where individual sewage treatment systems are contributing to the municipality’s being subject to the Special Conditions as defined in Section 2 of this local law, the owner or operator of such individual sewage treatment systems shall be required to:

9.2.1 Maintain and operate individual sewage treatment systems as follows:

1. Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within three inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within ten inches of the bottom of the outlet baffle or sanitary tee.
2. Avoid the use of septic tank additives.
3. Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals; and
4. Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items

5. Most tanks should be pumped out every two to three years. However, pumping may be more or less frequent depending on use. Inspection of the tank for cracks, leaks and blockages should be done by the septage hauler at the time of pumping of the tank contents.

9.2.2 Repair or replace individual sewage treatment systems as follows:
   I. In accordance with 10NYCRR Appendix 75A to the maximum extent practicable.
   2. A design professional licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:
      1. Relocating or extending an absorption area to a location not previously approved for such.
      2. Installation of a new subsurface treatment system at the same location.
      3. Use of alternate system or innovative system design or technology.
   3. A written certificate of compliance shall be submitted by the design professional to the municipality at the completion of construction of the repair or replacement system.

SECTION 10. SUSPENSION OF ACCESS TO MS4. Illicit Discharges in Emergency Situations.

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

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

SECTION 11. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the municipality prior to the allowing of discharges to the MS4.
SECTION 12. ACCESS AND MONITORING OF DISCHARGES.

12.1 Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this Law, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Law.

12.2 Access to Facilities.

12.2.1 The SMO shall be permitted to enter and inspect facilities subject to regulation under this law as often as may be necessary to determine compliance with this Law. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.

12.2.2 Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this law.

12.2.3 The municipality shall have the right to set up on any facility subject to this law such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility’s stormwater discharge.

12.2.4 The municipality has the right to require the facilities subject to this law to install monitoring equipment as is reasonably necessary to determine compliance with this law. The facility’s sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

12.2.5 Unreasonable delays in allowing the municipality access to a facility subject to this law is a violation of this law. A person who is the operator of a facility subject to this law commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this law.

12.2.6 If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this law, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this law or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 13. NOTIFICATION OF SPILLS.

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

**SECTION 14. ENFORCEMENT.**

14.1 Notice of Violation.

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

14.1.1 The elimination of illicit connections or discharges;

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

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

14.1.4 The performance of monitoring, analyses, and reporting;

14.1.5 Payment of a fine; and

14.1.6 The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

14.2 Penalties

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

SECTION 15. APPEAL OF NOTICE OF VIOLATION.

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

SECTION 16. CORRECTIVE MEASURES AFTER APPEAL.

16.1 If the violation has not been corrected pursuant to the requirements set forth in the Notice of
Violation, or, in the event of an appeal, within 5 business days of the decision of the
municipal authority upholding the decision of the SMO, then the SMO shall request the
owner’s permission for access to the subject private property to take any and all measures
reasonably necessary to abate the violation and/or restore the property.

16.2 If refused access to the subject private property, the SMO may seek a warrant in a court of
competent jurisdiction to be authorized to enter upon the property to determine whether a
violation has occurred. Upon determination that a violation has occurred, the SMO may seek
a court order to take any and all measures reasonably necessary to abate the violation and/or
restore the property. The cost of implementing and maintaining such measures shall be the
sole responsibility of the discharger.

SECTION 17. INJUNCTIVE RELIEF.

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

SECTION 18. ALTERNATIVE REMEDIES.

18.1 Where a person has violated a provision of this Law, he/she may be eligible for alternative
remedies in lieu of a civil penalty, upon recommendation of the Municipal Attorney and
concurrence of the Municipal Code Enforcement Officer, where:

18.1.1 The violation was unintentional
18.1.2 The violator has no history of pervious violations of this Law.
18.1.3 Environmental damage was minimal.
18.1.4 Violator acted quickly to remedy violation.
18.1.5 Violator cooperated in investigation and resolution.
18.2 Alternative remedies may consist of one or more of the following:

  18.2.1 Attendance at compliance workshops
  18.2.2 Storm drain stenciling or storm drain marking
  18.2.3 River, stream or creek cleanup activities

SECTION 19. VIOLATIONS DEEMED A PUBLIC NUISANCE.

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

SECTION 20. REMEDIES NOT EXCLUSIVE.

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

SECTION 21. ADOPTION OF LAW.

