
Appendix D

Model Law Overview

This appendix is designed to give an overview on the model laws and best practices that were researched and compiled. These include:

1. Comprehensive Plan, *Town of Italy*
2. Zoning, *Town of Ulysses*
3. Zoning, (Environmental Protection Overlay District), *Town of Ulysses*
4. Subdivision Regulations, *Town of Middlesex*
5. Stormwater Management and Sediment and Erosion Control, *New York State Department of Environmental Conservation, New York State Department of State*
6. Erosion and Sediment Control, *New York State Department of Environmental Conservation, New York State Department of State*
7. Erosion and Sediment Control with Riparian Protections, *Town of Geneseo*
8. Wetlands and Watercourse Protection, *Town of Pawling*
9. Timber Harvesting, *Canandaigua Lake Watershed Council*
10. Onsite Wastewater System Model Law, *Ontario County Planning Department*
11. Junk Storage Model Law, *Town of Groveland*
12. Municipal Practices, *Warren County Soil and Water Conservation District, Lake George Association*
13. Inter-municipal Agreement Model

For the full text of these models, please see Appendix E, which is on the CD-ROM included with this document or available in hardcopy as a separately bound document.

1. Comprehensive Plan, *Town of Italy*

A comprehensive plan is the basis for sound land use decision making at the local level in New York State. Decisions on how the land is used and developed have significant water quality implications. Therefore, a comprehensive plan is an important component for water resource protection at the local level.

The Town of Italy developed its very first comprehensive plan in the nearly 200 year history of the town as part of the *Local Laws to Protect Finger Lakes Water Quality Project*. Highlights from this plan follow can be found in Appendix E1 (bound separately; available on CD-ROM).

2. Zoning, *Town of Ulysses*

Zoning is the legal document that a municipality can use to regulate development and implement the goals and visions as expressed in its comprehensive plan. Therefore, like a comprehensive plan, zoning is an important component for water resource protection at the local level.

The Town of Ulysses has been engaged in a zoning revision process. In the Town's draft zoning document, an innovative technique for water resource protection was integrated into the language. Within many of the zoning districts, such as B1-Business District which can be found in Appendix E2 (bound separately; available on CD-ROM), a section on Buffer Areas (Section 11.6) was included. This provision requires all new structures to be setback 50 feet from the centerline of any watercourse and all state and federally designated wetlands. Thus, water

resource protection is achieved through a fairly standard tool of zoning – the setback. It is a simple technique that can have a great impact on water resource protection.

3. Zoning (Environmental Protection Overlay District), *Town of Ulysses*

An overlay district is a zoning technique that selects certain areas of the municipality based on criteria such as: main street retail areas, historic districts, scenic views, steep slopes, wetlands, woodlots, or other environmentally or culturally sensitive areas. These areas are defined as an overlay district with certain regulations different from the rest of the zoning law. As the name suggests, these districts overlay the underlying zoning designation (such as commercial, residential, etc.). The underlying zoning, and all of its regulations, remain in place. The overlay district simply adds another set of regulation processes to help protect these sensitive areas.

One of the more common uses of overlay districts is for environmental protection. In this case, they are called 'environmental protection overlay districts' or EPODs. As part of its zoning revision process, the Town of Ulysses considered using an EPOD to protect a fragile area within the Town, steep slopes. These slopes are generally near Cayuga Lake and the increased level of oversight for development on these slopes also protects the water quality of Cayuga Lake by preventing improper construction techniques that lead to erosion and sedimentation. The EPOD language can be found in Appendix E3 (bound separately; available on CD-ROM),

4. Subdivision Regulations, *Town of Middlesex*

Along with the comprehensive plan and zoning law, subdivision regulations form the three basic land use regulatory tools available to municipalities in New York State. While there are many more specialized tools and techniques, this suite of documents give municipalities the potential for a great deal of control over how their community develops.

The Town of Middlesex developed subdivision regulations as part of the *Local Laws to Protect Finger Lakes Water Quality Project*. It did not have this key land use control tool and foresaw development pressures occurring in this rural and very scenic Town at the southern end of Canandaigua Lake.

The complete Subdivision Regulations can be found in Appendix E4 (bound separately; available on CD-ROM).

5. Stormwater Management and Sediment and Erosion Control, *New York State Department of Environmental Conservation, New York State Department of State*

Controlling stormwater runoff and the resulting erosion from areas where the soil has been disturbed, such as construction sites, is a key aspect of protecting water quality. The Federal Clean Water Act, which in New York State is administered by the State Department of Environmental Conservation, mandates that all construction activities that disturb one acre or more of soil must demonstrate how the site work will prevent erosion and sedimentation. Proce-

durally, this is accomplished by having the owner of the parcel being developed file what is called a 'Notice of Intent' (NOI) with the DEC.

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

The model law in Appendix E5 (bound separately; available on CD-ROM) was developed by the Department of Environmental Conservation and the Department of State so that municipalities could implement local oversight of construction and ground disturbance activities. For the Regulated MS4s adopting of this law is a requirement (one of the six Minimum Control Measures). Although this law is designed to ensure compliance with the Minimum Control Measures of the Stormwater Phase II Regulations for regulated MS4s, the model law is certainly applicable for any municipality in New York State. However, for non-regulated municipalities, there is the option of adopting a simpler model Stormwater Management law, which can

be found in Appendix E6 (bound separately; available on CD-ROM). Regardless of whether your municipality is a regulated MS4 or not, all municipalities should consult the 2004 DEC/DOS publication *Stormwater Management Guidance Manual for Local Officials*.

6. Erosion and Sediment Control, *New York State Department of Environmental Conservation, New York State Department of State*

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

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permits, happens at the local level, ensuring that the construction process proceeds in an appropriate manner should happen locally.

