

Riparian Buffer/Shoreline Protection Model Ordinances

Tompkins County Model Stream Buffer Ordinance, Riparian Protection Agreement & Riparian Buffer Easement

Stream Setback Ordinance (Town of Ithaca, NY)

Erosion & Sediment Control with Riparian Protections (Town of Geneseo, NY)*

Stream Buffer Conservation Overlay District (Village of Trumansburg, NY)**

*As included in the *Protecting Water Resources through Local Controls and Practices: An Assessment Model for New York Municipalities* Guide, prepared by the Genesee Finger Lakes Regional Planning Council. Appropriate for a non-MS4 Community.

***simplified version of the Tompkins County Model*

[Name of municipality], Tompkins County, New York
Model Stream Buffer Ordinance [April 2009]

1. Title

This ordinance shall be known and may be cited as the “Stream Buffer Ordinance of the _____ (jurisdiction).” [If applied to zoning – This ordinance shall amend the Zoning Ordinance of the _____ (jurisdiction) to add Article (section) entitled “Stream Buffer Requirements.”]

2. Purpose

The purpose of this ordinance (article) is to establish requirements for creating and maintaining buffers to protect the water quality in the streams of the _____ (jurisdiction), Tompkins County. This ordinance (article) promotes the prevention of sediment, nutrient and pollutant loads from entering streams by maintaining stream buffers of at least 100 feet from the top of stream bank. Research has shown that this distance is the minimum necessary to filter nutrients and pollutants to protect water quality. Although it is not regulated in this ordinance (article), the _____ (jurisdiction) strongly encourages landowners to maintain stream buffers of 330 feet from the top of stream bank, on undeveloped land where feasible, in order to protect wildlife habitat.

3. Definitions

Buffer: land on each side of a stream that shall be left vegetated to provide riparian corridor functions. Buffers are measured horizontally from the top of the stream bank in a direction directly perpendicular to the bank and in the horizontal plane.

Development: the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure including that intended for agricultural use; any mining excavation, landfill, or land disturbance, including grading and filling.

Intermittent Stream: surface water drainage channels with definite bed and banks in which there is not a permanent flow of water (and is represented as a dashed line on United State Geological Survey (USGS) 7.5 Minute Quadrangle maps).

Impervious Surface: any paved, hardened or structural surface including, but not limited to, buildings, dams, decks, driveways, parking areas, patios, streets, swimming pools, tennis courts, walkways, and other non-permeable structures.

Perennial Stream: a stream that flows continuously throughout the year in a natural or man-made channel (which is represented as a solid blue line on United States Geological Survey (USGS) 7.5 Minute Quadrangle maps).

Steep Slope: any slope of 15% grade or greater.

Stream: the full length and width, including the bed and banks, of any watercourse, that has a channel which periodically or continuously contains moving water. It further has a defined bed, and has banks that serve to confine water at low to moderate flows (and is represented as either a solid or dashed blue line on United States Geological Survey (USGS) 7.5 Minute Quadrangle maps). For the purpose of this ordinance, constructed drainage-ways, including water bars, swales, and roadside ditches, are not considered streams.

Stream Bank: the lateral confines of a stream which contain the normal flow of the stream.

Parcel: a designated tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

Top of Stream Bank: the primary edge of the ordinary high water mark, or break in slope for a watercourse, which maintains the integrity of the watercourse.

Wetlands: lands, including submerged lands, saturated by water at a frequency and duration sufficient to support vegetation adapted for life in saturated soil conditions. For the purpose of this ordinance, wetlands are limited to those lands that are categorized as wetlands by either the New York State Department of Environmental Conservation (DEC) or the National Wetlands Inventory (NWI) or have been documented and mapped as part of an officially adopted community wetlands inventory.

4. Applicability

These requirements do not supercede or replace any greater applicable buffer requirements established under state or federal law and are applicable to all land within _____(jurisdiction). This ordinance shall apply to all proposed development.

5. Requirements

5.1. Protection Requirements for Perennial Streams

A vegetative buffer shall be required for all development activities that occur in proximity to perennial streams with additional considerations for wetlands and steep slopes. Protection shall be divided into a Riparian Buffer and a Setback Area that protects overall water quality by limiting development in accordance with the adjacent land's ability to filter sediment, nutrients and other pollutants. This protection will provide stability to the stream and stream bank. The minimum total

setback width for all perennial streams combined is 100 feet. There is no established maximum setback width.

The _____(jurisdiction) shall require the delineation of any applicable Riparian Buffer and Setback Areas on all subdivision plats, site plan applications, special permits, special approval and variance applications, building permit applications, and excavation or fill permit applications. This delineation shall be subject to review and approval by the appropriate board or officer.

Prior to any soil-disturbing activity, the Riparian Buffer and Setback Area shall be clearly delineated on site and shall be undisturbed until the project is complete.

5.1.1 Riparian Buffer: The function of the Riparian Buffer is to protect the physical and ecological integrity of the portion of the riparian corridor in closest proximity to the stream through protection and enhancement of the native vegetation. Native vegetation provides shade, leaf litter, woody debris, erosion protection, and filtering of sediment, nutrient and pollutant loads to the stream.

- a. The Riparian Buffer will begin at the top of the stream bank and extend a minimum of 50 feet horizontally measured in a direction directly perpendicular to the stream bank in a horizontal plane. Should a steep slope or wetland exist within this Buffer the entirety of that area will be added to the measurement of the Riparian Buffer. This full area will utilize the restrictions accorded to the Riparian Buffer.
- b. Development and use are restricted to the following, the entirety of which may not modify or interrupt more than 10% of the entire Riparian Buffer unless necessary for the protection of human health, utility usage, public infrastructure, or the betterment of the riparian corridor.
 - Benches or seating;
 - Implementation of educational and scientific research that does not negatively impact the native vegetation;
 - Flood control, stormwater management structures, and stream bank stabilization measures approved by the Tompkins County Soil and Water Conservation District, Natural Resource Conservation Service, Army Corps of Engineering, or NYS Department of Environmental Conservation;
 - Maintenance of roadways or impervious surfaces existing at the time of the adoption of this provision;
 - Stream crossings necessary to access the property by driveway, transportation route, or utility line which are

designed to minimize negative impacts to the stream and Riparian Buffer;

- Public water supply intake or public wastewater outfall structures;
- Public access and public recreational facilities that must be on the water including boat ramps, docks, foot trails leading directly to the stream, fishing platforms and overlooks;
- Public sewer lines and/or other utility easements.
- Techniques to remove invasive species;
- Non-paved recreational trails no wider than 10 feet that either provide access to the stream or are part of a continuous trail system running roughly parallel to the stream;
- Temporary use of erosion control measures such as silt fencing;
- Limited tree cutting, forestry or vegetation management done in accordance with a Forest Stewardship Plan prepared by the Department of Environmental Conservation, a forester who is certified by the Society of American Foresters or such successor organization as is later created, or a Cooperating Consulting Forester with the New York State Department of Environmental Conservation. Any harvest must furthermore be done in accordance with the *New York State Forestry Best Management Practices for Water Quality – BMP Field Guide*. Tree cutting may not compromise the integrity of the stream bank or negatively impact the function of the Riparian Buffer. Tree cutting within 25 feet of the top of stream bank is prohibited. Any such activity must retain at a minimum 50% of the tree canopy in the Riparian Buffer at all times.

5.1.3. Setback Area: The function of the Setback Area is to filter sediment, nutrients and pollutants in runoff and slow the rate at which runoff enters the Riparian Buffer.

- a. The Setback Area will begin at the outward edge of the Riparian Buffer and provide a minimum width of 50 feet. Should a steep slope or wetland exist within this Area the entirety of that area will be added to the measurement of the Setback Area. This full area will utilize the restrictions accorded to the Setback Area.
- b. Within the Setback Area development uses are restricted to the following:
 - All development and uses permitted in the Riparian Buffer;

- Minor recreational structures and surfaces to allow passive recreation in the Setback Area such as decks, picnic tables, playground equipment, and small concrete slabs, the total area of which is not to exceed 200 square feet each and in aggregate occupy no more than 10% of the Setback Area;
- Fences, provided such structures do not impede floodwaters;
- Landscaping, mowing, decorative planting or improvements that do not encroach upon or impact the integrity of the Riparian Buffer.

5.2 Prohibited Activities

The following activities are explicitly prohibited in both the Riparian Buffer and Setback Area.

- 5.2.1. Storage or placement of any hazardous materials, before the following setback allotment, is prohibited. All sewage systems, both drain fields and raised systems and replacement of existing wells, must adhere to a 100-foot buffer from perennial streams. Any property that cannot accommodate such a buffer requires a variance.
- 5.2.2. Purposeful introduction of invasive vegetative species that reduce the persistence of local vegetation is prohibited. For a listing of invasive vegetation to avoid, refer to the Tompkins County “Environmental Management Council’s Invasive Plants of Tompkins County” (1998, as revised).
- 5.2.3. Waste storage and disposal including but not limited to disposal and dumping of snow and ice, recyclable materials, manure, hazardous or noxious chemicals, used automobiles or appliance structures, and other abandoned materials.
- 5.2.4. No combination of allowed or exempt activities may compromise or alter more than 10% of the total riparian buffer and setback area that lies within a tax parcel.
- 5.2.5. Public water supply wells must be greater than 200 feet from top of stream bank; private wells are not allowed in the Riparian Buffer. Any property whose water supply cannot accommodate such a buffer requires a variance.
- 5.2.6. Mining or removal of soil, sand and gravel, and quarrying of raw materials.
- 5.2.7. Dredging, deepening, widening, straightening or any such alteration of the beds and banks of natural streams except where the New York State

Department of Environmental Conservation has issued a permit expressly allowing such activities on the parcel.

5.2.8. Application of herbicide, pesticides, fertilizers, or other chemicals.

5.2.9. Parking of motorized vehicles.

5.3 Protection Requirements for Intermittent Streams

For those streams classified as intermittent, only the Riparian Buffer shall apply. For an intermittent stream the buffer will begin at the top of the stream bank and extend a minimum of 50 feet horizontally measured in a direction directly perpendicular to the stream bank in a horizontal plane. All provisions applicable to the Riparian Buffers for perennial streams should apply to intermittent streams.

6. Exemptions

The following specific activities are exempt from the requirements of this ordinance.

6.1. General Exemptions

6.1.1. The ordinance shall not apply to agricultural land use activity existing as of the effective date of this ordinance.

6.2. Grandfather Provisions

6.2.1. Work consisting of the repair or maintenance of any lawful use of land that is approved for such use on or before the effective date of this ordinance.

6.3. Variance Procedures

Variances from the above buffer and setback requirements may be granted only in accordance with the following provisions. Except as provided below, the _____ (appeals board) of _____ (jurisdiction) shall grant no variance from this ordinance without conducting a public hearing on the application for variance, and issue a notice of public meeting on such variance in a newspaper of general circulation in the municipality at least ten working days prior to such hearing. Such notice shall be forwarded at least ten working days in advance by a registered letter to the superintendent of highways or commissioner of public works, to the clerk of the county legislative body, and to the county planning board, if any, and appropriate state and federal agencies affected.

