

Local Law Gap Analysis Worksheet 3

Sample Local Law for Stormwater Management and Erosion & Sediment Control - Articles 3, 4 and 5

- **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.

<p>Article 3. Subdivision Regulation Amendment</p> <p><i>Article 3 should be adopted by municipalities that have a subdivision law. If the municipality has only one requirement for a final plan (no preliminary) then use Paragraph A language only.</i></p>	<p>Yes</p> <p><i>Place a Check under the Type of Local Code Where the Identical Provision is Found.</i></p>					<p>Equivalence</p> <p><i>1. Place Checkmark in Box.</i></p> <p><i>2. Explain on Worksheet Linked from Section Number.</i></p>	<p>Legislative Agenda</p> <p><i>Check in this Box if Code is to be Developed or Amended.</i></p>
	Zoning	Subdivision	Site Plan	E&SC	Other		
<p><u>Article 3.</u> Subdivision Regulation Amendment</p> <p>Sections ___ and ___ of the Subdivision Regulations of the ((City/Town/Village) of _____) are hereby amended by adding the following to the information requirements:</p> <p>A. For Preliminary Subdivision Plat add: <u>Stormwater Pollution Prevention Plan:</u> A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Article 1 and 2 of this local law shall be required for Preliminary Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Preliminary Subdivision Plat shall be consistent with the provisions of this local law.</p> <p>B. For Final Subdivision Plat approval add: <u>Stormwater Pollution Prevention Plan:</u> A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law and with the terms of preliminary plan approval shall be required for Final Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Final Subdivision Plat shall be consistent with the provisions of this local law.</p>						√	

<p align="center">Article 4. Site Plan Review Regulation Amendment <i>Article 4 should be adopted by municipalities that have a site plan law</i></p>	<p align="center">Yes <i>Check the Type of Local Code Where the Identical Provision is Found.</i></p>					<p align="center">Equivalence 1. Place Checkmark in Box 2. Explain on Worksheet linked from Section Number</p>	<p align="center">Legislative Agenda <i>Check This Box if Code is to be Developed or Amended</i></p>
	Zoning	Subdivision	Site Plan	E&SC	Other		
<p>Article 4. Site Plan Review Regulation Amendment Sections ___ and ___ of the Site Plan Review regulations of the ((City/Town/Village) of _____) are hereby amended by adding the following to the information requirements: <i>For Site Plan Approval add: <u>Stormwater Pollution Prevention Plan</u>: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Site Plan shall be consistent with the provisions of this local law</i></p>						√	
<p align="center">Article 5. Erosion & Sediment Control Law Repeal or Amendment <i>For the amendment option in Article 5, the municipality must also adopt Articles 1, 2, 3 and 4 (as applicable in their situation) to address post-construction stormwater runoff control in SWPPPs</i></p>							
<p>Article 5. Erosion & Sediment Control Law Repeal or Amendment Repeal: The Erosion & Sediment Control Law of the ((City/Town/Village) of _____) is hereby repealed. OR Amendment: Section _____ of the Erosion & Sediment Control Law of the ((City/Town/Village) of _____) is hereby amended by adding the following clause: <u>Stormwater Pollution Prevention Plan</u>: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law shall be required. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved erosion control permit shall be consistent with the provisions of this local law.</p>						√	

Demonstration of Equivalence of Local Law Provisions

Municipality: Stormwater Coalition of Monroe County

Date June 2007

Sample Local Law Language - Article 3. Subdivision Regulation Amendment

Sections ____ and ____ of the Subdivision Regulations of the ((City/Town/Village) of _____) are hereby amended by adding the following to the information requirements:

A. For Preliminary Subdivision Plat add: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Article 1 and 2 of this local law shall be required for Preliminary Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Preliminary Subdivision Plat shall be consistent with the provisions of this local law.

B. For Final Subdivision Plat approval add: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Article 1 and 2 of this local law and with the terms of preliminary plan approval shall be required for Final Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Final Subdivision Plat shall be consistent with the provisions of this local law.

Note: If the municipality has only one requirement for a final plan (no preliminary) then use Paragraph A language only.

