

Local Law Gap Analysis Worksheet 1

Sample Local Law for Stormwater Management and Erosion & Sediment Control - Article 1

- **Check Yes** if language identical to the provision of the Sample Local Law for Stormwater Management and Erosion & Sediment Control occurs in local land use regulation. Place your checkmark in the box under the type of code that contains the identical language.
- **Check Equivalence** if local land use regulation contains language that you consider equivalent (accomplishing the same intent) to the Sample Local Law. A **Demonstration of Equivalence of Local Law Provisions** worksheet linked to each provision states the intent of the provision, and provides space to show how existing local codes meet that intent.
- **Check Legislative Agenda** if identical or equivalent language is not in the regulation. A check in Legislative Agenda is a reminder to amend the local code to include either identical language or an equivalent provision.
- **Sections preceded by a star (*)** are not required for compliance, but are recommended for program effectiveness and workability.

Article 1, General Provisions <i>Note: Articles 1 and 2 or their equivalents must be adopted for proper implementation. The municipality and its legal counsel, after reviewing their local codes and this model language, should pick additional provisions from Articles 3, 4, 5 and 6 to ensure review and enforcement of stormwater pollution prevention plans at the local level.</i>	Yes <small>Check the Type of Local Code Where the Identical Provision is Found.</small>					Equivalence <small>1. Place Checkmark in Box. 2. Explain in Worksheet Linked from Section Number.</small>	Legislative Agenda <small>Check This Box if Provision is to be Developed or Amended.</small>
	Zoning	Subdivision	Site Plan	E&SC	Other		
Adoption, Statutory Authority (Art 1 sec 3) <i>Note: This language is required for legal adoption of the local law. All local laws must include an enacting clause.</i>							
Article 1. General Provisions Section 1. Findings of Fact <i>Note: Nine sample findings of fact are included in the Sample Local Law for Stormwater Management and Erosion & Sediment Control; law drafters may use these purposes, or may substitute or add others. Indicate on the checklist whether you already have these provisions in law or are adding them to your legislative agenda.</i>							√
Section 2. Purpose <i>Note: Six sample purposes are included in the Sample Local Law for Stormwater Management and Erosion & Sediment Control; law drafters may use these purposes, or may substitute or add their own. Indicate on the checklist whether you already have these provisions in law or are adding them to your legislative agenda.</i>							√
Section 4. Applicability 4.1 This local law shall be applicable to all construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre (<i>see Note *</i>), or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.							√

<p style="text-align: center;">Article 1, General Provisions</p> <p><i>Note: Articles 1 and 2 or their equivalents must be adopted for proper implementation. The municipality and its legal counsel, after reviewing their local codes and this model language, should pick additional provisions from Articles 3, 4, 5 and 6 to ensure review and enforcement of stormwater pollution prevention plans at the local level.</i></p>	<p>Yes</p> <p><i>Check the Type of Local Code Where the Identical Provision is Found.</i></p>					<p>Equivalence</p> <p>1. Place Checkmark in Box.</p> <p>2. Explain in Worksheet Linked from Section Number.</p>	<p>Legislative Agenda</p> <p><i>Check This Box if Provision is to be Developed or Amended.</i></p>
	Zoning	Subdivision	Site Plan	E&S	Other		
<p>4.2 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 ((City Council/Town Board/Village Board of Trustees) of the (Town/Village/City) of _____), 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 law.</p> <p><i>Note: A consultant cannot be appointed as Stormwater Management Officer.</i></p>							√
<p>4.3 All land development activities subject to review and approval by the (applicable board of the (City/Town Village) of _____) under (subdivision, site plan, and/or special permit) regulations shall be reviewed subject to the standards contained in this local law.</p>						√	
<p>4.4 All land development activities not subject to review as stated in section 4.3 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 law.</p>							√
<p>*Section 5. Exemptions</p> <p>The following activities may be exempt from review under this law.</p> <p><i>Note: The exemptions listed below (5.1 to 5.3) must conform with the language of federal regulations. The remaining exemptions given in the Sample Local Law (5.4 - 5.11) can be included by MS4s that wish to do so, in which case DEC recommends using the language as given in the Sample Local Law.</i></p>							√
<p>5.1 Agricultural activity (the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities).</p>							√
<p>5.2 Silvicultural activity except that landing areas and log haul roads are subject to this law.</p>							√
<p>5.3 Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.</p>							√

Demonstration of Equivalence of Local Law Provisions

Municipality: Stormwater Coalition of Monroe County

Date June 2007

By (Name) C. Myers & K. Paris Tuori

(Title) Executive Director M.C. Soil and

Sample Local Law Language - Article 1 §4.1 Applicability

§4.1 This local law shall be applicable to all land development activities as defined in his local law, Article 2, Section 1.

Intent of this Section of the Sample Local Law:

Note: The SPDES General Permit for Stormwater Discharges from MS4s (GP-02-02) requires that the provisions of local laws governing stormwater management be as strict as the requirements of the SPDES General Permit for Stormwater Discharges from Construction Activity, GP-02-01.

- The SPDES General Permit for Stormwater Discharges from Construction Activities (GP-02-01) specifies that projects that disturb one acre or more of soil must prepare a Stormwater Pollution Prevention Plan (SWPPP).
- The definition of “land development activity”, Article 2, Section 1 of the Sample Local Law, contains the one-acre minimum requirement for SWPPPs and defines the activities covered. This definition is an integral part of the Sample Local Law.
- To be equivalent, the local law must include a clause that specifies that the provisions of the law apply to activities that disturb one acre or more of soil, or refer to a definition that does the same.
- Local governments may be stricter than the Sample Local Law by applying the requirements to less than one acre of soil disturbance, for example by requiring SWPPPs for 5,000 square feet or more of soil disturbance.

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Local Law Deemed Equivalent (attach extra sheets if necessary)

1. Local Code Citation: Monroe County Construction Model Ordinance-Section VII- Land Disturbance Activity Approval Process A.1

2. Local Code Language: “Any applicant requesting site plan approval or a permit for land disturbance activity which would require the disturbance of $\geq 25,000$ square feet of land shall also include with a submission a SWPPP that shall be reviewed and approved by the (*jurisdictional authority*) prior to issuance of the final site plan approval or a permit.

3. How this Language is as Strict as GP-02-01:

This language requires the Jurisdictional authority to review and approve the SWPPP for all land disturbance activities greater than 25,000 sq. feet this would include but is not limited to subdivision, site plan and special permit approvals

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