6.3.1. A variance shall be granted only upon a finding that a property's shape, topography or other physical conditions prevents land development unless a variance is granted, or that strict adherence to the minimal buffer and setback requirements would create extreme hardship.

6.3.2. A variance request shall include the following information in written documentation:

- A to-scale site map with stream, wetlands, slopes and other natural features locations as determined by field survey;
- Description of the topography, slopes and soil type, shape of property, natural vegetation, and other distinguishing or prohibitive physical characteristics of the property;
- The locations and footprint of all existing structures and other impervious cover on a site map, with footprint for proposed structures. This map shall include the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback;
- The exact area of the affected buffer and setback, and nature of proposed changes to be made to these areas shall be accurately and clearly indicated. A calculation of the total area and length of the proposed intrusion and any pre-existing intrusions shall be included;
- A stormwater management plan given the proposed changes and intrusions;
- Documentation of supposed hardship should the buffer be maintained;
- Proposed mitigation for the intrusion.

6.3.3 The following matters will be considered in determining whether to issue a variance:

- The shape and physical characteristics of the property;
- The locations of all streams on and/or adjacent to the property;
- The location and extent of the proposed buffer or setback intrusion;
- Whether alternative designs are possible which require less intrusion;
- The water-quality impacts of the proposed variance.

7. Administration and Enforcement

- 7.1 This ordinance shall be administered by _____(Jurisdiction Administrator, i.e. Code Enforcement Officer) or other official as designated.
- 7.2 A development plan shall not be approved, and therefore a building permit shall not be issued, unless the development plan satisfies the requirements under this ordinance. The _____(jurisdiction) may deny, suspend, or revoke any development plan if the plan violates this ordinance.
- 7.2. The _____(jurisdiction) may cancel or revoke any approved development plan or issued building permit if it fails to maintain the requirements of this ordinance; and may take legal action to stop, revoke or cancel the approval or the building permit.

References Used for Model Ordinance Development

- Anderson, P., Bradford, D., Frissell, C., Olson, D., & Welsh, H. (2007). *Biodiversity management approaches for stream-riparian areas: Perspectives for Pacific Northwest headwater forests, microclimates, and amphibians*. Forest Ecology and Management, 246, pp. 81-146.
- Bren, L. (2000). A case study in the use of threshold measures of hydrologic loading in the design of stream buffer strips. Forest Ecology and Management, 132, pp. 243-257.
- Enhancing Water Resources in Tompkins County: Benefits of Riparian Stream Areas and Stream Buffers: Tompkins County Planning Department, 2004.
<http://www.tompkins-co.org/planning/Water%20Resources/FINAL%20STREAM%20DOC.pdf>
- Guidance for Agency Act 250 and Section 248: Comments regarding Riparian Buffers*: Vermont Agency of Natural Resources. December 9, 2005.
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- New York State Forestry Best Management Practices for Water Quality – BMP Field Guide* - http://www.dec.ny.gov/docs/lands_forests_pdf/dlfbmpguide.pdf
- Part I: A Strategic Approach to Natural Stewardship: Tompkins County Conservation Plan. Tompkins County Planning Department. 2007.
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- Town of Ithaca Local Law No. (undecided) of 2006 as amendment to Chapter 270 of Town of Ithaca Code. *Proposed, “Zoning, to add stream setback provisions.”* Reviewed copy of 9/8/06. Town Board of the Town of Ithaca, 2007.
- Town of Ulysses. *Zoning Law*. Accessed February 1, 2008. Ulysses, 2005.
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TOWN OF ITHACA

LOCAL LAW NO. 8 OF THE YEAR 2012

A Local Law Amending Chapter 270 of the Town of Ithaca Code, Titled Zoning, to Add Stream Setback Provisions and Related Definitions

Be it enacted by the Town Board of the Town of Ithaca as follows:

Section 1. Chapter 270 (Zoning), Article III (Terminology) of the Town of Ithaca Code, Section 270-5, titled “Definitions,” is amended by adding the following definitions:

AGRICULTURAL ACTIVITY -- The production of agricultural products, such as crops, livestock, poultry and dairy goods, and the preparation or marketing of such products produced, or derived from products produced, predominantly on-site. Agricultural activity shall also include practices that allow land used for agricultural activity to lie fallow for a period not exceeding five consecutive years.

BANKFULL – The condition where streamflow just fills a stream channel up to the top of the bank and at a point where the water begins to flow over its bank.

IMPERVIOUS SURFACE – Any paved, hardened or structural surface which does not allow infiltration of water. Such surfaces include, but are not limited to, impervious streets, driveways, parking lots, and tennis courts, buildings, and swimming pools.

RIPARIAN AREA – An area adjacent to a stream that typically contains trees, shrubs, and other ground covers.

SELECTION TREE CUTTING – A forestry practice used to create or maintain uneven-aged stands of trees by periodic removal of individual trees.

SLOPE – The increase in elevation per unit of horizontal distance, expressed as a percent.

STREAM – A watercourse or surface depression characterized by a defined channel and stream bed that contain rocks or gravel and where water flows perennially or intermittently; this does not include man-made stormwater conveyances, such as grassy or rip-rap stabilized swales, roadside ditches, or stormwater management practices.

STREAM BANK – The sides of the active stream channel, usually marked by a break in slope.

STREAM SETBACK – An area that extends horizontally landward a specified distance from each side of a stream bank or from its centerline, as set forth in § 270-219.5.D.

STREAM SETBACK MAP – The map, as it may be amended from time to time, showing applicable minimum stream setbacks (subject to further extensions on a site-specific basis for streamside wetlands and/or steep slopes) and prepared by the Town of Ithaca Planning Department.

STREAMSIDE WETLAND – The area immediately adjacent to a stream that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Section 2. Chapter 270, Article XXVI of the Town of Ithaca Code, entitled “Special Regulations,” is amended by adding Section 270-219.5 as follows:

“§ 270-219.5 Stream Setback.

A. Findings.

The Town Board of the Town of Ithaca finds that steady population growth and land disturbance in the Town have resulted in the continual loss of much of its natural riparian (streamside) vegetation. Properly vegetated riparian areas provide numerous benefits including:

- (1) Riparian vegetation lessens the severity of stream bank erosion because the deep and extensive root systems of the vegetation hold soil in place;
- (2) The soil-root complex of the vegetation filters and absorbs various chemicals and particulates, keeping them out of streams;
- (3) At times of heavy rain or flooding, vegetation slows water runoff velocity to maintain the streambed and stream bank and lessens the effects of flooding;
- (4) By slowing runoff velocity, riparian vegetation allows recharging of the ground water;
- (5) By reducing the amount of particulates and chemicals in streams that enter Cayuga Lake, vegetated riparian areas are a cost-effective way to maintain the quality of this important drinking water source for the Town;
- (6) Undisturbed riparian areas provide the space needed to accommodate the natural meandering of stream channels;
- (7) Vegetated riparian areas provide important habitat for birds and other wildlife and they improve the environment for aquatic species by stabilizing water temperatures and reducing levels of sediment and pollutants. These benefits are better realized if non-native invasive plant species are not present, as these plants tend to crowd out native plant species, eliminating plant diversity and providing less food, cover, and shade for those fish and wildlife species that depend on vegetated riparian areas; and

- (8) Vegetated riparian areas enhance the natural beauty of streams and preserve scenic values and recreational opportunities.

B. Purpose and Objectives.

The purpose of this section is to promote the public health, safety and general welfare by establishing requirements for stream set-backs to protect streams, other water resources, property, and riparian ecosystems within the jurisdiction of the Town of Ithaca. The objectives of this section are to:

- (1) Regulate activities that harm streams and native riparian vegetation, so that the benefits provided by such vegetation are not lost;
- (2) Reduce the amount of sediment, organic matter, pesticides, and pollutants entering streams;
- (3) Protect public and private property from losses due to flood damage and erosion;
- (4) Ensure land use proposals are compatible with the above purposes and specify land use in areas where standard zoning practices are not adequate;
- (5) Allow reasonable use of land that is consistent with responsible land management and that will conserve and protect streams, riparian vegetation, and streamside wetlands to the extent practicable;
- (6) Recognize the legitimate interests of landowners to make reasonable use of water resources, and otherwise engage in the use of land for certain agricultural activities;
- (7) Minimize expenditure of public money to reduce stream erosion and siltation; and
- (8) Protect the right of the public to full enjoyment of the recreational opportunities offered by the Town's streams and by Cayuga Lake.

C. Applicability.

- (1) The requirements in this § 270-219.5 apply in all zoning districts in the Town. To the extent they impose more restrictive requirements than those in the underlying districts, the requirements of this section apply.
- (2) This section shall apply as follows:
 - (a) For parcels that are 0.5 acre or less as of the effective date of this section and contain a stream (or portion thereof) described in Subsection D(1) below, the provisions in § 270-219.5(D)(1), (4)-(5), and (12)-(15), E(13)(a) and (b), H and I shall apply.

- (b) For parcels that are greater than 0.5 acre as of the effective date of this section and contain at least a portion of a stream setback described in Subsection D below, all of the provisions in § 270-219.5 except § 270-219.5(D)(12) shall apply.

D. Stream setback standards.

- (1) Stream setbacks are required for those portions of streams that have upstream drainage areas equal to, or greater than, 35 acres. Streams covered by this law are shown on the Stream Setback Map, copies of which are available for inspection or by distribution to the public at Town offices and on the Town's website. The size of stream drainage areas is determined by the Town of Ithaca's Geographical Information System (GIS).
- (2) The required setback width at any point along a stream is determined by the size of the upstream drainage area, the slope of the land adjacent to the stream, and the existence of any streamside wetland.
- (3) The setback shall be composed of two distinct zones. Specified activities listed in Subsections E and F are prohibited as described in those subsections.
- (4) Streams covered by this section, with their corresponding setback widths based on drainage area, are found on the Stream Setback Map.
- (5) Notwithstanding any other provisions in this subsection, if a road shown on the Official Map of the Town is located within a stream setback, the setback shall extend from the stream to the edge of the road right-of-way or to the deeded road property line and not continue over or past the road right-of-way or deeded road property line, as applicable.
- (6) Definitions and purposes of Stream Setback Zones 1 and 2 (see Figure 1a and 1b in Appendix A).
 - (a) Stream Setback Zone 1 is the streamside zone.
 - [1] The streamside zone is intended to protect the physical and ecological integrity of the stream.
 - [2] To assure proper functioning of this zone, vegetation must remain undisturbed as described in Subsection F.
 - [3] For streams with upstream drainage areas less than 175 acres, this zone will begin at the stream centerline. For streams with upstream drainage areas of 175 or more acres, this zone will begin at the edge of a defined watercourse at

the bankfull flow or level mark. (See Appendix A, Figure 2 for a bankfull depth illustration.) For all streams, this zone will be measured horizontally landward, along lines perpendicular to the stream bank or stream centerline at the relevant starting points, the required distance as determined by drainage area, presence of streamside wetlands, and slope, to the beginning of Stream Setback Zone 2.