This law shall be in full force and effect ___ days after its final passage and adoption. All prior laws and parts of law in conflict with this law are hereby repealed.

PASSED AND ADOPTED this ____day of __________, 20__, by the following vote:
Chapter 78

FERTILIZER

§ 78-1. Prohibited acts.
No person shall at any time apply any lawn fertilizer within the Town of Lake George that is labeled as containing any phosphorus or other compound containing phosphorus.

§ 78-2. Regulation on use and application.
A. No person shall apply lawn fertilizer between December 1 and April 1.
B. No person shall apply lawn fertilizer to any impervious surface, including parking lots, roadways, and sidewalks.
C. No person shall apply lawn fertilizer to any turf or lawn area on any real property within 50 feet of any surface water, except that this restriction shall not apply where a continuous natural vegetative buffer, at least 10 feet wide separates a turf or lawn area and surface water. [Amended 4-23-2014 by Res. No. 99-2014]

§ 78-3. Exceptions.
The prohibitions against the use of lawn fertilizer shall not apply to:
A. Newly established turf or lawn areas during their first growing season.
B. Turf or lawn areas for which soil tests confirm the need for additional phosphorus application. The lawn fertilizer application shall not contain an amount of phosphorus exceeding the amount and rate of application recommended in the soil test evaluation.
C. Agricultural uses, vegetable and flower gardens or application to trees or shrubs.

§ 78-4. Penalties for offenses.
For any first violation of the provisions of this chapter or any rule or regulation adopted pursuant to this chapter, a civil penalty not exceeding $50 shall be imposed. For any second and successive violations, a civil penalty not exceeding $150 shall be imposed for each single violation. No civil penalty shall be imposed as provided for herein unless the alleged violator has received notice of the charge against him or her and has had an opportunity to be heard.
Local Law No. 1 of 2004, a local law amending Chapter 125, Conservation Easement of the Town Code, as adopted by Local Law No. 12 of 1996

Chapter 125, CONSERVATION EASEMENT
[HISTORY: Adopted by the Town Board of the Town of Clifton Park 12-16-1996 by L.L. No. 12-1996. Amendments noted where applicable.]

GENERAL REFERENCES
Environmental Conservation Commission -- See Ch. 13.
Farming -- See Ch. 102.
Freshwater wetlands and stream protection -- See Ch. 124.
Land development -- See Ch. 141.
Parks and preserves -- See Ch. 152.
Subdivision of land -- See Ch. 179.
Zoning -- See Ch. 208.
Planned development districts -- See Ch. A217.

§ 125-1. Title.
This chapter shall hereinafter be known and cited as the "Conservation Easement Law of the Town of Clifton Park."

§ 125-2. Purpose.
It is the purpose of this chapter to provide for the acquisition of interests or rights in real property for the preservation of historic buildings and landmarks and open space and areas which shall constitute a public purpose for which public funds may be expended or advanced after due notice and a public hearing, by which the Town of Clifton Park may acquire, by purchase, gift, grant, bequest, devise, lease or otherwise, the fee or any lesser interest, development right, easement, covenant or other contractual right necessary to acquire open space or open area or historic buildings or landmarks as the same are defined in § 125-5 herein.

§ 125-3. Legislative authority.
In accordance with § 247 of the General Municipal Law of the State of New York, the Town Board of the Town of Clifton Park has the authority to acquire such interests or rights in land. Pursuant to the above authority, the Town Board has prepared and adopted this chapter setting forth standards to be followed in the acquisition of such interest.

§ 125-4. Jurisdiction.
This chapter shall apply to the entire area of the Town of Clifton Park.

§ 125-5. Definitions.
For the purpose of this chapter, the terms used herein are defined as follows:
FARM or FARMING -- As defined in §§ 208-7 and 208-8 of the Town Code.
HISTORIC BUILDINGS OR LANDMARKS -- As described in Article XIII of Chapter 208 of the Town Code.
LOT -- As defined in § 208-7 of the Town Code.
OPEN SPACE or OPEN AREA -- Any space or area characterized by natural scenic beauty or whose existing openness, natural condition or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development or would maintain or enhance the conservation of natural or scenic resources. For the purposes of this section, natural resources shall include but not be limited to agricultural lands defined as open lands actually used in bona fide agricultural production.

§ 125-6. Procedure for granting easement.