Intent of this Section of the Model 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 intent of Article 3 is to put in place local subdivision review procedures that consider erosion and sediment controls during construction, as well as post-construction, stormwater management.
- The Article 3 amendment authorizes the local Planning Board to require a Stormwater Pollution Prevention Plan (SWPPP) including construction, and post-construction stormwater management practices where applicable, each time a subdivision plat is considered for approval. Erosion and sediment control details and stormwater management practices (ponds, wetlands, infiltration, filtering and conveyances) should be shown directly on the preliminary and final subdivision plats and approved as part of the planning board's subdivision approval. A written SWPPP should also be submitted.
- To be equivalent, an amendment to the Subdivision Law must be accompanied by the zoning law amendments in Article 2 of the Sample Local Law, and the purpose, statutory authority and applicability provisions in Article 1 of the Sample Local Law . NYSDEC and NYS Department of State recommend that Articles 1 and 2 be adopted as amendments to the zoning law as supplementary regulations for stormwater management and erosion & sediment control.
- To be equivalent, the local law must require SWPPP review and approval for all subdivision plat approvals using the minimum New York State standards in Article 2.

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Local Law Deemed Equivalent (attach extra sheets if necessary)

1. Local Code Citation: Construction Model Ordinance, Section I: Introduction/Purpose Section III Applicability and Section VII. Land Disturbance Activity Approval Process

2. Local Code Language: Section I: Introduction /purpose “...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; ...”**Section III Applicability** “This ordinance shall be applicable to all land disturbance activities that will disturb $\geq 25,000$ square feet of land unless exempted under Section VII.C. of this ordinance. The ordinance also applies to land disturbance activities that are $< 25,000$ square feet disturbance if such activities are part of a larger common plan of development or sale that will disturb $\geq 25,000$ square feet, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules”
Section VII. Land Disturbance Activity Approval Process “1. 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 meets the requirements outlined in this section of the NYS DEC’s model local law, the ordinance applies to all land disturbance activities including subdivision approval

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Demonstration of Equivalence of Local Law Provisions

Municipality: Stormwater Coalition of Monroe County

Date June 2007

Sample Local Law Language - Article 4. Site Plan Review Regulation Amendment

Sections ___ and ___ of the Site Plan Review Regulations of the ((City/Town/Village) of _____) are hereby amended by adding the following to the information requirements:

For Site Plan Approval Add: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Article 1 and 2 of this local law shall be required for Site Plan approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Site Plan shall be consistent with the provisions of this local law.

Intent of this Section of the Model 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 MS4s (GP-02-02) requires that the municipality put in place procedures for review that consider erosion and sediment controls during construction as well as post-construction stormwater management for all land development plans.
- In New York State, local land use law is the framework for carrying out the construction/post-construction stormwater management program.
- The Article 4 amendment authorizes the local Planning Board to require a Stormwater Pollution Prevention Plan (SWPPP) including construction and post-construction stormwater management practices each time a site plan is considered for approval. Erosion and sediment control details and stormwater management practices (ponds, wetlands, infiltration, filtering and conveyances) should be shown directly on the plans and approved as part of the planning board's site plan approval. A written SWPPP should also be submitted
- The standards for SWPPPs are included in Article 2 of the Sample Local Law; therefore Article 2 must be adopted along with Article 4. These standards meet the minimum requirements in the SPDES General Permit for Stormwater Discharges from Construction Activity, GP-02-01.
- The purpose, statutory authority and applicability of the local law are included in Article 1 of the Sample Local Law, therefore Article 1 must also be adopted along with Article 4.
- NYSDEC and NYS Department of State recommend that Articles 1 and 2 be adopted as amendments to the zoning law as supplementary regulations for stormwater management and erosion & sediment control.
- To be equivalent, the local law must require SWPPP review and approval for all site plan approvals using the minimum New York State standards in Article 2.