- [4] For streams with upstream drainage areas of 175 or more acres, certain prohibitions apply to the stream as well as to Stream Setback Zone 1. See Subsection F below.

(b) Stream Setback Zone 2 is the outer setback zone.

- [1] The outer zone is intended to prevent encroachment into the streamside zone, and to provide distance between certain developments/activities and the streamside zone.
- [2] Vegetation in this zone may vary, but planting of non-native invasive species is not allowed.
- [3] The outer zone will be measured perpendicularly from the outer edge of Stream Setback Zone 1 and extend horizontally the remaining distance of the setback as required by drainage area, presence of streamside wetlands, and slope.

- (7) Required minimum stream setback widths based on drainage area are shown in Table 1. For streams with upstream drainage areas less than 175 acres, this setback measurement will begin at the stream centerline. For streams with upstream drainage areas of 175 or more acres, the setback measurement will begin at the edge of a defined watercourse at the bankfull flow or level mark. For all streams, the setback will be measured horizontally landward, along lines perpendicular to the stream bank or stream centerline at the relevant starting points, the specified distance required by the drainage area.

Table 1
Minimum Stream Setback Widths (Feet)

Drainage Area (Acres)	Setback Zone 1	Setback Zone 2	Total Setback Width
≥ 35 acres and less than 175 acres	20	15	35
≥ 175 acres and less than 1500 acres	30	20	50
≥ 1500 acres	50	50	100

- (8) Where a property has overlapping setbacks because of the proximity of more than one stream, the more restrictive measures shall apply in the area of overlap (for example, if part of a property is in Zone 1 for one stream, and some of Zone 1 overlaps with Zone 2 for another stream, the Zone 1 requirements shall apply in the area of overlap).
- (9) If there are no slopes of 25 percent or greater and no streamside wetlands present within the setbacks required by Table 1, then the total setback width will be determined on the basis of drainage area alone as indicated on Table 1.
- (10) Setback width adjustment when streamside wetlands exist:
 - (a) Where streamside wetlands are identified within a stream setback, the streamside wetland is not counted towards the required setback width. In these cases, it will be necessary to extend the setback width beyond that required by Subsection D(7) to make up for the amount of land excluded due to the existence of streamside wetlands (see Appendix A, Figure 3). The adjustment in width of the stream setback shall apply only to the areas on the parcel where streamside wetlands are located.
 - (b) Setbacks required by this section may coincide with, and are to be located and measured without regard to the presence or absence of, wetland buffers required by federal, state or local law or regulations, including buffers required by the NYS Environmental Conservation Law.
 - (c) Unless the property owner and Town agree on the streamside wetland delineation, streamside wetlands shall be delineated by a qualified professional under guidelines established by the U.S. Army Corps of Engineers and NYS Department of Environmental Conservation. Delineation is required under this subsection 10 for streamside wetlands that have been previously identified as well as for the areas where streamside wetlands may exist due to the presence of hydric soils or wetland plant indicators.
- (11) Setback width adjustments for steep slopes of 25 percent (with a run of four feet for every foot of rise) or greater.
 - (a) Where steep slopes (25 percent or greater) are identified within Stream Setback Zone 1 (as extended, if necessary, due to the presence of streamside wetlands), that portion of the land containing the steep slopes within Setback Zone 1 shall not be counted towards the required setback width. In these cases it will be necessary to extend the setback width in Setback Zone 1 beyond

that required by Subsections D(7) and D(10) to make up for the amount of land excluded due to the existence of the steep slopes. Notwithstanding the foregoing, the adjusted width in Setback Zone 1 due to steep slopes shall in no case exceed two times the required minimum stream setback width specified under Setback Zone 1 in Table 1. The adjustment in width of the stream setback due to steep slopes shall apply only to the areas on the parcel where steep slopes exist. Setback Widths for Zone 2 will remain the same as specified in Table 1. (See Appendix A, Figure 4.)

- (b) Steep slopes of 25 percent or greater shall be determined by using one of the following resources or methods, as appropriate:

- [1] On-site measurement of slopes by registered professional engineers, surveyors, or landscape architects, using accepted engineering practices;
- [2] Use of two-foot topographic data created with the use of Light Detection and Ranging (LIDAR)-derived information;
- [3] United States Geological Survey 7.5 Minute Quadrangles; or
- [4] Other resources or methods that Town staff determine are of similar or greater accuracy than those listed above.

- (12) For parcels that are 0.5 acre or less as of the effective date of this section and contain a stream (or portion thereof) described in Subsection D(1) above:

- (a) Except as concerns the application of herbicides and pesticides, the required setback width is 15 feet regardless of drainage area size, and no setback width adjustments are required for streamside wetlands or steep slopes of 25 percent or greater. With regard to the application of herbicides and pesticides, the required setback width is 35 feet regardless of drainage area size, and no setback width adjustments are required for streamside wetlands or steep slopes of 25 percent or greater. Within the 35-foot setback, the application of herbicides and pesticides is prohibited, except as allowed under § 270-219.5.E(13)(a) and (b);
- (b) For streams with upstream drainage areas less than 175 acres, the setback measurement will begin at the stream centerline. For streams with upstream drainage areas of 175 or more acres, the setback measurement will begin at the edge of a defined

watercourse at the bankfull flow or level mark. For all streams, the setback will be measured horizontally landward, along lines perpendicular to the stream bank or stream centerline;

- (c) The only prohibition within the 15-foot setback (in addition to that applicable to the application of herbicides and pesticides as described above) is on the construction of new buildings. This prohibition does not apply to maintenance or repair of buildings. The replacement, renovation or restoration of buildings that exist within the setback as of the effective date of this section is also permitted, provided that the following conditions are met:

- [1] The new structure's footprint within the setback is in the same location and has the same or smaller dimensions as the replaced, renovated or restored structure's footprint; and

- [2] None of the dimensions of the portions of the structure located within the setback increase in size.

- (13) An applicant will be responsible for delineating and identifying the stream setback zones on all subdivision applications. In addition, an applicant will be responsible for delineating and identifying the stream setback zones on all site plan applications, special permit, special approval and variance applications, building permit applications, and excavation or fill permit applications, except if the project limits (which term includes any soil-disturbing activity, staging, or other development-related activity) are more than 150 feet from the outer edge of Zone 2, including adjustments for slopes and wetlands. This delineation shall be done at the time of submission of any application. This delineation shall be subject to review and approval by the appropriate board or officer.
- (14) The Planning Board shall require the delineation and identification of any stream setback zones on all subdivision plats and site plans for properties to which this § 270-219.5 applies. The Planning Board and Zoning Board of Appeals shall reference any stream setback zones in any special permits, special approvals or variances they grant. The Planning Board and Zoning Board of Appeals may require stream setback zone restrictions to be incorporated into the deeds for properties that contain such setbacks.
- (15) The Planning Board, Zoning Board of Appeals, Public Works staff, or Code Enforcement staff may require, prior to any soil-disturbing activity, that the stream setback zones be clearly delineated with construction fencing, staking, or other suitable material by the applicant on site, and such delineation be maintained in an undisturbed state, until Public Works

or Code Enforcement staff determine that soil-disturbing activities are completed within and adjacent to the stream setback zones.

- (16) Through the subdivision, site plan review, special permit, special approval and variance processes, the Planning Board and Zoning Board of Appeals may require stream setbacks for streams with upstream drainage areas less than 35 acres where environmental conditions warrant the establishment of such setbacks. Such environmental conditions may include, for example, anticipated development impacts on wetlands or vernal pools, or stormwater management, flooding or pollution problems that the proposed development is anticipated to create. Where the Planning Board or Zoning Board of Appeals requires stream setbacks pursuant to this subsection, the size of the setbacks shall be no larger than that specified in Subsection D(7) above for drainage areas from 35 to less than 175 acres, and the prohibited uses in Setback Zones 1 and 2 shall not be any more restrictive than the prohibitions for the respective zones pursuant to Subsections F and E below.

E. Prohibited activities in stream setback zone 2.

Unless otherwise permitted by Subsection H, the following structures and uses are prohibited in Stream Setback Zone 2:

- (1) The construction, installation or erection of buildings or other structures on or after the effective date of this section, except fences and walls that are in compliance with the requirements in § 270-223. This prohibition does not apply to maintenance or repair of buildings or other structures;
- (2) The construction or installation of parking lots, parking spaces, or impervious surfaces on or after the effective date of this section, including impervious terraces, steps, unroofed porches and other similar features regardless of their height and regardless of § 270-223.1;
- (3) Replacement, renovation or restoration of any structure, unless all of the following conditions are met:
 - (a) The new structure's footprint within the setback zone is in the same location and has the same or smaller dimensions as the replaced, renovated or restored structure's footprint; and
 - (b) None of the dimensions of the portions of the structure located within the setback zone increases in size;
- (4) Agricultural activities that begin on or after the effective date of this section, and agricultural activities beginning before and existing as of the effective date of this section that thereafter cease for a period of more than

one year (or the land thereafter lays fallow for a period of more than five consecutive years, in the case of land used for agricultural activity that is lying fallow). Notwithstanding the foregoing, the following agricultural activities are permitted regardless of when they begin or if they cease for more than a year and thereafter begin again:

- (a) Grazing of livestock, where livestock are allowed by this chapter, in accordance with a conservation plan approved by the Tompkins County Soil and Water Conservation District; and

- (b) Haying, and growing of crops for commercial, educational, research or other purposes;

- (5) Land-disturbing activities that begin on or after the effective date of this section, and land-disturbing activities beginning before and existing as of the effective date of this section that thereafter cease for a period of more than one year. Notwithstanding the foregoing, the following land-disturbing activities are permitted regardless of when they begin or if they cease for more than a year and thereafter begin again:

- (a) Mowing and maintenance of lawns and sports fields, landscaping, and gardening, provided that for activities beginning on or after the effective date of this section, non-native invasive species are not planted and such activities do not harm the riparian area;

- (b) Construction of stormwater ponds and wetlands;

- (c) Demolition of structures;

- (d) Emergency slope stabilization; and

- (e) Non-emergency slope stabilization and restoration, provided that:

- [1] The property owner consults with either a qualified professional engineer or the Tompkins County Soil and Water Conservation District about the stabilization project;

- [2] The Town approves the relevant Stormwater Pollution Prevention Plan (SWPPP) required by Chapter 228, or a Simple Erosion and Sedimentation Control Plan if no SWPPP is required by Chapter 228;

- [3] The property owner complies with the requirements of Chapter 157, Flood Damage Prevention, if the project takes place in an area of special flood hazard; and

[4] The property owner complies with the applicable requirements of § 270-217 regarding the deposit or removal of fill or related products;