A. Proposal by owner. Any owner or owners of land which constitutes an historic building or landmark for an historic conservation easement or a minimum of 15 acres per lot, or a minimum of 7.5 acres each for any two adjoining lots for a conservation easement may submit a proposal to the Town Clerk, who shall refer such application to the Town Board. The Town Board shall refer such application to the Historic Preservation Commission or to the Environmental Specialist, as appropriate, and the Planning Board for review and comments within 45 days if deemed necessary and/or appropriate. Such proposal shall be submitted on a conservation easement application form available in the Town Clerk's office. It must include a copy of a full size tax map showing the property, if the entire parcel is being encumbered, or a copy of a survey map and metes and bounds description of the proposed area if it is part of a parcel.

B. Review by Historic Preservation Commission or Environmental Specialist in conjunction with the Planning Board. Upon receipt of such proposal, the Historic Preservation Commission or Environmental Specialist and Planning Board shall investigate the area to determine if the proposal would be of benefit to the people of the Town of Clifton Park. If the Historic Preservation Commission or Environmental Specialist and Planning Board, if such a referral has been made by the Town Board, determines that it is in the public interest to accept such a proposal, each shall recommend to the Town Board that it hold a public hearing for the purpose of determining whether or not the town should accept such proposal.

C. Public hearing by Town Board. The Town Board shall, within 45 days of receipt of such advisory opinion, hold a public hearing concerning such proposal at a place within the Town of Clifton Park. At least 10 days' notice of the time and place of such hearing shall be published in a paper of general circulation in such town, by the Town Clerk. A written notice of such proposal shall be mailed by the applicant to all adjacent property owners and to any municipality whose boundaries are within 500 feet of the boundaries of said proposed area and to the school district in which it is located. Receipts of mailing shall be submitted to the Town Clerk's office prior to the date of the public hearing.

D. Determination. The Town Board, after receiving the reports of the Historic Preservation Commission or Environmental Specialist and the Clifton Park Planning Board and after such public hearing, may adopt the proposal or any modification thereof it deems appropriate or may reject it in its entirety.
E. Recording agreement. If such proposal is adopted by the Town Board, it shall be executed by the owner or owners in written form and in a form suitable for recording in the Town Clerk's office.

F. Cancellation. Said agreement may not be canceled by either party. However, the owner or owners thereof may petition the Town Board for cancellation upon good cause shown, and such cancellation may be granted only upon payment of the penalties provided in § 125-8 herein.

G. The owner shall pay to the town a fee of $15 which shall be deemed a reasonable sum to cover the costs of administration, no part of which shall be returnable to the applicant.

§ 125-7. Valuation for taxation.
After acquisition of any such interest pursuant to this chapter, the valuation placed upon such area for purposes of real estate taxation shall take into account and be limited by the limitation on the future use of the land.

§ 125-8. Penalty for violation or cancellation.
In the following paragraph "substantial" will be defined as a 100% increase in the density of the parcel which will trigger a review and final determination by the combined efforts of the Town Assessor, Director of Planning and Environmental Specialist. The determination of substantial as it relates to historic structures will be referred to the Historic Preservation Commission, as it has expertise in this area and will review the project to make a determination on the penalty.

If there is a substantial violation of the terms and conditions of the easement agreement or if said agreement is canceled by the Town Board upon petition, the then owner or owners of said property must pay to the Town of Clifton Park the following amounts:

A. All taxes granted abatement under and pursuant to the Historic Preservation Commission or Environmental Specialist easement agreement, said taxes to include the state, county, town, school districts and all special improvement districts and other taxing units to which the property is subject. Said back taxes shall be limited as follows: Any easement broken before its 11th year will be subject to a five-year maximum rollback; an easement broken between its 11th and 15th year will be subject to a four-year maximum rollback; an easement broken in its 16th year or later will be subject to a three-year maximum rollback.

B. The penalty assessed on the basis of the previous year's tax abatement multiplied by a factor equal to the term of the easement divided by the current year of the easement. This factor shall not exceed five.

