

Appendix H – Summary of Land Use Regulations in the Canandaigua Lake Watershed

(Developed by Ontario County Planning Department.)

Municipality	% of Watershed	Zoning	Site Plan Review	Subdivision Review	CEO Full or Part Time	Town Engineer	Other Support	Site Plan for Single Family Residential?	Inspection of on Site Septic?	Threshold for Subdivision Review?	Required Approval for Site Grading?
City of Canandaigua	1.4	YES	YES	YES							
Town of Bristol	0.3	YES	YES	YES	FULL			NO		Any alteration of lot lines.	Prohibition on stripping and excavating topsoil for use off site except in connection with building construction Steep Slopes Local Law also regulates grading and excavation.
Town of Canandaigua	16.0	YES	YES	YES	FULL	YES	Zoning Officer + clerical.	Anything >1,000sf in the RLD and SUP's in other residential zones.	YES	2 or more parcels	
Town of Gorham	17.3	YES	YES	YES	FULL				YES		YES. Areas >15 000sf Chapter 35
Town of Hopewell	1.8	YES	YES	YES	FULL						
Town of Italy	9.5	NO	NO	NO					YES		
Town of Middlesex	18.2	YES	YES	NO				No. However, two-family, multi-family, and townhouses do require site plan.		N/A	Covered under separate SW & EC ordinance.
Town of Naples	19.2	YES	YES	YES	FULL	Clark Patterson		YES in areas of steep slopes and floodplains. Otherwise, no.		All divisions of land excepting those resulting in lots of > 20 acres.	In steep slope areas (SUP) and for "site development activities." (undefined) in non SFR zones.

Town of Potter	3.3	YES	YES	YES					No. However multifamily does and steep slope development requires a special use permit pursuant to Section 5.80.		Everything except resulting lots of > 20 acres.	In steep slope areas (SUP).
Town of South Bristol	9.9	YES	YES	YES					No. However multi family and additional SFR's on the same lot are subject to site plan.		More than three lots or division of land less than 5 acres.	
Village of Naples	0.8	YES	YES	NO								YES
Village of Rushville	0.4	YES	YES	YES					NO		N/A	N/A
Town of Cohocton	0.8	-	-	-	-	-	-	-	-	-	-	-
Town of Prattsburg	1.1	-	-	-	-	-	-	-	-	-	-	-
Town of Springwater	0.2	-	-	-	-	-	-	-	-	-	-	-

Municipality	SITE PLAN - ZONING						SUBDIVISION					
	Steep Slope Protection	Stream Protection	Wetland Protection	Stormwater & Erosion Control	Flood Hazard	Waiver Authority	Steep Slope Protection	Stream Protection	Wetland Protection	Stormwater & Erosion Control	Flood Hazard	Waiver Authority
City of Canandaigua												
Town of Bristol	Separate Local Law applying to slopes between 15-50%. Prohibition on development for areas > 50%.	No structure within 25' of a stream carrying water 6 months out of the year (Article 6, Section II).	Identification of State and County permits required (Section V, W). No additional standards.	Submission requirement. No reference to SPDES. However, Steep Slopes Local Law does reference SPDES requirements.	General reference to adequacy of structures in areas susceptible to flooding (Section VII H). No additional standards.	Broad authority, no specific restrictions, findings required (Section XII).	Separate Local Law applying to slopes between 15-50%. Prohibition on development for areas > 50%.	Reference to 25' buffer in zoning.	General statement about preservation of natural features, no specific standards or reference to State or Federal regs.	Submission requirement. No reference to SPDES. However, Steep Slopes Local Law does reference SPDES requirements.	Statement to strongly discourage dev. on land subject to flooding (Section 3, Purpose).	Broad authority, no specific restrictions, findings required (Section 15).

