

STORMWATER MANAGEMENT

Chapter 132A

STORMWATER MANAGEMENT AND SEDIMENT CONTROL

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[HISTORY: Adopted by the Board of Trustees of the Village of Kensington 11-15-2006 by L.L. No. 3-2006. Amendments noted where applicable.]

GENERAL REFERENCES

**Flood damage prevention – See Ch. 80.
Planning – See Ch. 114.
Zoning – See Ch. 151.**

§ 132A-1. Legislative findings.

It is hereby determined that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition.
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species.
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat.
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation.
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow.
- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality.
- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities.
- H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.

- I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

§ 132A-2. Purpose.

The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the legislative findings in § 132A-1 hereof. This chapter seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02, or as amended or revised.
- B. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01, or as amended or revised.
- C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels.
- D. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality.
- E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable.

- F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

§ 132A-3. Statutory authority.

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Board of Trustees has the authority to enact local laws and amend local laws for the purpose of promoting the health, safety or general welfare of the Village and for the protection and enhancement of its physical environment. The Board of Trustees may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

§ 132A-4. Applicability.

- A. This chapter shall be applicable to all land development activities as defined in § 132-A5.
- B. The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may:
 - (1) Review the plans;
 - (2) Upon approval by the Board of Trustees, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board; or
 - (3) Accept the certification of a licensed professional that the plans conform to the requirements of this chapter.

- C. All land development activities subject to review and approval by the Architectural Review Board, Board of Appeals and Board of Trustees under subdivision, site plan, and/or special permit regulations shall be reviewed subject to the standards contained in this chapter.
- D. All land development activities not subject to review as stated in Subsection C shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this chapter.

§ 132A-5. Definitions.

The terms used in this chapter or in documents prepared or reviewed under this chapter shall have the meaning as set forth in this section.

APPLICANT — A property owner who has filed an application for a land development activity.

BUILDING — Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property.

CHANNEL — A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING — Any activity that removes the vegetative surface cover.

DEDICATION — The deliberate appropriation of property by its owner for general public use.

DEPARTMENT — The New York State Department of Environmental Conservation.

DESIGN MANUAL — The New York State Stormwater Management Design Manual, most recent version, including applicable updates, that serves as the official

guide for stormwater management principles, methods and practices.

DEVELOPER — A person who undertakes land development activities.

EROSION CONTROL MANUAL — The most recent version of the New York Standards and Specifications for Erosion and Sediment Control manual, commonly known as the "Blue Book."

GRADING — Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS COVER — Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT — A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION — The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

LAND DEVELOPMENT ACTIVITY — Construction activity, including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance.

LANDOWNER — The legal or beneficial owner of land, including those holding the right to purchase or lease the

land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT — A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION — Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from construction, subsurface disposal and urban runoff sources.

PHASING — Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN — Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT — Land development activity.

RECHARGE — The replenishment of underground water reserves.

SEDIMENT CONTROL — Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS — Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, or habitats for threatened, endangered or special concern species.

SPDES GENERAL PERMIT for CONSTRUCTION ACTIVITIES GP-02-01 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT for STORMWATER DISCHARGES from MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

STABILIZATION — The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER — An order issued which requires that all construction activity on a site be stopped.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOTSPOT — A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT — The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY — One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER — An employee or officer 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.

STORMWATER MANAGEMENT PRACTICES (SMPs) — Measures, either structural or nonstructural,

that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF — Flow on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK — Bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries and marshes.

VILLAGE — Village of Kensington.

WATERCOURSE — A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY — A channel that directs surface runoff to a watercourse or to the public storm drain.

§ 132A-6. Stormwater Pollution Prevention Plans.

- A. Stormwater Pollution Prevention Plan requirement. No application for approval of a land development activity shall be reviewed until the appropriate board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this section.
- B. To review the proposed land development activities, the Stormwater Management Officer may require the SWPPP to include any or all of the following at a level of detail sufficient to properly evaluate the potential impacts of the activities:
 - (1) Background information about the scope of the project, including location, type and size of project.