C. Property covered by a conservation easement that is destroyed by fire or natural disaster will not be penalized unless the future use of the land or buildings is changed.
In applying for the easement, the applicant should state the type of easement proposed. The following types of easements may be proposed:

a Conservation easement: the applicant agrees that land under easement will not be developed, built upon or otherwise changed during the term of the easement.

b Conservation easement (farming purposes): the same as Subsection a, except that farm structures as described in §§ 208-7 and 208-8 of the Town Code which are used as part of an active agricultural operation, are permitted, and are granted the same percentage (%) of easement value remaining taxable on the land. The land and buildings under easement shall be principally and actively used for farming purposes for the term of the easement, but approved farming easement applicants can also apply for other tax saving programs without penalty. The conservation easement will be applied first, and can not be shifted from one program to another.

c Conservation easement (historic preservation): the applicant shall preserve the Historic Building or Landmark as described in Article XIII of Chapter 208 of the Town Code.

Land covered by a conservation easement may be sold at any time, but the terms and conditions of the easement shall run with the land and continue until its expiration.

§ 125-10. Duration.
Easements proposed must be subject to a minimum term of 15 years. There is no maximum term.

The assessor is legally required to take into account and be limited by the limitation on the future use of the land resulting from the easement. The following table of tax assessment is presently in use.

<table>
<thead>
<tr>
<th>Years</th>
<th>Conservation</th>
<th>Farming Purposes</th>
<th>Historic Preservation</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>
§ 125-12. Exceptions.

Other than for historic preservation easements, it will be required that a parcel which include a principal dwelling exclude a one acre, (43,560 square feet) area with a maximum of three acres (130,680 square feet) encompassing the dwellings and designate that area as an exception to the easement.


The easement may be canceled by applying to the Town Board. At the time of such cancellation or if the terms of the easement have been violated by the landowner, the town will assess rollback taxes and a penalty as outlined in § 125-8 of this chapter. The penalty shall be assessed against all the land under easement, except in the case of the death of a sole owner in which case the penalty will be assessed only against that portion which is to be developed or changed in use within one year of the date of death. Thereafter, the penalty and back taxes will be levied upon the land under easement.

TOWN OF CLIFTON PARK – CONSERVATION EASEMENT

PENALTY MULTIPLIER
(Applied to the previous year’s tax reduction)

<table>
<thead>
<tr>
<th>Easement</th>
<th>Penalty Multiplier</th>
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</thead>
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</tr>
<tr>
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<tr>
<td>13</td>
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</tr>
<tr>
<td>12</td>
<td>5.0 5.0 4.0 3.0 2.4 2.0 1.7 1.5 1.3 1.2 1.1 1.0</td>
</tr>
<tr>
<td>11</td>
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<td>8</td>
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<td>6</td>
<td>5.0 3.0 2.0 1.5 1.2 1.0</td>
</tr>
<tr>
<td>5</td>
<td>5.0 2.5 1.7 1.3 1.0</td>
</tr>
</tbody>
</table>

Current Year Of Easement
CONSERVATION EASEMENT

125 Attachment 1

Policy Statement

Clifton Park continues to grow. Each year, more and more people are buying land and building homes in the town as the area continues to expand. Pressures to find buildable land will necessarily move sights westward.

People want to live in Clifton Park for many reasons. The town is a wonderful place to live. It is convenient to job centers; it has an excellent school system and well-managed, active recreation programs; but, most of all, Clifton Park is exceptionally scenic, with lots of historic landmarks, wooded hills and rolling fields.

Many of Clifton Park's first suburban residents came here to escape the crowded urban environment of the city, but the city has followed. In a few cases, not much thought was given to the need to preserve some of Clifton Park's original character - the very historic and environmental quality that attracts people to the town.

Open space and historic conservation is more than aesthetics. There are other needs for open space in Clifton Park. Open space areas can help to meet basic human needs for places to relax or play, to meet with friends and neighbors, to enclose neighborhoods so they can be easily identified as social communities, to link homes with shopping centers so they can be safely reached by walking or cycling.

Rural areas with valuable mineral, agricultural and forest lands need to be set aside for sand, gravel, food and timber production, especially when the future supplies of these goods from other areas are becoming more and more uncertain.

Finally, many open lands in Clifton Park play important parts in the ecological system; they absorb floodwaters, prevent soil erosion, provide habitat for wildlife, help cleanse the air of pollutants and moderate the climate by providing shade and windbreaks. They help to reduce dust and noise pollution and provide visual relief from the often cluttered urban landscape. These wetlands must be protected.

Our commitment is to the citizens of Clifton Park, those who live here now and those who will live here in future years. On your behalf, we are dedicated to keeping Clifton Park as a community of people who have a close relationship with the land. Open land is a part of our lives, and we are all part of the Clifton Park environment. What we do with our lands and landmarks will shape our future and our children's future.