Town of Canandaigua	10% or Greater Limited Development Overlay District Permit Recommendation by Planning Board with final approval by CEO.	For Horse Farms a 35' grass buffer is required. Some protection in the LDO District.	Limited Development Overlay District Permit Recommendation by Planning Board with final approval by CEO .	Chapter 85: Soil Erosion and Sedimentation Control Law.	Limited Development Overlay District. Permit Recommendation by Planning Board with final approval by CEO (+ Separate Chapter 54).	Broad authority, no specific restrictions (Article VII 105-700, E).	10% or Greater Limited Development Overlay District. Permit Recommendation by Planning Board with final approval by CEO.	Alteration of natural surface water allowed at discretion of Planning Board (Article III Section 17 part B).	Chapter 85: Soil Erosion and Sedimentation Control Law.	Limited Development Overlay District Permit Recommendation by Planning Board with final approval by CEO (+ Separate Chapter 54).	Limited Dev. Overlay District Permit Recommendation by Planning Board with final approval by CEO.	Broad authority, no specific restrictions (Article V).
Town of Gorham	Erosion control plan required for >800sf of site disturbance within the Limited Development Overlay (LDO) District. Includes 15% slopes on one acre lots and most of the CLWS (31.19).		Nothing specific.	Chapter 35: Soil & Erosion Control Site Plan. Submission requirements.	Chapter 45: Flood Damage Prevention & Flood Plain Overlay District (31.18). No real limits on development	Broad authority with no specific restrictions (31.77, G).	Erosion control plan required for >800sf of site disturbance within the Limited Development Overlay (LDO) District. Includes 15% slopes on one acre lots and most of the CLWS (31.19).	Alteration of natural surface water allowed at discretion of NYSDEC and Planning Board (Article IV 32.91,E 3).	Reference to NYSDEC Req's (35-8, B).	Chapter 35: Soil & Erosion Control.	Chapter 45: Flood Damage Prev.	Broad authority, no specific restrictions Article V (Article IV 32.91,H).

Town of Hopewell	No	50' buffer from streams carrying water more than 6 months. Article III, 302.1 though alteration of watercourse is permitted with DEC and Planning Board approval (805.2F, 3 & 904.3-4).	Nothing specific. submission requirement to identify other required State and Federal permits.	"grading and drainage plan" required (805.2C).	NO structures allowed on lands subject to periodic overflow (Article III, 302.1 & Article 9).	Preliminary shall include information "as "determined necessary by the Planning Board..." (805.2C).	"desirable natural contours...shall be preserved if possible" (Article V Part F, 4).	50' buffer from streams carrying water more than 6 months (Article III, 302.1 though alteration of watercourse is permitted with DEC approval (904.3-4).	Nothing specific.	General requirement to provide for stormwater management capable of handling a ten yr storm. Erosion control related statements are scattered. Nothing specific No reference to SPDES.	No structures allowed on lands subject to periodic overflow (Article III, 302.1 & Article 9 & Article V Section 1, B & Article VII Section 2).	Board authority with no specific limitations (Article 1 Section 14).
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Town of Italy	-	-	-	-	-	-	-	-	-	-	-	-
Town of Middlesex	General requirement to minimize impact using SW&EC standards (700.10)	Some protections throughout code. No specific section that establishes buffer or additional protections for all uses.	General reference to all applicable local and State regs (702.00).	Separate SW&EC ordinance covering all construction and development (705.00).	Development allowed. Specific standards covering all structures, facilities, and landfills (701.00).	Broad authority to modify review (700.18).	-	-	-	-	-	-
Town of Naples	15%=SUP and prohibition on slopes > 50% (Section 132-30).	100' buffer for structures from streams carrying water > 6 mo/yr (not mapped).	General reference to any required State Permits as part of site plan submission (132-44, U).	It's a submission requirement along with a general reference to any required State Permits as part of site plan submission (132-44, U).	132-23 & 132-40 & Site Plan 132-44 D.	Broad authority to modify review (132-43, B).	Reference to standards in zoning for minor (sketch), but not for major subdivisions.	Realignment allowed at discretion of Planning Board and NYS Law 116-21, E (3). No reference to standards in zoning.	Submission requirement under 116-3. No additional standards.	Submission requirement for both major and minor NYSDEC. Standards are referenced.	Statement to strongly discourage residential development on "land subject to flooding" (116-20, B).	Broad based authority to modify review (116-21, H "Modification of Standards").
Town of Potter	15%=SUP and Prohibition on slopes >50% Section 5.80 Farming activities exempted	NO	NO	NO	Development allowed. Specific standards covering all structures (3.13). Site Plan required.	NO	Submission requirement but no reference to standards in zoning.	Realignment allowed at discretion of Planning Board and NYS Law (4.2, E, 3).	NO	Submission requirement for major and minor subdivisions (6.3, I & 6.4, J & 6.6, E). Reference to SPDES requirements (6.6, E, 4, j and k).	Submission requirement but no reference to standards in zoning (4.2, F).	Broad Based authority to modify review (4.2, H).