- (6) Motorized recreational activities, except for:
 - (a) Use of motorized golf carts on golf courses existing as of the effective date of this section; and
 - (b) Use of motorized wheelchairs and scooters for the mobility-impaired;
- (7) Shelters and blinds associated with hunting, recreational, educational and agricultural activities that are erected on or after the effective date of this section, except for temporary blinds that are in place for a period of no more than 180 days within a 12-month period on any parcel;
- (8) Installation of utility lines and connections, such as water, sewer, electric, gas, telephone and cable lines and connections, on or after the effective date of this section, except the following shall be allowed:
 - (a) Installation of water wells and connections;
 - (b) Utility lines and connections for one-family and two-family dwellings;
 - (c) For uses and structures other than one-family and two-family dwellings, the installation of utility lines and connections is permitted only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this chapter; and
 - (d) Repair and replacement of utility lines and connections;
- (9) Tree cutting and disturbance of vegetation, except for:
 - (a) Selection tree cutting that maintains the protective function of the setback zone;
 - (b) Disturbance of existing vegetation to:
 - [1] Remove diseased, damaged or dead trees or shrubs or non-native invasive vegetation;
 - [2] Remove vegetation in a proactive effort to minimize the spread of disease; or

- [3] Remove vegetation that presents safety or health hazards;
 - (c) Pruning of trees and vegetation;
 - (d) Restoration of riparian habitat and native vegetation; and
 - (e) Development of a narrow permeable (non-paved) footpath within the stream setback;
- (10) Deicing of impervious and pervious surfaces, if more than the minimal amount of deicing material necessary to maintain vehicular and pedestrian safety is applied to the surface;
 - (11) Dumping or disposal of snow or ice collected from roadways or parking lots located wholly outside a stream setback zone;
 - (12) Installation of outlets from stormwater management practices and footer drains on or after the effective date of this section, except where sheet flow or infiltration is not practical and areas disturbed by such outlets are revegetated;
 - (13) Application of herbicides, pesticides, fertilizers or other chemicals, except the following applications are allowed:
 - (a) The selective application of herbicides to control non-native invasive species, and the selective application of pesticides to protect native plant species; and
 - (b) Application of herbicides, pesticides, fertilizers or other chemicals for the protection of human or animal safety, or for agricultural purposes for farms, in accordance with product label instructions and pursuant to applicable New York State laws and regulations;
 - (14) Mining or removal of soil, sand and gravel, and quarrying of raw materials, except where the New York State Department of Environmental Conservation has issued a permit expressly allowing such activities on the parcel;
 - (15) Outdoor waste storage and outdoor deposition of waste, including but not limited to garbage, refuse, recyclable materials, tires, rubble, discarded motor vehicles, discarded appliances and other bulk items, except:
 - (a) Ordinary household trash temporarily stored in a covered garbage can;

- (b) Ordinary household recyclables set out at curbside for pickup; and
 - (c) Composting of residential materials.
- (16) Outdoor storage or disposal of hazardous or noxious materials;
 - (17) Storage or disposal of manure;
 - (18) Installation of septic tanks or septic drain fields on or after the effective date of this section.

F. Prohibited activities in stream setback zone 1 and streams.

Unless otherwise permitted by Subsection H, the following structures and uses are prohibited in Stream Setback Zone 1 and in streams:

- (1) All uses and activities prohibited by Subsection E above;
- (2) Mowing and maintenance of lawns and sports fields, landscaping and gardening, where such activity begins on or after the effective date of this section, or such activity begins before and exists as of the effective date of this section and thereafter ceases for a period of more than one year;
- (3) Grazing of livestock, where grazing begins on or after the effective date of this section, or grazing begins before and exists as of the effective date of this section and thereafter ceases for a period of more than one year;
- (4) Composting of residential materials, unless they are contained in such a way that does not allow leaching;
- (5) Construction of stormwater ponds and wetlands;
- (6) Installation of water wells and connections;
- (7) Haying, and growing of crops for any purpose, where such activity begins on or after the effective date of this section, or such activity begins before and exists as of the effective date of this section and thereafter ceases for a period of more than one year;
- (8) Dredging, deepening, widening, straightening or any such alteration of the beds and banks of natural streams, except where:
 - (a) The New York State Department of Environmental Conservation has issued a permit expressly allowing such activities on the parcel; or

- (b) Dredging is performed to maintain dam safety or operational effectiveness;
- (9) Stream bank stabilization, unless all of the following conditions are met:
 - (a) The property owner consults with either a qualified professional engineer or the Tompkins County Soil and Water Conservation District about the stabilization project;
 - (b) The Town approves the relevant Stormwater Pollution Prevention Plan (SWPPP) required by Chapter 228, or a Simple Erosion and Sedimentation Control Plan if no SWPPP is required by Chapter 228;
 - (c) The property owner complies with the requirements of Chapter 157, Flood Damage Prevention, if the project takes place in an area of special flood hazard; and
 - (d) The property owner complies with the applicable requirements of § 270-217 regarding the deposit or removal of fill or related products;
- (10) Construction of the following types of crossings on or after the effective date of this section:
 - (a) Crossings of streams through the stream setback by driveways, roadways, vehicles, pathways, bridges, storm sewers, sewer and/or water lines, and other utility lines, except for crossings that are built substantially perpendicular to stream flow, are designed to minimize downstream siltation and negative impacts to the stream and setback zones, and, in the case of utility line crossings, the utility lines are otherwise permitted by Subsections E(8) and F(1);
 - (b) Livestock stream crossings, except for crossings that are constructed and maintained to minimize negative impacts to the stream and setback zones with fencing substantially perpendicular and through the setback to direct animal movement.

G. Prior nonconforming uses and activities.

The provisions of § 270-204 relating to nonconforming uses of land shall not apply to uses and activities prohibited by Subsections E and F above.

H. Transition provisions.

- (1) The prohibitions in Subsections D(12), E and F above against construction of new buildings and structures in setback zones shall not apply to the following buildings and structures:
 - (a) For buildings and structures that require site plan approval, subdivision approval, special approval, and/or special permit, the prohibitions shall not apply if completed applications for all necessary approvals for site plan, subdivision, special approval, and special permit have been submitted before the effective date of this section, provided such applications are thereafter diligently prosecuted to completion; and
 - (b) For buildings and structures that do not require site plan approval, subdivision approval, special approval, or special permit, the prohibitions shall not apply if all necessary building permits and fill permits have been issued before the effective date of this section.
- (2) For the purposes of this section only, an application shall be deemed "completed" if it contains all required information, materials, initial SEQR forms and fees normally and reasonably required by the appropriate Town official(s) (e.g., Director of Planning with respect to subdivision, special permit, and site plan approval applications, and the Director of Code Enforcement with respect to special approval applications) to commence the review process by the appropriate Town board. An application shall be deemed "diligently prosecuted to conclusion" if the applicant promptly responds to any inquiries and promptly supplies any additional information reasonably required by the reviewing Town officials and/or boards, appears at all required scheduled public hearings, and otherwise cooperates so as to permit and enable the appropriate Town boards to adequately and completely review the application and render a decision on same within a reasonable period of time of its submission, and in any event within 12 months of its submission.

I. Variances.

The Zoning Board of Appeals may grant variances from the requirements of this section pursuant to § 270-235 of this chapter. A variance from the requirements of this section is an area variance, provided any use proposed to be located within the stream setback is a permitted use in the relevant zoning district. In addition to the items required by the Town for all variance applications, the applicant shall provide a proposed mitigation plan that offsets the effects of the proposed encroachment into the stream setback, if such a plan is possible for the parcel that is the subject of the variance application. Where a Planning Board approval (such

as site plan, subdivision or special permit approval) is also sought pursuant to the provisions of this chapter, the Planning Board shall make a recommendation to the Zoning Board of Appeals on any proposed mitigation plan that is submitted to the Zoning Board of Appeals in connection with a variance application. Failure of the Planning Board to make a recommendation before the Zoning Board of Appeals must act as required by law shall not preclude action by the Zoning Board of Appeals nor otherwise affect the validity of any actions taken by the Zoning Board of Appeals.”

Section 3. If any provision of this local law is found invalid by any court of competent jurisdiction, such invalidity shall not affect any other provisions of this local law, which shall remain in full force and effect.

Section 4. This local law shall take effect immediately upon filing with the New York Secretary of State.

APPENDIX A
Section 270-219.1 of Town of Ithaca Code
Stream Setback Law

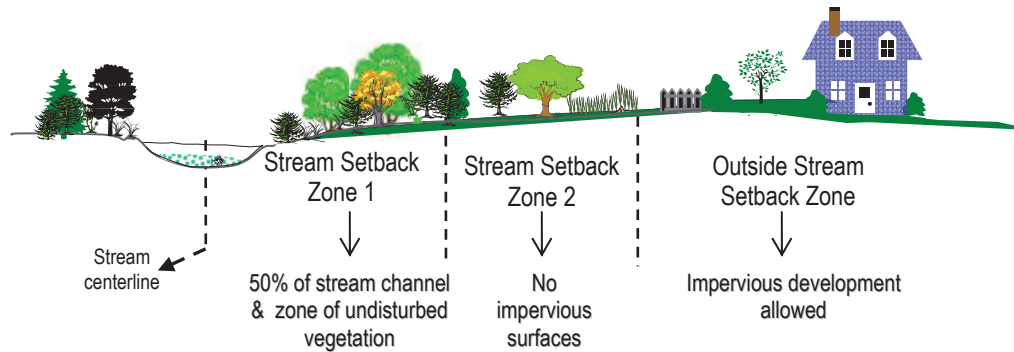


Figure 1a – Stream Setback Zones 1 & 2 for small streams requiring measurement from the stream centerline.

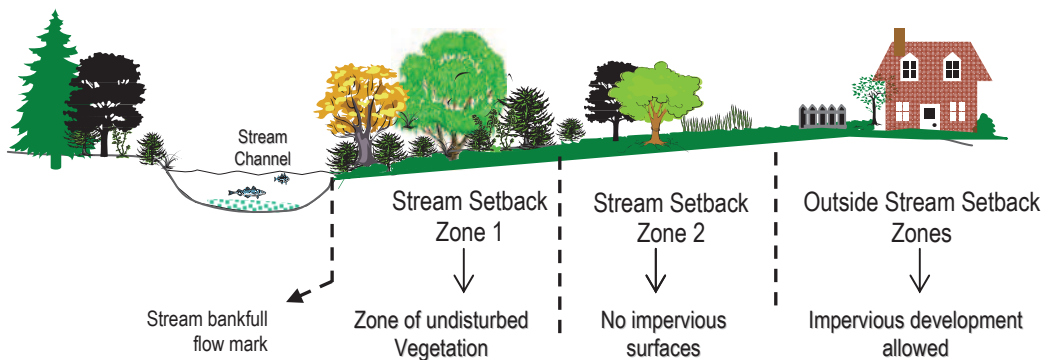


Figure 1b – Stream Setback Zones 1 & 2 for larger streams requiring measurement from the bankfull flow mark.

