

# Appendix B – Steep Slope Model

TOWN OF \_\_\_\_\_

## ARTICLE \_\_\_\_\_ - STEEP SLOPE REGULATIONS

### Section 1. Title.

Steep Slope Regulations and Districts - Amendment to the \_\_\_\_\_ Zoning Ordinance of the Town of \_\_\_\_\_.

### Section 2. Purpose and Intent.

The purpose of the Steep Slope Regulation is to protect and manage slopes with grades of 15% or more in order to:

- A. Minimize erosion, pollution and environmental damage;
- B. Reduce soil, pavement and building subsidence;
- C. Ensure proper emergency access;
- D. Comply with New York State Pollution Discharge Effluent System (SPDES) permit requirements; and
- E. Preserve and enhance, to the extent practicable, public scenic views as identified in the Comprehensive Plan for the Town of \_\_\_\_\_ therefore,

*Include subsection E only if the municipality has identified such views*

### Section 3. General Provisions.

- A. Steep Slopes Area Designation. The Town of \_\_\_\_\_ has adopted as part of its Official Town Zoning Map, the Steep Slopes Overlay District. This district identifies and categorizes lands exhibiting slopes in three categories: 1) less than 15%; 2) between 15% and 50%; and 3) greater than 50%.
- B. No construction, grading, excavation or other development, except for non-tillable farming purposes, is permitted on any land with slope of fifty percent (50%) or greater. Any construction, grading, excavation, or other development of land with a slope of more than fifteen percent (15%) but less than fifty percent (50%) shall conform to these Steep Slope Regulations. An exception is granted for farming purposes using standard farming practices.
- C. No driveway, vehicular access lane, or private road may be constructed that exceeds 15% slope for more than 5% of its total length.

D. Any parcel that falls in whole or in part in a Steep Slope Overlay District shall be considered to contain steep slopes any construction, grading, excavation, or other development on such a parcel shall require a Steep Slopes Permit. Determination of the status of a particular parcel shall be made by the Code Enforcement Officer.

E. Submission Requirements. Applicants for Steep Slope Permits shall submit the following information in writing to the Code Enforcement Officer (CEO) to begin the review process:

*Note: Towns may wish to modify these submission requirements; however consistency throughout the watershed can help developers understand the regulations.*

1. Development in steep slope areas requires the minimum lot size for that district plus any additional acreage that may be needed to comply with proper engineering requirements.
2. Plans to minimize flooding by maintaining storm water runoff to pre-development levels. Strict adherence to the technical standards (see Section 3, Subsection H) shall be required.
3. Plans to limit the amount of pollution transported by storm water at predevelopment levels.
4. Plans to minimize decreases in groundwater recharge and stream base flow.
5. Plans to maintain existing stream and drainage geometry.
6. Plans to minimize and control erosion and sedimentation

F. Verification of compliance with the requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities General Permit (GP) 02-01 or as amended or revised.

G. A plan prepared by a licensed professional engineer showing and certifying the following:

1. All existing and proposed natural and artificial drainage courses and other features for the control of drainage, erosion and water.
2. The calculated volume and velocity of water run-off from the slopes and from the lot in question, as unimproved.
3. The calculated volume and velocity of water run-off from the slopes and from the lot in question, as improved.
4. The existence, location, and capacity of all natural and artificial drainage courses and facilities within five hundred feet (500') of the lot, which are or will be used to carry or contain the water run-off from the slope and the lot.

5. The effect of any increased water run-of on all adjacent properties and any other property which will be materially affected by increased water run-off and infiltration.
6. Subsurface geology and hydrology that would impact the proposed development or downstream or adjacent properties.

#### H. Technical Standards

1. For the purpose of this zoning law, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:
  - a. *The New York State Stormwater Management Design Manual* (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)
  - b. *New York Standards and Specifications for Erosion and Sediment Control*, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

#### **Section 4. Erosion and Stormwater Control.**

- A. A Stormwater Pollution Prevention Plan (SWPPP) for development in the Steep Slope Overlay District shall be submitted to the Town of \_\_\_\_\_ in connection with any application for a Site Plan, Subdivision proposal, Building Permit, Special Use Permit or Variance. (Note: a SWPPP may be required for development in the town not falling within the Steep Slope Overlay District criteria)
- B. A Stormwater Pollution Prevention Plan (SWPPP) shall contain provisions to control erosion and sedimentation and reduce the impacts of stormwater; stormwater infiltration and runoff from the site based on best management practices. The objective of such practices is to maintain or reduce the impact of stormwater, stormwater infiltration and run-off from the site and to prevent soil erosion. Such practices are described in the technical standards (see Section 3, Subsection H).