Town of South Bristol	NO	50' buffer from streams carrying water more than 6 months (170-63). Regs applicable to all districts.	General statement about maintaining "existing natural features" (170-63).	General submission requirement no reference to SPDES or additional standards (170-94 E, 1, e).	All permitted uses are allowed by special use permit and subject to regulations in Chapter 88 of local law (170-19).	Not specifically 170-94 E "...review of a preliminary site plan shall include, as appropriate, but is not limited to the following."	Not specifically. General statement about preserving "desirable natural contours (Article IV, Section 2 E, 4).	50' buffer from streams carrying water more than 6 months (170-63). Regs applicable to all districts. Article IV, Sect. 2 E, 3 appears to allow altering natural watercourses at discretion of Planning Board.	NO	General statement about conserving topsoil (Article IV, Section 2 E, 1) & preventing soil erosion F3 (Flood Hazard Prevention)	170-19 All permitted uses are allowed by special use permit and subject to regulations in Chapter 88 of local law.	Broad Based authority to modify review (Article IV Section 2, H).
Village of Naples	NO, possibly through the LC (Land Conservation District).	100' buffer (structures) around streams carrying water more than 6 months of the year. Alteration appears to be an option.	NO	Submission requirement (18.1, 18.2). No additional standards.	LC District - Non residential allowed by special use permit by ZBA with limited requirements.	Broad authority with no specific limits (18.2, J).	N/A	N/A	N/A	N/A	N/A	N/A
*Village of Rushville	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

* - The Planning Board does not appear to have the authority to review either site plans or subdivisions. Regardless, no standards exist to guide review.

**Initial Recommendations to the Canandaigua Lake Watershed Council
from the Land Use Regulation Committee:
A Land Use Regulation Strategy for Protecting Water Quality
Throughout the Watershed**

April 28th, 2006

Prepared by Tim Jensen, Ontario County Planning Department

The following is a summary of issues and recommendations raised by an updated inventory of municipal land use regulations for the Canandaigua Lake Watershed. It is the intention of the committee to develop more specific recommendations based on feedback from the council.

The inventory (attached) provides a more complete look at current regulations than what is included in the CLWS Management Plan and it points out where strategies for protecting water quality can be strengthened.

A strategy to provide reliable and long term protection must include not only development standards but also a consistent process for review, decision making and enforcement. To that end, the inventory describes existing standards for areas that have a direct impact on water quality; flood zones, steep slopes, streams, and wetlands. It also looks at key procedural issues such as the authority to waive review requirements, thresholds for subdivision review, and local review of single family residential development. Standards are the measures needed for adequate protection. Strengthened procedures ensure consistent application of those standards.

The inventory also showed a need for an updated inventory of environmental features in the watershed. This could be built from existing datasets such as the recently completed plant community mapping and would serve as a critical reference for subsequent regulations.

Procedural Issues

Waiver Authority – Most municipalities have given their planning board very broad authority to waive review requirements for subdivision and site plan review. Strong consideration should be given to modify this in a way that makes it more difficult to waive requirements related to water quality protection.

Review of Single Family Residential Development – For most of the watershed, single family residential is the primary type of development. In a few municipalities some type of additional review is required in environmentally sensitive areas. In the remainder it is unclear how potential impacts of home construction are being addressed. It would be worthwhile to devise a strategy to require review of new homes to address a broader range of potential water quality impacts. Incorporating protections, such as stream setbacks, into a simple administrative review by the CEO or other official would be preferable.

Existing Standards

Steep Slopes – The inventory shows a wide range of standards addressing steep slopes protection. Most contain additional standards for development in areas between 15-50% with a prohibition on development in areas over 50%. Some municipalities have

given permit authority to the CEO. Although most have at least basic standards few incorporate them directly into site development review by cross reference.