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Local Law Deemed Equivalent (attach extra sheets if necessary)

**1. Local Code Citation: Construction Model Ordinance, Section I: Introduction/Purpose
Section III Applicability and Section VII. Land Disturbance Activity Approval Process**

2. Local Code Language: 2.Local Code Language: Section I: Introduction /purpose “...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; ...”**Section III Applicability** “This ordinance shall be applicable to all land disturbance activities that will disturb $\geq 25,000$ square feet of land unless exempted under Section VII.C. of this ordinance. The ordinance also applies to land disturbance activities that are $< 25,000$ square feet disturbance if such activities are part of a larger common plan of development or sale that will disturb $\geq 25,000$ square feet, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules”
Section VII. Land Disturbance Activity Approval Process “1. 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 meets the requirements outlined in this section of the NYS DEC’s model local law, the ordinance applies to all land disturbance activities including site plan approval

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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 Water

Sample Local Law Language - Article 5. Erosion & Sediment Control Law Repeal or Amendment

Repeal:

The Erosion & Sediment Control Law of the ((City/Town/Village) of _____) is hereby repealed.
 ➤By adopting Articles 1 and 2 (and 3, 4 and 6 where necessary) of the Sample Local Law for Stormwater Management and Erosion & Sediment Control, the municipality will have regulatory authority for both erosion & sediment control and post-construction stormwater management. For this reason, a separate erosion & sediment control law is not needed.

OR

Amendment:

Section _____ of the Erosion & Sediment Control Law of the ((City/Town/Village) of _____) is hereby amended by adding the following clause: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Article 1 and 2 of this local law shall be required. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved erosion control permit shall be consistent with the provisions of this local law.

Note: The municipality must also adopt Articles 1, 2, 3 and 4 (as applicable for their municipality) in order to address post-construction stormwater runoff control in stormwater pollution prevention plans.

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.

- To be equivalent, the local law must require SWPPP review and approval for all erosion and sediment control permits using the minimum New York State standards in Article 2.
- The intent of Article 5 is to provide a code update for municipalities that already have an erosion and sediment control law. In general, erosion and sediment control laws adopted before March 2003 will not be based on New York State's updated technical standards, so municipalities will need to consider updating the law using one of the following options:
 1. Repeal the existing erosion and sediment control law and adopt New York State's *Sample Local Law for Stormwater Management and Erosion & Sediment Control* as amendments to zoning, site plan and subdivision laws. By exercising this option, the municipality will put in place a local law that meets the requirements of both Minimum Measures 4 (Construction site runoff control) and 5 (Post-Construction runoff control).
 2. Amend the existing erosion and sediment control law with the language in Article 5 to require a Stormwater Pollution Prevention Plan (SWPPP) every time an erosion & sediment control permit

application is submitted. This option will address both Minimum Measures 4 and 5 as long as the following amendments are also made:

- The standards for SWPPPs are included in Article 2 of the Sample Local Law; therefore Article 2 must be adopted along with Article 5. These standards meet the minimum requirements in the SPDES General Permit for Stormwater Discharges from Construction Activity, GP-02-01.
- The purpose, statutory authority and applicability of the local law are included in Article 1 of the Sample Local Law; therefore Article 1 must also be adopted along with Article 5.
- DEC and NYS Department of State recommend that Articles 1 and 2 be adopted as amendments to the zoning law as supplementary regulations for stormwater management and erosion & sediment control.

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Local Law Deemed Equivalent (attach extra sheets if necessary)

1. Local Code Citation: Construction Model Ordinance Section IX. Stormwater Pollution Prevention Plan Requirements

2. Local Code Language:

“Prior to final approval of a land disturbance activity, a SWPPP shall be prepared by the applicant in accordance with the specifications outlined by the (*jurisdictional authority*) and submitted to the Stormwater Management Officer designated by the (*jurisdictional authority*) for review by the appropriate board. This plan must be prepared in accordance with sound engineering practices by a qualified professional as defined in Section II of this ordinance. The final plan must be signed by a New York State licensed professional engineer (PE), who will certify that the design of all stormwater pollution prevention and erosion and sediment control practices meet the requirements outlined in the (*jurisdictional authority*) design criteria and the *New York Standards and Specifications for Erosion and Sediment Control* and shall be adequate to prevent transportation of sediment from the site to the satisfaction of (*jurisdictional authority*).”

3. How this Language is as Strict as GP-02-01: This section has the exact same SWPPP requirements that the NYS DEC has in its local law

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