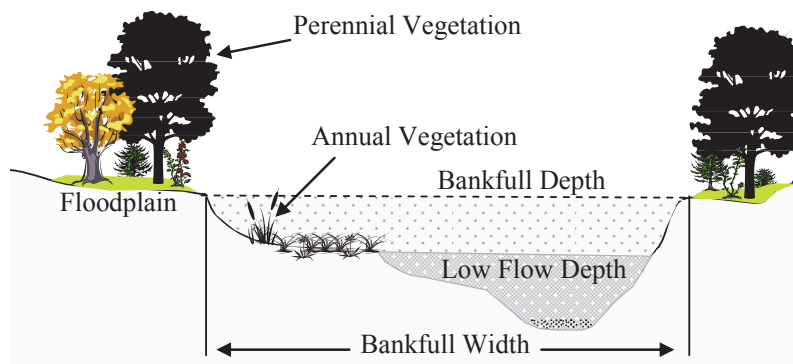


Figure 2 – Bankfull Depth Illustration

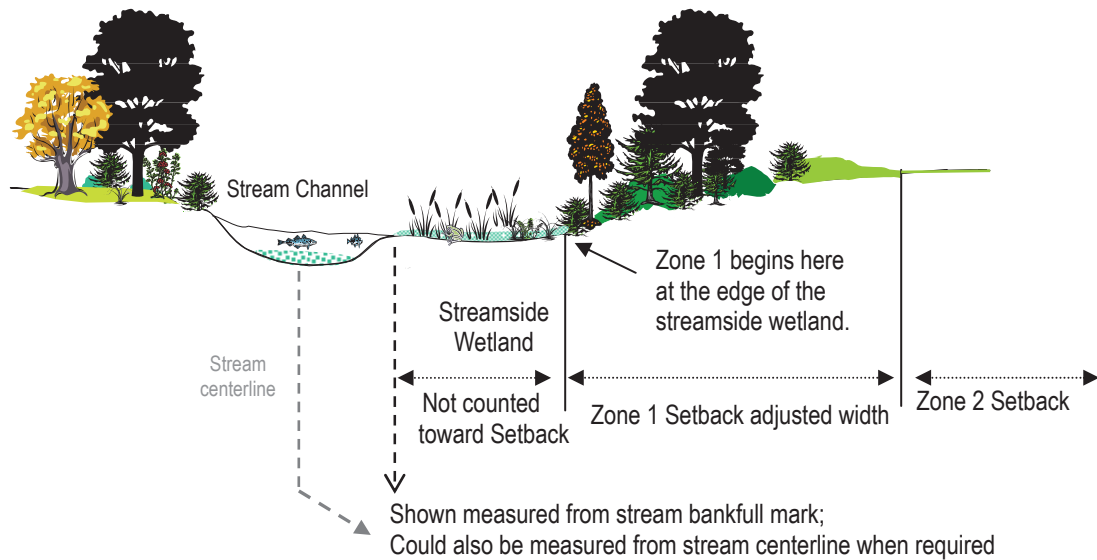


Figure 3 – Stream Setback adjustment for streamside wetland

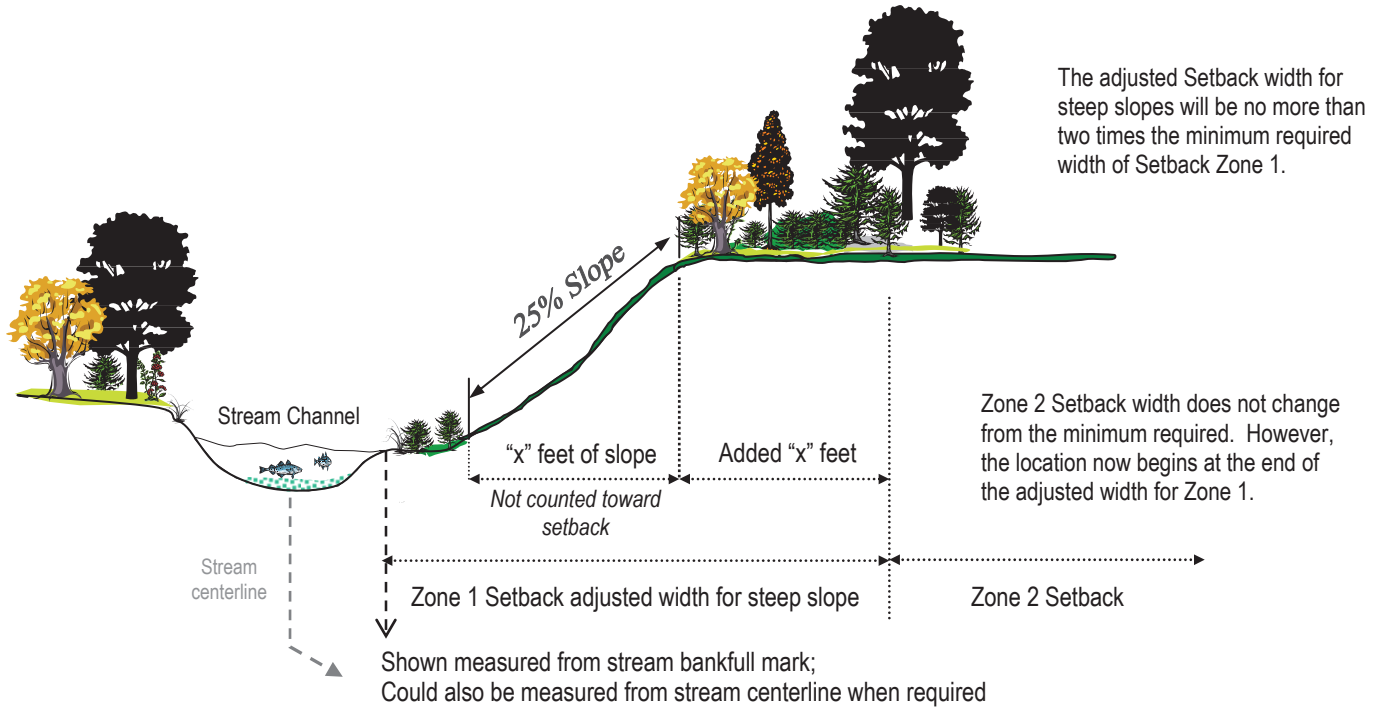


Figure 4 – Stream Setback adjustment for 25% slope or greater

Sediment and Erosion Control Law With Riparian Protection

History: Adopted by the Town Board of the Town of Geneseo 4-11-2002 by L.L. No. 2-2002.
Proposed revisions noted in *italics*.

54-1

This chapter shall be known as the “Erosion and Sediment Control Law of the Town of Geneseo.”

54-2. Findings of fact.

The town board of the town of Geneseo finds that uncontrolled drainage and runoff associated with land development has a significant impact upon the health, safety and welfare of the community by potentially causing substantial recreational, aesthetic, environmental and economic losses resulting from adverse impacts on community waters specifically:

- A. Construction requiring land clearing and the alteration of natural topography tends to increase erosion;
- B. Storm water runoff can carry pollutants into receiving water bodies, degrading water quality’
- C. Improper design and construction of erosion control devices can increase the velocity of runoff thereby increasing stream bank erosion and sedimentation;
- D. Improper design and construction of erosion control devices can increase the velocity of runoff thereby increasing stream bank erosion and sedimentation;
- E. Siltation of water bodies resulting from increased water, interferes with navigation , and harms flora and fauna;
- F. Development as defined in this chapter and activities associated with development, as well as land grading and earth moving can have a significant and potentially adverse impact on the environment.
- G. *Riparian areas require protection to stabilize banks, limit erosion, reduce flood size flows and filter and settle out runoff pollutants.*

54-3. Purpose

The Purpose of this local regulation is to safeguard persons, protect property, prevent damage to the environment of the Town of Geneseo, including the Village of Geneseo and Conesus Lake, as well as all bodies of water or watercourses in the Town of Geneseo, and promote the public welfare by guiding and regulating the design, construction, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land in the Town of Geneseo.

54- 4. Statutory authority

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Town Board has the authority to enact local laws for the purpose of promoting the health, safety or general welfare of the Town.

54-5. Conformance required.

All site preparation, construction and development activities as defined hereinafter occurring in the Town of Geneseo shall be in conformance with the provisions set forth herein.

54-6. Word Usage.

A. Unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning s they have in common usage and to give this chapter its most effective application. Words used in the singular shall include the plural and the plural and the singular; words used in the present tense shall include the future tense. The word “shall” connotes mandatory and not discretionary; the word “may” is permissive.

B. As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL OPERATONS (AS DEFINED IN ARTICLE 25AA OF THE NYS AGRICULTURE AND MARKETS LAW) – Land and on-farm buildings, equipment and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise.

CERTIFICATE OF COMPLIANCE ---- A written certificate that is issued to the applicant by the Code Enforcement Officer after all final grading and seeding is completed and all permanent erosion control measures are established as specified in the erosion control permit and the satisfaction of the Code Enforcement Officer.

CERTIFIED PROFESSIONAL ---- A licensed architect, a licensed engineer, a licensed landscape architect, or an International Erosion Control Association (IECA) certified professional in erosion and sediment control.

DEVELOP ---- Any physical alteration of a site or area, including, but not limited to, providing access to a site, clearing of vegetation, grading, earth moving, providing utilities and other services such as parking facilities, stormwater management and erosion control systems, and sewage disposal systems, altering landforms, or construction of a structure on the land.

EROSION ---- The removal of soil particles by the action of the water, wind, ice or other geological agents.

EROSION CONTROL PLAN ---- A document prepared by a certified professional that identifies predevelopment and post development conditions on a site and outlines the erosion control measures that will be used on a site. This document is required for projects exposing more than 10,000 square feet of soil.

FLOOD PLAIN ---- For a given flood event, that area of land temporarily covered by water which adjoins a watercourse.

GARDEN ---- A plot of ground where herbs, fruits, flowers, or vegetables are cultivated, excluding agricultural operations as defined herein.

GABION ---- A galvanized wire basket filled with stone used for structural purposes. When they are fastened together, they are used as retaining walls, slope protection and similar structures.

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

NATURAL DRAINAGE CHANNEL ---- A swale, watercourse in a gully, or a n unprotected stream.

PERFORMANCE STANDARDS ---- The set of standards outlining the erosion control requirements for construction and soil disturbing activities.

PERIMETER CONTROL ---- A barrier that prevents sediment from leaving a site either by filtering sediment laden runoff, or diverting it to a sediment trap or basin.

PHASING ---- Clearing a parcel of land in distinct phases, with the stabilization of each phase occurring before the clearing of the next.

***RIPARIAN AREA** ---- Areas that extend beyond stream banks and are at least periodically influenced by flooding. When managed properly riparian areas help to stabilize banks, limit erosion, reduce flood size flows and filter and settle out runoff pollutants.*

***RIPARIAN SETBACK** ---- Distance lines set back from each bank of a stream to protect the riparian area and stream from impacts of development, and streamside residents from the impacts of flooding and land loss from erosion.*

RIPRAP ---- A combination of large stone, cobbles and boulders used to line channels, stabilize stream banks, and reduce run off velocities.