- (2) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s).
- (3) Description of the soil(s) present at the site;
- (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance.
- (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.
- (16) Any existing data that describes the stormwater runoff at the site.
- (17) Post-construction stormwater runoff controls.
 - (a) Description of each post-construction stormwater management practice.
 - (b) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice.
 - (c) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms.

- (d) Comparison of post-development stormwater runoff conditions with pre-development conditions.
 - (e) Dimensions, material specifications and installation details for each post-construction stormwater management practice.
 - (f) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
 - (g) 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.
 - (h) Inspection and maintenance agreement binding on all subsequent landowners.
- (18) Any additional information that the Stormwater Management Officer deems appropriate.
- C. Plan certification. The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this chapter.
- D. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.
- E. Contractor certification.
- (1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the

following certification statement before undertaking any land development activity:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

- (2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- (3) The certification statement(s) shall become part of the SWPPP for the land development activity.

F. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 132-A7. Performance and design criteria for stormwater management and erosion and sediment control.

All land development activities shall be subject to the following performance and design criteria:

- A. Technical standards. For the purpose of this section, 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 section:
 - (1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or

its successor, hereafter referred to as the "Design Manual").

- (2) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the "Erosion Control Manual").
- B. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

§ 132A-8. Maintenance of stormwater facilities during construction.

- A. The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
- B. The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and also copied to the site log book.

§ 132A-9. Construction inspection.

- A. Erosion and sediment control inspection.

- (1) The Stormwater Management Officer may require such inspections as necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this chapter and the stormwater pollution prevention plan (SWPPP), as approved. To obtain inspections, the applicant shall notify the Village enforcement official at least 48 hours before any of the following, as required by the Stormwater Management Officer:
 - (a) Start of construction.
 - (b) Installation of sediment and erosion control measures.
 - (c) Completion of site clearing.
 - (d) Completion of rough grading.
 - (e) Completion of final grading.
 - (f) Close of the construction season.
 - (g) Completion of final landscaping.
 - (h) Successful establishment of landscaping in public areas.
- (2) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted, except for site stabilization, until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

B. Stormwater management practice inspections. The Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit as-built plans for any stormwater management practices located on-site after final construction is completed. The

plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

- C. Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including but not limited to routine inspections, random inspections, inspections based upon complaints or other notice of possible violations.
- D. Submission of reports. The Stormwater Management Officer may require monitoring and reporting from landowners subject to this chapter as are necessary to determine compliance with this chapter.
- E. Right-of-entry for inspection. The landowner shall grant to the Stormwater Management Officer the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.

§ 132A-10. Construction completion guarantee.

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Village in its approval of the Stormwater Pollution Prevention Plan, the Village may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village as the beneficiary. The security shall be in an amount to be determined by the Village based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Village, provided that such period shall not be less than one-year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year

inspection has been conducted and the facilities have been found to be acceptable to the Village. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

§ 132A-11. Enforcement and penalties.

- A. Notice of violation. When the Village determines that a land development activity is not being carried out in accordance with the requirements of this chapter, it may issue a written notice of violation to the landowner. The notice of violation shall contain:
- (1) The name and address of the landowner, developer or applicant.
 - (2) The address when available or a description of the building, structure or land upon which the violation is occurring.
 - (3) A statement specifying the nature of the violation.
 - (4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action.
 - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
- B. Stop-work orders. The Village may issue a stop-work order for violations of this chapter. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Village confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary

penalties in accordance with the enforcement measures authorized in this chapter.

- C. Violations. Any land development activity that is commenced or is conducted contrary to this chapter may be restrained by injunction or otherwise abated in a manner provided by law.
- D. Penalties. Any person who shall violate any provision of this chapter shall be guilty of an offense punishable for each day said violation continues by a fine not more than \$1,000 or imprisonment for a period not to exceed six months, or both such fine and imprisonment.
- E. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, the Stormwater Management Officer may prevent the occupancy of said building or land.
- F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice in addition to any other remedies, the Village may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§ 132A-12. Fees for services.

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