We are committed to Clifton Park's future as a community with coexisting suburban, rural and agricultural areas which welcomes development interests consistent with the preservation of these characteristics.
CLIFTON PARK CODE

We are also concerned with our lands which represent valuable areas of regulated resource. We want to maintain farming and forest production as a viable way of life. We believe suburban and rural interests can coexist in harmony but that Clifton Park's future growth should be related to the existing characteristics.

Our neighborhoods and communities should be separated as distinct areas instead of mindless extensions of suburban sprawl.

Parks and recreation areas should be closely related to neighborhoods and communities; places people can walk or cycle to, rather than drive.

Commercial and employment centers should be screened from, but linked to, residential areas.

Development should minimize disturbance to the land; neighborhoods with trees, streams and soils left intact.

It is this Board's intention and desire to preserve open space and historic landmarks whether they are isolated or adjacent to residential or commercial development.
APPENDIX C. TROUT UNLIMITED STUDY – UPPER SCHROON RIVER

2017 Schroon River Channel & Bank Level 4 Validation Study Summary

I. Findings along the reference reach: no visible or measurable changes over the entire reach including monumented cross sections:
   • 4+62 Glide with bank pins and scour chains
   • 4+79.4 mid riffle with bank and scour chains
   • 5+96 mid run with bank and scour chains
   • 6+54 mid pool with bank and scour chains

II. Findings along the Impacted Reach: substantial bank and or bed changes downstream of the Rt. 9 bridge, particularly along segments identified as unstable in the 2016 studies. This includes replicate cross sectional surveys at:
   • 15+37.4 Riffle crest above the large bend with double pool: no bank alteration, bed degradation of 1’ along the left half of the channel and aggradation of 1.3’ along the right half of the channel
   • 17+53 Glide below double pool: 4.4’ of lateral migration along right bank, .2-.9’ of bed degradation across the channel with accompanying increase in bankfull cross sectional area (48 square feet), width (4.4’) and mean depth (43’)
   • 24+23.8 riffle: no significant change in cross sectional width, area, depth, W/D ratio, no change in bed elevation (locally stable)

III. Additional observations of the impacted reach:
   1. Significant readily seen morphologic alterations continue to evolve downstream of the Rt. 9 bridge between stations 6+28 to 9+58, (not measured by replicate surveys).
   2. Stations 6+28 to 8+71 continue to display significant left bank erosion. In 2017, a monumented cross section was done at the midpoint of the proposed toe-wood bench (station 7+25) for design purposes. It will be re-surveyed in 2018.
   3. Between stations 800 to 958, bed instability with shifting features (displacement of riffle crests & pool infilling) was visible – reflecting excess deposition from local recruitment.
   4. At station 27+30 (mid2016 study pool), bank erosion along a >40’ segment by conservative estimates exceeded 2016 level 3 prediction by a factor of 3 (124 cu yd vs 40 cu yd), initiating mass wasting of a 30’ sand bank. This also reduces pool depth by infilling, contributing to an evolving mid channel log jam and setting a stage for a meander cutoff. with slope regeneration upstream and down. In view of this, the site will be reevaluated early in 2018 and -- if restoration is still feasible, obtain new cross sections and local profile for a draft restoration design.

V. Conclusions:
1. The Reference Reach continues to be stable (vertically and laterally) while conveying its bedload and maintaining higher order stream functions (physiochemical and biologic).

2. The Impacted Reach downstream of Rt. 9 continues to be unstable, unable to effectively transport its bedload, and continues to exert negative impacts on physiochemical and biologic stream functions. 2016 predictions of bank erosion, bed instability and poor sediment transport were confirmed between stations 6+81 (the start of bank erosion below Rt 9) and station 18+00 (the end of second unstable actively eroding high sandy bank). A previously small but highly vulnerable eroding sandy bank has become a very significant sediment source certain to worsen —encroaching upon a nearby residence and adding to excess fine bedload supply in an already transport limited system. Intervening stream segments show evidence of ongoing channel adjustments – none are convincingly recovering.

3. Rapidly evolving local instability at station 27+20 associated with a developing meander cutoff threatens to propagate instability between riffle crests at 24+23 to 32+23 warrants prompt evaluation & consideration of corrective measures.