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

START OF CONSTRUCTION ---- The first land disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets, driveways, parking areas and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

STEEP SLOPE ---- Grade change of 15% or more.

STOP-WORK ORDER ---- A written order issued by the Code Enforcement Officer to cease and desist all activity and development on a site until such time as the violation is corrected.

STREAM ---- *A surface watercourse with a well-defined bed and bank either natural or artificial which confines and conducts continuous or periodic flowing water in such a way that terrestrial vegetation cannot establish roots within the channel.*

STREAM CORRIDOR ---- The landscape features on both sides of a stream, including soils, slope and vegetation, whose alteration can directly impact the stream's physical characteristics and biological properties.

SWALE ---- A natural or man-made depression or wide shallow ditch used to temporarily route or filter runoff.

UTILITIES ---- Public and private services, including but not limited to, public water and sewer connection, private wells and septic systems, and telephone, natural gas, electric, and cable television services.

WATERSHED ---- A region or area bounded by a greater elevation and draining ultimately to a particular body of water.

54-7. Applicability of provisions.

- A. This chapter shall apply to all development, as defined herein, which involves the uncovering, exposure or disturbance of 500 or more square feet of soil. Excepted herefrom are agricultural operations, whether or not within an agricultural district, as defined in Article 25AA of the New York State Agriculture and Market Laws, and private gardens.
- B. No person, corporation, entity, organization, or public agency shall initiate any development activities, land clearing, land grading, or earthmoving activities (hereinafter also collectively referred to as "land disturbance activity") unless in conformity with the regulations of this chapter.
- C. No person, agency, corporation or other entity shall commence any development or land disturbing activities without obtaining an erosion control permit issued by the Town Enforcement Officer.
- D. No person shall be granted an erosion control permit for land disturbing activity that would require the disturbance or uncovering of 10,000 or more square feet without the approval of an erosion control plan by the Town Planning board.
- E. *No person shall develop land within any riparian area using riparian setbacks as defined below:*
 - (1) *300 feet on each side of all streams draining an area greater than 300 sq. mi.*
 - (2) *100 feet on each side of all streams draining an area greater than 20 sq miles up to 300 sq. mi.*
 - (3) *75 feet on each side of all streams draining an area greater than 0.5 sq mi (320 Acres) up to 20 sq mi.*
 - (4) *50 feet on each side of all streams draining an area greater than 0.05 sq mi.(32 acres) up to 0.5 sq mi (320 Acres).*

- (5) 30 feet on each side of all streams draining an area less than 0.05 sq mi. (32 acres)
- (6) If the 100-year floodplain is wider than the designated setback, the setback width will increase to meet the 100-year floodplain.

F. Exemptions. The following activities are exempt from the erosion control plan requirement but must comply with the performance standards listed in * 54-11 and have the applicable erosion control measures approved by the Code Enforcement Officer:

- (1) Development or land disturbing activities involving at least 500 square feet of soil, but less than 10,000 square feet of soil;
- (2) Development of one single family residential structure or one duplex unit and accessory structures and utilities thereto;
- (3) The installation of a lawn for one single-family residential structure; and
- (4) The installation of a driveway for one single-family residential structure.
- (5) The installation of all septic systems which are subject to the review, inspection and/or approval of the Livingston County Department of Health. **[Amended 8-8-2002 by L.L. No. 4-2002]**

54-8. Erosion control permit; inspections; certificate of compliance; certificate of occupancy.

A. Erosion control permit.

- (1) An applicant shall submit an erosion control permit application to the Code Enforcement Officer, who shall inform the applicant within seven days if the application is incomplete.
- (2) The Code Enforcement Officer shall refer all complete erosion control permit applications for lands within the Conesus Lake Watershed District to the Conesus Lake Watershed Inspector within seven days of receipt for review and comment.
 - (a) The Watershed Inspector shall have 14 days to comment on the application and return those comments to the Code Enforcement Officer; and
 - (b) The Code Enforcement Officer shall consider comments from the Watershed Inspector if the comments are received within this period of time.
- (3) If an erosion control plan is not required, the Code Enforcement Officer shall review the application to determine whether the proposed erosion control measures comply with the performance standards outlined in * 54-11 of this chapter and approve or deny the erosion control permit based on that review. A preconstruction meeting with the Code Enforcement Officer, the Conesus Lake Watershed Inspector, and the applicant may be required prior to the issuance of an erosion control permit.
- (4) If an erosion control plan is not required, an erosion control permit must be approved or denied within 60 days of receipt of a complete erosion control application by the Code Enforcement Officer.
- (5) Issuance of an erosion control permit does not authorize development of the site unless and until all other applicable permits or approvals, including a building permit are issued pursuant to federal, state and local law.

- B. Inspections. The applicant shall arrange with the Code Enforcement Officer for scheduling inspections of the site. The Code Enforcement Officer shall inspect the work and either approve it or notify the applicant in writing of any failure to comply with the requirements of the approved erosion control plan and/ or erosion control permit. The Code Enforcement Officer and the Watershed Inspector may conduct inspection at reasonable times to ensure effective control of erosion and sedimentation during all phases of construction. The Code Enforcement Officer may have the Town Engineer consulted for an inspection, the applicant shall be responsible for the cost of such consultation, pursuant to Article VI of Chapter 106 of the Code of the Town of Geneseo.
- C. A certificate of compliance shall be issued by the Code Enforcement Officer after all final grading and seeding are completed and all permanent erosion control measures are established as specified in the erosion control permit and to the satisfaction of the Code Enforcement Officer.
- D. A Permanent certificate of occupancy shall not be issued until a certificate of compliance is issued for the satisfactory installation and/ or completion of erosion control measures.

54-9. Contents of erosion control plan.

- A. Erosion control plans shall be prepared by a certified professional. Plans must contain the information set forth in this section to enable the Town Planning Board to determine whether the plan will prevent the development from adversely affecting the water quality of the surface water due to erosion. In making this determination, plans shall be evaluated pursuant to the performance standards in * 54-11 hereof, and must therefore contain sufficient information to permit such evaluation.
- B. The erosion control plan shall contain the name, address, and telephone number of the owner, contractor, and developer. In addition, the legal description of the property shall be provided, and its location with reference to such landmarks as major water bodies, adjoining roads, railroads, subdivisions, or towns shall be clearly identified on a map.
- C. The structure and content of the erosion control plan shall be as follows:
 - (1) Background information.
 - (a) Project description which shall include, but not be limited to, a sequence of construction of the development site, including stripping and clearing, rough grading, construction of utilities, infrastructure, and buildings, and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, and the sequence of clearing, installation of temporary erosion and sediment measures, and establishment of permanent vegetation.
 - (b) Existing (predevelopment) conditions, including but not limited to, an identification of soils, slopes, and existing vegetative cover and drainage conditions.
 - (c) Proposed future (development) conditions, including, but not limited to, an identification of drainage conditions and changes in vegetative cover anticipated to result from the proposed activity.
 - (2) Erosion and sediment control.

- (a) Identification of temporary erosion and sediment control measures, including, but not limited to, seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, and type and quantity of mulching for both temporary and permanent vegetative control measures.
 - (b) Identification of permanent erosion and sediment control measures.
- (3) Implementation schedule and maintenance, including, but not limited to, easements and estimates of the cost of maintenance.

54-10. Erosion control plan review process

- A. The applicant shall submit a complete erosion control plan to the Code Enforcement Officer.
- B. The Code Enforcement Officer shall inform the applicant in writing within 14 days if the erosion control plan is incomplete. The erosion control plan shall automatically be deemed complete if the Code Enforcement Officer does not inform the applicant within 14 days.
- C. When the erosion control plan is determined to be complete, the Code enforcement officer shall then schedule it for review at the next available Town Planning Board meeting, to be held not later than 31 days after the erosion control plan is determined to be complete.
- D. All erosion control plans for development in the Conesus Lake Watershed must be referred to the Conesus Lake Watershed Inspector for review and comment within five days of Code Enforcement Officer receipt of the plan. Comments received from the Conesus Lake Watershed Inspector prior to the Town Planning Board meeting will be considered by the Code Enforcement Officer and the Town Planning Board.
- E. The applicant shall receive written notice of the time and place of the Town Planning Board meeting where the erosion control plan will be reviewed no less than five days prior to the Town Planning Board meeting.
- F. An erosion control plan shall also be reviewed by the Town Engineer or any other certified professional retained by the Town. The Engineer or certified professional may then recommend approval or disapproval of the plan to the Town Planning Board prior to the scheduled Planning Board meeting where the plan will be discussed. A recommendation for approval or disapproval of the plan must be based on conformance to the performance standards listed in 55-11.
- G. The Town Planning Board shall have the authority to impose reasonable condition to ensure that the objectives of this chapter are met.
- H. The Town Planning Board shall approve or disapprove the erosion control plan. Approval or disapproval of the plan must be based on conformance to the performance standards listed in 54-11, so as to protect the water quality of Conesus Lake, and should clearly identify why it does not, in the instance of a disapproval, conform to the performance standards.
- I. The Town Planning Board shall report the decision to the Code Enforcement Officer and the applicant within 10 days of approval or disapproval for the plan.

- J. If the erosion control plan is approved, the Code Enforcement Officer shall issue the applicant an erosion control permit within 10 days of receipt of the Town Planning Board decision.

54-11. Performance Standards

The following performance standards must be applied to all land disturbing activities described in this chapter, including those exempted under 54-5 hereof, as well as those for which a permit is required hereunder:

- A. Existing vegetation on a project sites hall be retained and protected as much as possible to minimize soil loss from the project site.
- B. Sediment control practices/measures shall be designed to protect the natural character of water bodies on-site as well as off-site. The practices must be in place before the start of land disturbance activities until the establishment of permanent stabilization.
- (1) The off-site impacts of erosion and sedimentation from the development site shall not be any grater during and following land disturbance activities than under predevelopment conditions.
 - (2) Water in stream reaches on-site and downstream of construction areas shall not have substantial visible contrast relative to color, taste, odor, turbidity and sediment deposition from the water in reaches upstream of the construction area.
 - (3) Sediment laden runoff shall not be allowed to enter any water body and result in deposition on the bottom of the water body, degrade its natural biological function, or be deleterious to the classified usage of the water.
- C. All erosion and sediment control measures shall be constructed prior to beginning any land disturbance activities. All runoff from disturbed areas shall be directed to sediment control devices. These devices shall not be removed until the disturbed land areas are stabilized.
- D. Specific guidance.
- (1) Exposure restrictions. No more than 10 acres of unprotected soil shall be exposed at any one time. Previous earthwork shall be stabilized in accord with approved design standards and specifications referenced in Subsection D(8) before additional area is exposed.
 - (2) Grading. Perimeter grading shall blend with adjoining properties.
 - (3) Vegetative protection. Where protection of trees and/or other vegetation is required, the location shall be shown on the erosion control plan or on the drawings for the proposed development project. The method of protecting vegetation during the construction shall conform to the design specifications reference in Subsection D(8).
 - (4) Drainage control.
 - (a) Surface runoff that is relatively clean and sediment free shall be diverted or otherwise prevented from flowing through areas of construction activity on the project site. (This will greatly reduce sediment loading in surface runoff.)
 - (b) A fill associated with an approved temporary sediment control structure or permanent stormwater management structure shall not be created which

causes water to pond off-site on adjacent property, without first having obtained ownership or permanent easement for such use from the owner of the off-site or adjacent property.