Recommendations

1. Create a steep slopes inventory (map) for the watershed using the most recent elevation data available.
2. Based on that, draft model standards for protecting steep slopes. They should be designed to be inserted into a variety of regulation schemes both as a part of zoning and as a stand alone local law. Provisions to ensure standards are incorporated into local reviews (site plan, special use permit, subdivision, etc) will also be essential.

Streams – They are usually defined as carrying water more than 6 months out of the year and levels of protection vary significantly. A few municipalities prohibit construction within a specified buffer area ranging from 25-100'. A few municipalities have adopted a timber harvesting law that establishes a 15' buffer for logging operations. Most municipalities allow modification of surface water with NYDEC and planning board approval.

Recommendations

1. An adopted inventory of “streams” and other important drainage features is a key part of any protection strategy. Mapping the location and extent of “streams” will resolve most debate of what qualifies for protection.
2. Standards for protection are needed watershed wide. In addition to a standard distance, buffers should also be drawn to include adjacent features such as wetlands and flood prone areas that are a direct part of the streams ecosystem. Existing datasets including the recently completed plant communities maps should be used.
3. Reasonable limits on altering surface water features are also recommended.
4. To encourage use by the various municipalities standards should be written as a stand alone local law but with an eye towards incorporation into existing local reviews.

Flood Zones – Flood zones for the different municipalities were initially mapped 30+ yrs ago with corrections made sporadically. The level of information shown on the maps also varied. NYS has recently agreed to take on significant responsibility for administering the flood zone programs. NYS DEC will be overseeing statewide updates for the maps. The plan is to have them finished sometime in 2008.

The regulations adopted focused on minimizing damage to structures within the flood prone areas. Very little was done to redirect development or otherwise address impacts to water quality.

Recommendations

1. Support development of updated flood zone maps for the watershed communities. The remapping process will involve input from each municipality being remapped. Recently gathered elevation data will need to be formally certified for accuracy before it can be used to produce updated flood zone maps. Thought should be given to how the Yates and Ontario County portions can be mapped within a similar time frame.
2. Use updated flood zone maps as the basis for development standards that directly address water quality issues within flood prone areas. As with the other areas they should be written to allow for adoption as a stand alone law or insertion into existing review procedures.

Wetlands – The NYSDEC and Federal Government have established comprehensive regulations for protecting wetlands. NYSDEC regulates wetlands >12ac the majority of which are clearly mapped. Federal regulations are mostly unmapped and cover far smaller wetlands that meet delineation guidelines. Some of the municipalities surveyed provide protection of wetlands through subdivision clustering and other means. In general however municipalities seemed content to defer to state and federal regulations.

Recommendations

1. Explore options to map all potential wetlands areas using existing state and federal mapping and other data sets such as updated soils information, and the recently completed plant community mapping.
2. Draft language that would ensure local reviews include verification that state and federal standards for wetlands protection are being met.

Storm Water and Erosion Control – NYSDEC has established standards for development impacting >1acre. A few municipalities have also adopted separate SW&EC ordinances as well. Almost all have some requirement that grading and drainage be addressed through site plan and subdivision. Most do not reference the SPDES permitting process.

Recommendations

1. Develop a model local law that builds on existing state standards and assists with local implementation of the SPDES permitting process. Thresholds for what requires SW&EC measures should be based not only on the amount of land area disturbed. They should also take into account issues such as percent lot coverage and proximity to sensitive environmental features.
2. Standards should be written so they can be inserted into a variety of regulatory schemes for municipalities that may not have zoning, subdivision review or both.

Lakefront Development – We all understand the difficulty with lakefront development. There is a vested interest by landowners and developers to build out each lakefront lot as much as possible. This is regardless of whether or not the lot is substandard or if public services such as sewer and water are available. In addition, experience has shown that lakefront housing gets far more intensive use, albeit seasonally, and as such presents unique challenges when addressing issues of water quality. For example many of the homes have public water and an on site septic that often fails, despite that fact they meets current NYSDOH standards.

The presence of hundreds much larger homes densely developed in such close proximity to the lake begs the question: Should we be doing more to reduce lot coverage and in other ways address impacts to surface runoff for this type of single family residential?

Recommendations

1. In development of standards impacting water quality, give special consideration to lakefront development. Additional standards to address demonstrated impacts are needed.