4. The overall conclusion of multilevel impairment in stream functions due to local factors increasing bank sourced recruitment of fines is strongly supported. It is clear that the high sediment supply overwhelms transport, sorting & storage processes. These in turn lead to multiple degrading alterations in geomorphology, physio-chemistry and biologic capacity. The restoration of these lost functions to recover high biologic, recreational and aesthetic values requires both elimination of excess sediment sources and restoring appropriate balance between transport energy and supply where it has been disturbed.

V. Project Design:

1) Given the 1.08’ water surface slope difference between top of riffle at 6+48 above 1st major eroding bank of glacial till and top of riffle at 17+53 below the second major erosional bend, the design profile will divide this 1’ slope differential between two new 80 – 100’ riffles:
   a. 1st riffle will start at the top of the riffle below the proposed Phase 1 Toe Wood/ pool.
   b. 2nd riffle will start near station 13+00 but will require a new meander geometry layout for Phase 2

2) Phase 1 Between stations 6+28 to 8+71, the channel will be shifted 15’ to the right (northeastward). A cross section at station 7+25 obtained in 2017 is included with an overlay of a (typical) pool design cross section showing balanced cut & fill, the .5 bkfl TW bench and a 24’ bankfull floodplain bench on river right.

3) Phase 1 Between stations 8+71 on down to roughly sta 12+00, the stream can be managed with a series of root wad vanes spaced along the existing side bar.

4) Phase 2 will require a large rightward 90-100’ re-meander of the channel between stations 12+00 and 15+30 combined with a leftward shift between stations 15+30 and roughly station 1900 to regain lost sinuosity, and restore a stable radius of curvature while shifting the channel 35’ away from the high 500’ long actively sloughing glacial till bank.
a. The outside bend of each of the roughly 250’ long new meander bends will require toe wood.

b. Infill of the existing channel to bankfull elevation between stations 13+00 & 15+30 will use materials from the newly excavated meander.

c. Considerable fill will be required between sta 15+00 – 17+00 along the newly formed R bank where the design channel will cross the back of the existing point bar. This segment of toe wood will need to be constructed robustly with an adequate flood plain.

5) Grade control for each riffle and for the riffle at the end of the large re-meander will be required. At present, Convergent Rock Structures with tightly abutting boulder footers are recommended by USF&W Service with random boulder clusters downstream to preserve design riffle slope. Boulder clusters may also be considered above the 1st proposed toe wood bench to reduce the higher energy from constricted flows under the bridge.

*Trout Unlimited, Adirondack Chapter*
## APPENDIX D. PUBLIC WATER SUPPLY

Public water supplies, users, sources, treatment processes and objectives per county. Information derived from the US EPA Safe Drinking Water Information System Federal Reporting Services DWMAPS.