- (c) Natural drainage channels shall not be altered. Pursuant to Article 15 of the Environmental Conservation Law, a protected stream and banks thereof shall not be altered or relocated without the approval of the Department of Environmental Conservation.
- (d) Runoff from any land disturbing activity shall not be discharged or have the potential to be discharged off-site or into storm drains or into water courses unless such discharge is directed through a properly designed, installed and maintained structure, such as a sediment trap, to retain sediment on-site. Accumulated sediment shall be removed when it takes up 60% of the storage capacity of the sediment retention structure. (See Subsection D98 below for design specifications.)
- (e) For finished grading, adequate gradients shall be provided so as to prevent water from standing on the surface of lawns for more than 24 hours after the end of a rainfall, except in a swale flow area which may drain as long as 48 hours after the end of rainfall.
- (f) Permanent swales or other point of concentrate water flow shall be stabilized. Biotechnical approaches using certain types of grasses, such as reed canary grass, are preferable to using sod, gabions and riprap where water quality enhancement is a high priority and the swale design allows. However, sod, gabions, or riprap may be used to stabilize swales where soils and gradient preclude the use of grasses. Use of grasses may require an erosion control matting as provided for in the design specification reference in Subsection D(8) below.
- (g) Surface lows over cut and fill slopes shall be controlled as provided for in the design specification for vegetating waterways reference in Subsection D(8).

(5) Timing

- (a) Except as noted below, all sites shall be seeded and mulched with erosion control materials, such as rye grass, straw mulch, jute, or excelsior (wood shavings), within 15 days of initial disturbance. Of construction has been suspended, or sections completed, areas shall be seeded immediately and stabilized with erosion control materials. Maintenance shall be performed as necessary to ensure continued stabilization.
- (b) For active construction areas, such as borrow or stockpile areas roadway improvements and areas within 50 feet of a building under construction, a perimeter sediment control system consisting, for example, of silt fencing or hay bales, shall be installed and maintained to contain soil.
- (c) On cut sides of roads, ditches shall be stabilized immediately with rock riprap or other non-erodable liners, where appropriate, vegetative measures such as sod. When seeding is approved, an anchor mulch shall be used and soil shall be limed and fertilized in accord with recommendations referenced in Subsection D(8).

- (d) Permanent seeding shall optimally be undertaken in the spring from April 1 through June 15, and in late summer from August 1 to October 15. During the peak summer months and in the fall after October 15 when seeding is found to be impracticable, an appropriate mulch shall be applied. Permanent seeding may be undertaken during summer if plans provide for adequate watering of the seedbed.
 - (e) All slopes steeper than 15%, as well as basin or tap embankments, and perimeter dikes shall, upon completion, be stabilized with sod, seed and anchored straw mulch, or other approved stabilization measures. Areas outside of the perimeter sediment control system shall not be disturbed. Maintenance shall be performed as necessary to ensure continued stabilization.
 - (f) Temporary sediment trapping devices shall be removed within 30 calendar days following establishment of permanent stabilization in all contributory drainage areas. Stormwater management structures used temporarily for sediment control shall be made permanent within this time period as well. Accumulated sediments removed from temporary sediment traps or permanent stormwater management facilities shall be disposed in a manner so as not to erode and enter a water body.
- (6) Stream corridor management. The bed and banks of all on-site and off-site streams which may be impacted by land clearing, grading, and construction activities shall be protected to prevent sedimentation, stream bank erosion, stream enlargement, or degradation or loss of fisheries habitat. Measures of protecting the bed and/or banks of a stream may include gabion baskets, riprap, log cribbing, or a vegetative measure. Whenever possible, vegetative stream bank stabilization practices, such as recommended over structural practices, such as riprap and gabion linings that may unnecessarily alter the existing stream ecosystem. Native species of vegetation shall be used for stream bank stabilization where practical. In undertaking stream bank stabilization activities for protected streams, the applicant shall comply with appropriate protection of water revisions in Article 15 of the Environmental Conservation Law of the State of New York.
- (7) Maintenance.
- (a) All points of construction ingress and egress shall be protected to prevent the deposition of materials onto traversed public thoroughfares either by installing and maintaining a stabilized construction entrance or by maintaining a vehicle wash area in a safe disposal area to wash vehicle shells and undercarriage. All materials deposited onto public thoroughfares shall be removed immediately. Proper precaution shall be taken to assure that the removal of materials deposited onto public thoroughfares will not enter catch basins, storm sewers or water bodies.
 - (b) Accumulated sediment shall be removed when 60% of the storage capacity of sediment retention structures is reached. All removed sediment shall be disposed of in a spoil area where it can be graded, mulched and seeded to prevent erosion and sedimentation.

- (8) Design specifications. The designs, standards and specifications for controlling erosion and sedimentation found in the most recent version of the following publication are acceptable for use and shall be identified and shown in the erosion control plan: New York Guidelines for Urban Erosion and Sediment Control, Urban Soil Erosion and Sediment Control Committee.

54-12 Performance bond.

- A. In order to ensure the full and faithful completion of all construction activities related to compliance with all conditions set forth by the Town Planning Board in its approval of the erosion control plan, the Town Planning Board may require the applicant and/or the applicant's contractor to provide, prior to construction, a performance bond, escrow account certification, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town as the beneficiary. The security shall be in an amount to be determined by the Town Planning Board based on submission of final design plans, with reference to actual construction costs.
- B. Where erosion and sediment control facilities are to be operated and maintained by the applicant or by any person or entity that owns or manages a commercial or industrial facility, the applicant, prior to construction, may be required to provide the Town with a performance bond or an irrevocable letter of credit from an appropriate financial institution or noted surety to ensure proper operation and maintenance of all erosion control facilities for the life of the project.
- C. The performance bond or letter of credit shall remain in force until the surety is released from liability by the Town.
- D. Per annum interest on the performance bond or letter of credit shall be reinvested in the account until the surety is released from liability.
- E. If the developer or owner fails to properly operate and maintain erosion and sediment control facilities, the Town may draw upon the account or notify the surety to cover the costs of proper operation and maintenance.

54-13 Enforcement.

- A. Any development activity that is commenced without first being granted an erosion control permit, or which is conducted contrary to an approved erosion control plan, or contrary to the performance standards listed in *54-11 hereof may be issued a notice of violation and restrained by a stop-work order issued by the Code Enforcement Officer.
- B. Service of a notice of violation shall be sufficient if directed to the owner, agent of the owner or contractor and left at his or her last known place of business or residence, if within the municipality; and if no place of business or residence can be found, then the notice shall be served by posting in a conspicuous place on the premises which is the subject of the violation.
- C. A stop-work order shall also be issued on the project if any of the following conditions are not met during development of the land:

- (1) There shall be no increase in turbidity that will cause a substantial visible contrast to natural conditions;
 - (2) There shall be no suspended, colloidal and settleable solids that will cause deposition or impair waters in the area for their best usages; and
 - (3) There shall be no residue from oil and floating substances, visible oil film, globules, or grease (6 NYCRR, Part 703, Surface Water and Groundwater Quality Standards and Groundwater Effluent Limitations).
- D. Civil and criminal penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be punished by a fine of not less than \$200 per day nor more than \$1,000 per day or by imprisonment for a period not to exceed 60 days, or both such fine and imprisonment. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.
- E. 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, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

54-14 Appeals

Any person aggrieved by the action of any official charged with the enforcement of this chapter, as the result of the disapproval or approval of an erosion control permit or an alleged failure by the Code Enforcement Officer to properly enforce the chapter in regard to a specific application, shall have the right to appeal the action to the Town Zoning Board of Appeals. The appeal shall be filed in writing within 20 days of the date of official transmittal of the final decision or determination to the applicant, shall state clearly the grounds on which the appeal is based, and shall be processed in the manner prescribed for hearing administrative appeals under state/local code provisions.

54-15 Variances.

The Town Zoning Board of Appeals may grant a written variance from any requirement of this chapter using the following criteria:

- A. There are special circumstances applicable to the subject property or its intended use; and
- B. The granting of the variance shall not result in:
 - (1) An increase or decrease in the rate or volume of surface water runoff;
 - (2) An adverse impact on a wetland, watercourse or water body;
 - (3) Degradation of water quality; or
 - (4) Otherwise impair attainment of the objectives of this chapter.

ARTICLE VI – OVERLAY DISTRICTS

Section 601. Effect of Overlay Districts.

Overlay Districts combine with and add to the regulations of the basic districts established in this Ordinance. All uses in any Overlay District require a Site Plan Review.

Section 602. Conservation Overlay Districts. The intent of the Conservation Overlay Districts is to protect fragile natural areas, including stream corridors and wetlands, where changes and/or development would be adverse to the environment, community values, public health, safety and general welfare of the Village, in accordance with the Village of Trumansburg Comprehensive Plan. The provisions of this section take precedence over any other zoning section, law or code to the extent that the provisions of this section are inconsistent with the other provisions.

Section 603. Site Plan Review in Conservation Overlay Districts.

Any Site Plan Review conducted within a Conservation Overlay District shall include, in addition to any other requirements of this ordinance, additional project review criteria and additional submission materials.

Section 604. Stream Corridor Conservation Overlay District. Section 723 of this Ordinance establishes minimum stream buffers for perennial and intermittent streams throughout the Village. Within the Stream Corridor Conservation Overlay District, additional requirements apply.

Section 604.1. Protection Requirements for Perennial Streams. All perennial streams shall require a riparian buffer and a setback area. All site plan applications, special permits, special approval and variance applications, building permit applications, and excavation or fill permit applications shall require the delineation of any applicable riparian buffers and setback areas. Prior to any soil-disturbing activity, the riparian buffer and setback area shall be clearly delineated on site and shall be undisturbed until the project is complete.