A model law was developed by the Department of Environmental Conservation and the Department of State so that municipalities could implement local oversight of construction and ground disturbance activities. Unlike the model law described in the previous section, however, the model contained in Appendix E6 (bound separately; available on CD-ROM) *does not* fulfill the requirements for Regulated MS4s. However, for non-regulated municipalities, this simpler model may be useful as a first step towards greater oversight of construction activities in the community. Regardless of whether your municipality is a regulated MS4 or not, all municipalities should consult the 2004 DEC/DOS publication *Stormwater Management Guidance Manual for Local Officials*.

7. Erosion and Sediment Control with Riparian Protections, *Town of Genesee*

Controlling stormwater runoff and the resulting erosion from areas where the soil has been disturbed, such as construction sites, is a key aspect of protecting water quality. The Federal Clean Water Act, which in New York State is administered by the State Department of Environmental Conservation, mandates that all construction activities that disturb one acre or more of soil must demonstrate how the site work will prevent erosion and sedimentation.

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

The third and final model for stormwater management, sediment and erosion control laws follows. The draft law from the Town of Geneseo in Appendix E7 (bound separately; available on CD-ROM), is an example of a locally developed Sediment and Erosion Control Law for a non-regulated MS4, with recently proposed amendments to the law that would strengthen protection for riparian areas in the Town. This model of riparian protection contrasts with the model from the Town of Ulysses (see Appendix E2 (bound separately; available on CD-ROM) which integrates riparian buffers into the zoning law.

This draft law for the Town of Geneseo *does not* fulfill the requirements for Regulated MS4s (See Appendix E5, bound separately; available on CD-ROM). However, for non-regulated municipalities, this model may be useful as a first step towards greater oversight of construction activities and riparian protection in the community.

8. Wetlands and Watercourse Protection, *Town of Pawling*

Preserving wetlands and undeveloped buffer areas around wetlands and water courses is an important step in protecting water quality. Protecting these areas from development allows them to function closer to their natural state and act as natural filtering systems and retention areas for stormwater runoff. Aside from the many ecological benefits of their preservation, utilizing wetlands and buffer areas for stormwater management can sometimes reduce the costs of having to construct engineered solutions to stormwater problems.

In other model law overviews in this Appendix, riparian protections were integrated into Zoning, as with the Town of Ulysses (Appendix E2, bound separately; available on CD-ROM) or a Sediment and Erosion Control Law, as with the Town of Geneseo (Appendix E7, bound separately; available on CD-ROM). In the example in Appendix E8 (bound separately; available on CD-ROM), the Town of Pawling uses a different method to protecting wetlands and watercourses through local law. It is a very thorough approach and one that municipalities may find useful in their communities.

9. Timber Harvesting, *Canandaigua Lake Watershed Council*

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

activity that disturbs soil and which municipalities can regulate.

The complete Timber Harvesting Law can be found in Appendix E9 (bound separately; available on CD-ROM).

10. Onsite Wastewater System Model Law,

Ontario County Planning Department

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

The complete Onsite Wastewater System Model Law can be found in Appendix E10 (bound separately; available on CD-ROM).

11. Junk Storage Model Law, *Town of Groveland*

While junkyards may not be the first thing that is thought of when dealing with water quality issues, how and where junk is stored does impact a municipality's waterways. Junk – cars, other vehicles, appliances- all can leak toxic substances which can find their way into the nearest waterbody.

Careful consideration of how and where junk is permitted to be stored is a component of a municipality's overall local water quality strategy.

The complete Junk Storage Model Law can be found in Appendix E11 (bound separately; available on CD-ROM).

12. Municipal Practices, *Warren County Soil and Water Conservation District, Lake George Association*

Not all water resource protection has to occur under the local laws. The procedures and practices that municipalities follow as part of the regular activities, such as road and bridge maintenance and snow removal, can also help to improve water quality.

A great example of this is a program from the Adirondack region to stabilize roadside drainage ditches and swales as routine road maintenance is conducted. The Warren County Soil and Water Conservation District serves as project manager for the scheduling and use of a state-of-the-art, mobile hydro-seeding unit. This equipment is used to quickly establish a vegetative cover on soil surfaces, particularly those recently excavated, to reduce erosion. In its first year of operation, Soil and Water Conservation District staff spread over 2,000 pounds of seed on 25 sites. This initiative has been made possible by a \$40,000 grant from the New York State Environmental Protection Fund-Local Waterfront Revitalization Program. The hydro-seeding service is provided free of charge to all communities within the Lake George Watershed as part of the ongoing campaign to reduce non-point source pollution.

Another example of good municipal practices is the shared use of a mobile hydro-vacuum. Under the guidance of the Lake George Association, municipalities are encouraged to use a mobile hydro-vacuum unit to clean sediment catch basins throughout the watershed. Use of this equipment has been progressing rapidly, as municipalities incorporate it into their annual maintenance programs. The periodic cleaning of such facilities allows them to work more effectively to collect sediment that would otherwise enter the Lake. Purchase of this equipment was financed through a \$55,000 grant from the New York State Environmental Protection Fund-Local Waterfront Revitalization Program, with matching funds provided by the Lake George Association.

13. Inter-municipal Agreement Model

The natural flow of water does not reflect or respect the political boundaries that humans have drawn on the landscape. Therefore, working cooperatively with the other municipalities in a given watershed is a crucial step towards meaningful action. Regardless of whether your community lies within a lake watershed, a stream or river watershed, or the direct drainage watershed to Lake Erie, Lake Ontario, or the Atlantic Ocean, there is opportunity for cooperation.

The complete Inter-municipal Agreement Model can be found in Appendix E13 (bound separately; available on CD-ROM).