<table>
<thead>
<tr>
<th>Public Water Supply/ HUC-10 Subwatershed</th>
<th>Number of Users</th>
<th>Source</th>
<th>Treatment Processes</th>
<th>Treatment Plant Objectives</th>
<th>Health based violations</th>
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<td>Minerva Water District</td>
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<td>Winebrook Hill Water District (Newcomb)</td>
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<td>Public Water Supply/ HUC-10 Subwatershed</td>
<td>Number of Users</td>
<td>Source</td>
<td>Treatment Processes</td>
<td>Treatment Plant Objectives</td>
<td>Health based violations</td>
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<td>RENSSELAER COUNTY</td>
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<td>Troy City Public Water Supply*</td>
<td>49,170</td>
<td>Surface</td>
<td>Algae Control, Coagulation Filtration, Rapid Sand, Flocculation, Fluoridation, Gaseous Chlorination, Pre Rapid Mix, Sedimentation, Sludge Treatment, pH Adjustment</td>
<td>Taste/Odor Control, Particulate Removal, Iron Removal, Disinfection, Corrosion Control</td>
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<td>East Greenbush General Water District*</td>
<td>12,630</td>
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<td>Gaseous Chlorination, Pre</td>
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<td>North Greenbush Consolidated District*</td>
<td>9,786</td>
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<td>Rensselaer City Public Water Supply*</td>
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<td>Saratoga Springs, City</td>
<td>26,525</td>
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<td>Taste/Odor Control, Particulate Removal, Disinfection, Iron Removal</td>
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<td>Fish Creek</td>
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<td>Public Water Supply/ HUC-10 Subwatershed</td>
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<td>Treatment Plant Objectives</td>
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<td>Wilton Water &amp; Sewer Authority</td>
<td>8,557</td>
<td>Surface</td>
<td>Filtration, Cartridge Hypochlorination, Post Hypochlorination, Pre Particulate Removal</td>
<td>Particulate Removal Disinfection</td>
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<td>7,716</td>
<td>Surface</td>
<td>Active Carbon, Granular Hypochlorination, Post Disinfection by-products control</td>
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<td>Saratoga Water Services</td>
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<td>Hypochlorination, Pre Disinfection</td>
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<td>Ballston Spa, Village</td>
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<td>Anthony Kill – Hudson River</td>
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<tr>
<td>Corinth, Village</td>
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<td>Snook Kill – Hudson River</td>
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<td>Saratoga Springs City (Geyser Crest)</td>
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<td>Fluoridation Hypochlorination, Pre Innovation</td>
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<td>No</td>
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<td>South Glens Falls Village</td>
<td>3,700</td>
<td>Groundwater</td>
<td>Aeration, Packed Tower Filtration, Cartridge Gaseous Chlorination, Post Gaseous Chlorination, Pre Hypochlorination, Pre Inhibitor, Orthophosphate Reducing Agent, Sodium Bisulfate</td>
<td>Taste/Odor Control Particulate Removal Disinfection Corrosion Control De-chlorination</td>
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<td>Heritage Springs Water Works</td>
<td>3,130</td>
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<td>Filtration, Greensand Hypochlorination, Pre Innovation</td>
<td>Iron Removal Disinfection</td>
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<td>Schuylerville-Victory JWC</td>
<td>2,200</td>
<td>Groundwater</td>
<td>Filtration, Cartridge Filtration, Greensand Hypochlorination, Post Hypochlorination, Pre Reverse Osmosis Sequestration</td>
<td>Particulate Removal Manganese Removal Iron Removal Disinfection Organics Removal Inorganics Removal</td>
<td>Yes</td>
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<td>Stillwater Town</td>
<td>2,000</td>
<td>Surface</td>
<td>Inhibitor, Orthophosphate Chlorination</td>
<td>Corrosion Control Disinfection</td>
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<td>Fish Creek</td>
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<td>Public Water Supply/ HUC-10 Subwatershed</td>
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<td>Health based violations</td>
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<td>1,572</td>
<td>Surface</td>
<td>Activate Carbon, Granular Aeration, Cascade Filtration, Greensand Hypochlorination, Post Hypochlorination, Pre Inhibitor, Orthophosphate Permanganate Rapid Mix pH Adjustment, Post Innovative</td>
<td>Organics Removal Iron Removal Disinfection Corrosion Control Particulate Removal</td>
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<td>Activated Carbon, Granular Coagulation Filtration, Ultrafiltration Hypochlorination, Post Inhibitor, Orthophosphate pH Adjustment</td>
<td>Disinfection by-products Control Particulate Removal Disinfection Corrosion Control</td>
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<td>Surface</td>
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<td>Disinfection by-products Control Particulate Removal Disinfection Corrosion Control</td>
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<td>Snook Kill</td>
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<td>Hypochlorination, Pre Inhibitor, Orthophosphate pH Adjustment</td>
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<td>Hadley Water District #2</td>
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<td>Groundwater</td>