1. Riparian Buffer Established. The riparian buffer will begin at the top of the stream bank and extend a minimum of fifty (50) feet horizontally measured in a direction directly perpendicular to the stream bank in a horizontal plane. Should a steep slope or wetland exist within this riparian buffer the entirety of that area will be added to the measurement of the riparian buffer. In addition to those minimum requirements, Site Plan Review shall consider whether additional buffer width is appropriate along perennial streams within the Stream Corridor Conservation Overlay District to protect and promote:
 - a. Habitat and Biodiversity, by providing terrestrial wildlife habitat and travel corridors, and food and habitat in aquatic ecosystems.
 - b. Stream Stability, by attenuating flooding, stabilizing stream banks and preventing erosion of stream banks and streambeds.
 - c. Water Quality, by removing pollutants and moderating temperatures.
 - d. Financial Savings, by preventing property damage, reducing public investment and protecting public facilities from flooding or other hazards.
2. Riparian Buffer Restrictions. Riparian buffers shall maintain native vegetation in a natural state. Development may not modify or interrupt more than 10% of the entire riparian buffer area unless necessary for the protection of human health, utility usage, public infrastructure, or the betterment of the riparian corridor. Development within the riparian buffer is limited to:
 - a. Benches or seating.
 - b. Educational and scientific research.
 - c. Flood control, stormwater management structures, and stream bank stabilization measures approved by the Tompkins County Soil and Water Conservation District, Natural Resource Conservation Service, Army Corps of Engineering, or NYS Department of Environmental Conservation.
 - d. Maintenance of roadways or impervious surfaces existing at the time of the adoption of this provision.
 - e. Stream crossings necessary to access the property by driveway, transportation route, or utility line which have minimal negative impacts on the stream and riparian buffer.
 - f. Public water supply intake or public wastewater outfall structures.
 - g. Public access and public recreational facilities that must be on the water including boat ramps, docks, foot trails leading directly to the stream, fishing platforms and overlooks.

- h. Public sewer lines and/or other utility easements.
 - i. Non-paved recreational trails no wider than 10 feet that either provide access to the stream or are part of a continuous trail system running roughly parallel to the stream.
 - j. Temporary use of erosion control measures such as silt fencing.
3. Setback Area Established. The Setback Area will begin at the outward edge of the Riparian Buffer and extend an additional fifty (50) feet from the top of stream bank.
4. Setback Area Restrictions. Within the setback area development uses are restricted to the following:
- a. All development and uses permitted in the riparian buffer.
 - b. Minor recreational structures and surfaces to allow passive recreation in the setback area such as decks, picnic tables, playground equipment, and small concrete slabs, the total area of which is not to exceed 200 square feet each and in aggregate occupy no more than 10% of the setback area.
 - c. Fences, provided such structures do not impede floodwaters.
 - d. Landscaping, mowing, decorative planting or improvements that do not encroach upon or impact the integrity of the riparian buffer.

Section 604.2. Submission Materials. In addition to any other materials required by this ordinance, the proposed site plan shall show the location of the top of banks of any perennial stream within fifty (50) feet of the property.

Section 604.3. Prohibited Activities. The following activities are explicitly prohibited within any riparian buffer or setback area:

- a. Storage or placement of any hazardous materials.
- b. Purposeful introduction of invasive vegetative species that reduce the persistence of native vegetation.
- c. Waste storage, placement, or disposal, including but not limited to disposal and dumping of snow and ice, recyclable materials, manure, hazardous or noxious chemicals, inoperative automobiles or appliance structures, and other abandoned materials.
- d. Mining or removal of soil, sand and gravel, and quarrying of raw materials.
- e. Dredging, deepening, widening, straightening or any such alteration of the beds and banks of natural streams except where the New York State Department of Environmental Conservation has issued a permit expressly allowing such activities.
- f. Application of herbicide, pesticides, fertilizers, or other chemicals.
- g. Parking of motorized vehicles, except as permitted as a Special Use by the Board of Appeals.

Section 604.4. Exemptions. The following specific activities are exempt from the requirements of the Stream Corridor Conservation Overlay District.

- a. This section shall not apply to agricultural land use activity existing as of the effective date of this ordinance.
- b. Work consisting of the repair or maintenance of any lawful use of land that is approved for such use on or before the effective date of this ordinance.

605. Wetland Conservation Overlay District.

Section 605.1. Buffer Requirement.

- 1. Buffer Required. A minimum setback of 100 feet shall be required from the delineated boundaries of all wetlands of two acres or more within the Wetland Conservation Overlay District. The Planning Board may, in reviewing any site plan within the Wetland Overlay District, require greater setbacks.
- 2. Exempt activities. The following activities shall be permitted within a Wetland Overlay District without a Site Plan Review provided they do not require structures, grading, fill, draining, or dredging:
 - a. Normal ground maintenance including mowing, trimming of vegetation.
 - b. Repair of existing decorative landscaping and planting native species.
 - c. Repair of existing walkways, walls, and driveways.

- d. Public health activities, in emergencies only, of the County Department of Health and/or New York State Department of Health.
 - e. Operation of existing dams and water control devices.
3. **Prohibited activities.** The following activities are explicitly prohibited in both the setback area.
- a. Storage or placement of any hazardous materials.
 - b. Purposeful introduction of invasive vegetative species that reduce the persistence of native vegetation.
 - c. Waste storage, placement, or disposal, including but not limited to disposal and dumping of snow and ice, recyclable materials, manure, hazardous or noxious chemicals, used automobiles or appliance structures, and other abandoned materials.
 - d. Mining or removal of soil, sand and gravel, and quarrying of raw materials.
 - e. Alteration of wetlands except where the New York State Department of Environmental Conservation or the U.S. Army Corps of Engineers has issued a permit expressly allowing such activities.
 - f. Application of herbicide, pesticides, fertilizers, or other chemicals.
 - g. Parking of motorized vehicles, except as permitted as a Special Use by the Board of Appeals.

Section 605.2. Project Review Criteria. Site Plan Review within the Wetland Conservation Overlay District shall consider the impact of any proposed project on:

- 1. The ability of the wetland to filter harmful toxins, nutrients, and sediment from surface and stormwater runoff.
- 2. The ability of the wetland to store floodwaters and reducing the magnitude of flood events.
- 3. The ability of the wetland to provide valuable habitat for a diverse array of flora and fauna, including any existing rare, threatened, or endangered species.
- 4. The ability of the wetland to maintain surface-water flow during dry periods.
- 5. The impact of any excessive siltation resulting from surface runoff from construction sites, road, bridge, and pipeline construction and lack of erosion control on steep slopes.
- 6. The impact of pollution by road salt and chemical pollution from parking lots and treated lawns.
- 7. The impact of pollution by garbage, litter, and refuse.
- 8. The impact of a reduction in the flow of watercourses due to destruction of wetlands.

Section 605.3. Submission Materials. In addition to any other materials required by this ordinance, the proposed site plan shall show the boundaries of any wetland as determined by field investigation. The Planning Board may require flagging and subsequent survey by a licensed land surveyor. The Planning Board may consult and/or may require the applicants to consult with approved biologists, hydrologists, soil scientists, ecologists, botanists, legal counsel, engineers, or other experts necessary to make this determination.

Section 719. Extraction of Natural Products. In any district, the removal of sod, loam, sand, gravel or quarried stone for sale, except when incidental to, or in connection with, the construction of a building shall be prohibited.

Section 720. Access to Business or Manufacturing Use. No driveway or other means of access for vehicles, other than a public street, shall be maintained or used in any residence district for the servicing of a business or manufacturing use located in a commercial or industrial district.

Section 721. Gas Stations. No gasoline or oil pump, no oiling or greasing mechanism and no other service appliance installed in connection with any gasoline sales station or public garage shall be within thirty (30) feet of any street right-of-way or within fifty (50) feet of any residential zoning district.

Section 722. Swimming Pools. All swimming pools shall be constructed and installed in accordance with the requirements of the New York State Uniform Fire Prevention and Building Code and require a building permit. Swimming pools shall meet the setback requirements for accessory structures. The sides of pools must be firm and not able to be bent or lowered by body weight or ladders or other point of entry equipment.

Section 723. Stream Buffers. This section is intended to promote the prevention of sediment, nutrient and pollutant loads from entering streams by maintaining stream buffers from the top of stream bank.

Section 723.1. Protection Requirements for Perennial and Intermittent Streams. All perennial and intermittent streams shall require a riparian buffer with a total width of fifty (50) feet from the top of stream bank. All site plan applications, special permits, special approval and variance applications, building permit applications, and excavation or fill permit applications shall require the delineation of any applicable riparian buffers. Prior to any soil-disturbing activity, the riparian buffer shall be clearly delineated on site and shall be undisturbed until the project is complete.

Section 723.2. Riparian Buffer. The riparian buffer will begin at the top of the stream bank and extend a minimum of fifty (50) feet horizontally measured in a direction directly perpendicular to the stream bank in a horizontal plane. Should a steep slope or wetland exist within this riparian buffer the entirety of that area will be added to the measurement of the riparian buffer. Riparian buffers shall maintain native vegetation in a natural state. Development may not modify or interrupt more than 10% of the entire riparian buffer area unless necessary for the protection of human health, utility usage, public infrastructure, or the betterment of the riparian corridor. Development within the riparian buffer is limited to:

- a. Benches or seating.
- b. Educational and scientific research.
- c. Flood control, stormwater management structures, and stream bank stabilization measures approved by the Tompkins County Soil and Water Conservation District, Natural Resource Conservation Service, Army Corps of Engineering, or NYS Department of Environmental Conservation.
- d. Maintenance of roadways or impervious surfaces existing at the time of the adoption of this provision.
- e. Stream crossings necessary to access the property by driveway, transportation route, or utility line which have minimal negative impacts to the stream and riparian buffer.
- f. Public water supply intake or public wastewater outfall structures.
- g. Public access and public recreational facilities that must be on the water including boat ramps, docks, foot trails leading directly to the stream, fishing platforms and overlooks.
- h. Public sewer lines and/or other utility easements.
- i. Non-paved recreational trails no wider than 10 feet that either provide access to the stream or are part of a continuous trail system running roughly parallel to the stream.
- j. Temporary use of erosion control measures such as silt fencing.

Section 723.3. Exemptions. The following specific activities are exempt from the requirements of this section.

- a. This section shall not apply to agricultural land use activity existing as of the effective date of this ordinance.
- b. Work consisting of the repair or maintenance of any lawful use of land that is approved for such use on or before the effective date of this ordinance.

Section 723.4. Prohibited Activities. The following activities are explicitly prohibited in the riparian buffer.

- a. Storage or placement of any hazardous materials.
- b. Purposeful introduction of invasive vegetative species that reduce the persistence of native vegetation.
- c. Waste storage, placement, or disposal, including but not limited to disposal and dumping of snow and ice, recyclable materials, manure, hazardous or noxious chemicals, used automobiles or appliance structures, and other abandoned materials.
- d. Mining or removal of soil, sand and gravel, and quarrying of raw materials.
- e. Dredging, deepening, widening, straightening or any such alteration of the beds and banks of natural streams except where the New York State Department of Environmental Conservation has issued a permit expressly allowing such activities.
- f. Application of herbicide, pesticides, fertilizers, or other chemicals.
- g. Parking of motorized vehicles, except as permitted as a Special Exception by the Board of Appeals.

Section 724. Private Roads. Any private road serving more than one lot or more than two buildings shall be constructed to meet Village specifications for right-of-way, grade and cross section, as approved by the Village Superintendent of Public Works or Village Engineer.