Alternative principles, methods and procedures may be used with prior approval of the Town of \_\_\_\_\_ based upon a favorable recommendation from all of the following: 1) Town Engineer (staff)/Town's Consulting Engineer; 2) County Soil and Water Conservation District; 3) Canandaigua Watershed Inspector

Wherever possible, erosion shall be prevented by minimizing disturbance to existing land cover. The Stormwater Pollution Prevention Plan (SWPPP) shall contain the following:

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

[Site map should be at a minimum 1:100 or greater detail (e.g. 1:50 is greater detail than 1:100)]

*Note: Towns can require maps in greater detail.*

3. Description of the soil(s) present at the site;
4. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with, and in addition to, the *New York Standards and Specifications for Erosion and Sediment Control* (Erosion Control Manual), not more than one-quarter (1/4) acre shall be disturbed at any one time unless pursuant to an approved SWPPP.
5. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
6. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
7. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
8. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
9. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
10. Temporary practices that will be converted to permanent control measures;

11. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
12. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
13. Name(s) of the receiving water(s);
14. Delineation of SWPPP implementation responsibilities for each part of the site;
15. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
16. Any existing data that describes the stormwater runoff at the site.

*Note to Towns adopting this zoning amendment: the State model law mandates that commercial developments of 1 acre or more disturbance and residential developments of 5 acres or more disturbance include all 24 items in this list of SWPPP components. All other developments needing a SWPPP need only provide items 1-16. The Canandaigua Lake Watershed Land Use Subcommittee (LUSC) recommends lowering the State's threshold for SWPPP components. The LUSC recommends that all development (commercial and residential) within the Steep Slope Overlay that disturbs 1 acre or more must include all 24 items on its SWPPP; all development (commercial and residential) that disturbs between 0 and 1 acre must include items 1-16. Towns adopting this zoning amendment can ultimately set the thresholds at their discretion as long as they are equal to or more stringent than the State model.*

17. Description of each post-construction stormwater management practice;
18. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
19. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms
20. Comparison of post-development stormwater runoff conditions with pre-development conditions
21. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
22. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.

23. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.

24. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures.

C. The Town of \_\_\_\_\_ Planning Board shall refer the Stormwater Pollution Prevention Plan (SWPPP) to a qualified engineering consultant and/or to the County Soil and Water Conservation District for professional advice concerning compliance of the plan. The Town of \_\_\_\_\_ shall not approve the Special Use Permit, Site Plan or Subdivision Application unless it finds that the Stormwater Pollution Prevention Plan (SWPPP) complies with this section.

### **Section 5. Review Process.**

To the extent practicable, Steep Slopes Permit reviews shall run concurrently and be coordinated with other local approvals.

A. Pre-application Sketch Plan: The applicant is encouraged to present a sketch plan of the proposal to the Planning Board for informal review and discussion. The Planning Board is not authorized to and shall not take any formal action on sketch plans.

B. Final Decision: Findings of fact must be made by the Planning Board for all decisions to approve, deny, or modify steep slope permits. "Findings" are a written description of facts relevant to and in support of the decision made and shall be made part of the public record. No Steep Slopes Permit shall be granted unless it is consistent with this zoning law.

C. Provisions for Inspection: A Steep Slopes Permit may be approved only after physical inspections of the property have been made by the Town at the times and in the manner described below. The applicant shall arrange with the Town of \_\_\_\_\_ Code Enforcement Officer (CEO) for scheduling of the following inspections:

1. Initial inspection: prior to final approval of the requested Steep Slopes Permit.
2. Erosion Control Inspection; to ensure erosion control practices are in accordance with the approved plan.
3. Bury Inspection; prior to backfilling of any underground drainage or stormwater conveyance structures.
4. Final Inspection: when all work, including construction of stormwater management facilities, has been completed.
5. Annual Report: for any development that includes permanent post-construction stormwater facilities, the owner shall maintain a maintenance record and submit it

annually to the CEO. The CEO retains the right to access and inspect such facilities.

## **Section 6. Sureties**

- A. **Completion of Work:** To ensure compliance with all requirements of an approved permit, the Town Board may require the applicant to provide a performance guarantee or surety, prior to construction in the form of a performance bond, escrow account certification, or irrevocable letter of credit from an insured financial institution. The guarantee shall be for the full cost of all work to be performed on the property subject to the permit and shall be payable solely to the Town of \_\_\_\_\_. The Town Board shall determine the amount based on the final design plans and actual construction costs.
- B. **Maintenance of Facilities:** Where stormwater management and erosion control facilities are to be operated and maintained by the developer, or by a corporation that owns or manages the development, the Town Board shall require the developer to provide the Town of \_\_\_\_\_ with a performance guarantee/surety in the form of a performance bond, escrow account certification, or irrevocable letter of credit from an insured financial institution, payable to the Town of \_\_\_\_\_ to ensure maintenance of all stormwater management and erosion control facilities which have been approved for the Steep Slopes Permit during the life of the facility.
- C. **Duration:** Sureties will remain in force until the Town of \_\_\_\_\_ releases the responsible party from liability. All accrued interest in any surety account shall be reinvested to the benefit of the account and may be applied only to the purposes originally established for the surety until the Town of \_\_\_\_\_ releases the responsible party from liability.
- D. **Compliance Failure:** If the developer or owner fails to perform as required under the permit, the Town of \_\_\_\_\_ may draw any portion of the amount guaranteed for the purpose of work in default under the permit. If the developer, owner or other named responsible party fails to maintain facilities as required, the Town of \_\_\_\_\_ may draw any portion of the amount guaranteed to pay the costs of operation and maintenance of permitted facilities.
- E. **Costs:** In addition to application fees, the costs of reviewing plans by legal, engineering, planning consultants, and outside agencies, and inspecting sites for compliance, shall be paid by the applicant.