<td>Hypochlorination, Pre Inhibitor, Orthophosphate pH Adjustment</td>
<td>Disinfection</td>
<td>No</td>
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<td>Round Lake Village</td>
<td>650</td>
<td>Groundwater</td>
<td>Hypochlorination, Post Inhibitor, Orthophosphate pH Adjustment</td>
<td>Disinfection</td>
<td>No</td>
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<td>Anthony Kill – Hudson River</td>
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<td>Hypochlorination, Post Inhibitor, Orthophosphate pH Adjustment</td>
<td>Disinfection</td>
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<tr>
<td><strong>WARREN COUNTY</strong></td>
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<td></td>
<td>Activated Carbon, Powdered Coagulation Filtration, Rapid Sand Flocculation Hypochlorination, Post Hypochlorination, Pre Rapid Mix Sedimentation pH Adjustment, Post pH Adjustment, Pre Innovative</td>
<td>Organics Removal Particulate Removal Disinfection Corrosion Control</td>
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<td>Queensbury Water District**</td>
<td>21,200</td>
<td>Surface</td>
<td>Activated Carbon, Powdered Coagulation Filtration, Rapid Sand Flocculation Hypochlorination, Post Hypochlorination, Pre Rapid Mix Sedimentation pH Adjustment, Post pH Adjustment, Pre Innovative</td>
<td>Organics Removal Particulate Removal Disinfection Corrosion Control</td>
<td>No</td>
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<tr>
<td>Snook Kill – Hudson River</td>
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<td>Coagulation Filtration, Rapid Sand Hypochlorination, Post Hypochlorination, Pre Inhibitor, Orthophosphate Permanganate Innovative</td>
<td>Particulate removal Disinfection Corrosion Control Taste/Odor Control</td>
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<td>City of Glens Falls</td>
<td>14,000</td>
<td>Surface</td>
<td>Coagulation Filtration, Rapid Sand Hypochlorination, Post Hypochlorination, Pre Inhibitor, Orthophosphate Permanganate Innovative</td>
<td>Particulate removal Disinfection Corrosion Control Taste/Odor Control</td>
<td>Yes</td>
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<td>Snook Kill – Hudson River</td>
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<td>Hypochlorination, Pre Inhibitor, Orthophosphate Sequestration pH adjustment Innovation</td>
<td>Disinfection Corrosion Control Inorganics removal</td>
<td>No</td>
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<td>Warrensburg Water District</td>
<td>4,100</td>
<td>Groundwater</td>
<td>Hypochlorination, Pre Inhibitor, Orthophosphate Sequestration pH adjustment Innovation</td>
<td>Disinfection Corrosion Control Inorganics removal</td>
<td>No</td>
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<tr>
<td>Lower Schroon River</td>
<td></td>
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<td>Hypochlorination, Pre Inhibitor, Orthophosphate Sequestration pH adjustment Innovation</td>
<td>Disinfection Corrosion Control Inorganics removal</td>
<td>No</td>
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<tr>
<td>Public Water Supply/ HUC-10 Subwatershed</td>
<td>Number of Users</td>
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<td>Treatment Plant Objectives</td>
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<td>Lake Luzerne Water District</td>
<td>2,500</td>
<td>Groundwater</td>
<td>Hypochlorination, Post Innovative</td>
<td>Disinfection</td>
<td>No</td>
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<td>Stony Creek – Hudson River</td>
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<td>North Creek Water District</td>
<td>1,100</td>
<td>Groundwater</td>
<td>Hypochlorination, Post Inhibitor, Orthophosphate</td>
<td>Disinfection Corrosion Control</td>
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<td>Boreas River – Hudson River</td>
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<td>Chestertown Water District</td>
<td>750</td>
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<td>Hypochlorination, Pre Inhibitor, Orthophosphate Innovative</td>
<td>Disinfection Corrosion Control</td>
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<td>Pottersville Water District</td>
<td>300</td>
<td>Groundwater</td>
<td>Hypochlorination, Pre Inhibitor, Orthophosphate pH Adjustment Innovative</td>
<td>Disinfection Corrosion Control</td>
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<td><strong>WASHINGTON COUNTY</strong></td>
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<td>Fort Edward, Village</td>
<td>3,380</td>
<td>Surface</td>
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<td>Orgains Removal Particulate Removal Disinfection Corrosion Control</td>
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<td>Cambridge Water Works</td>
<td>2,475</td>
<td>Groundwater</td>
<td>Hypochlorination, Pre Inhibitor, Orthophosphate</td>
<td>Disinfection Corrosion control</td>
<td>No</td>
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<td>Batten Kill</td>
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<td>Greenwich, Village</td>
<td>1,777</td>
<td>Groundwater</td>
<td>Filtration, Cartridge Hypochlorination, Post Innovative</td>
<td>Particulate Removal Disinfection</td>
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</table>

* The Cities of Troy and Rensselaer and Towns of East Greenbush, North Greenbush, and Poestenkill all receive their drinking water from the Tomhanock Reservoir, which is located within the Upper Hudson River Watershed. Therefore, for the purpose of this plan, they are included in source water use and protection.

** The Queensbury Water District provides water to the Village of Hudson Falls and Towns of Fort Edward, Kingsbury and Moreau.

Note: There are several water districts not accounted for in the table. This is because many districts in Washington and Rensselaer Counties purchase water from other districts, making their source water the same.