

**ARTICLE 22**  
**EROSION AND SEDIMENT CONTROL ORDINANCE**

**Section 22.01. INTRODUCTION/PURPOSE**

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Clearing and grading during construction add to the loss of native vegetation necessary for terrestrial and aquatic habitat. In addition, eroded soil necessitates repair of sewers and ditches and dredging of lakes. The purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment from erosion and sedimentation in the Town of Schuylers. Compliance with this ordinance will also meet the requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development, or other activity, that disturbs or breaks the topsoil or results in the movement of earth on land in the Town of Schuylers.

**Section 22.02. PERMITS**

A. No person shall be granted a site development permit for land-disturbing activity that would require the uncovering of one acre of land without the approval of an Erosion and Sediment Control Plan by the Town of Schuylers.

B. No site development permit is required for the following activities:

1. Agricultural activity as defined in this ordinance.
2. Cemetery graves.
3. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
4. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

C. Each permit application shall bear the name(s) and address(es) of the owner or developer of the site and of any consulting firm retained by the applicant, including the name of the applicant's principal contact at such firm. The application shall be accompanied by a filing fee. The applicant will be required to file with the Town of Schuylers a faithful performance bond, letter of credit, or other improvement security in an amount deemed sufficient by the Town of Schuylers to cover all costs of improvements, landscaping, maintenance of

improvements for such period as specified by Town of Schuyler, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

### **Section 22.03.**

### **REVIEW AND APPROVAL**

The Town of Schuyler will review each application for a site development permit to determine its conformance with the provisions of this regulation. Within 30 days after receiving an application, Town of Schuyler shall, in writing:

1. Approve the permit application;
2. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
3. Disapprove the permit application, indicating the reason(s) and/or procedure for submitting a revised application and/or submission.

Failure of the Town of Schuyler to act on an original or revised application within 30 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed, unless such time is extended by agreement between the applicant and the Town of Schuyler.

Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the Town of Schuyler.

### **Section 22.04.**

### **EROSION AND SEDIMENT CONTROL PLAN**

The Erosion and Sediment Control Plan shall include the following:

1. A natural resources map identifying soils, forest cover, and resources protected under other chapters of this ordinance.
2. 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, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
3. All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.

4. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

5. Provisions for maintenance of ESC practices, including easements and estimates of the cost of maintenance. Modifications to the plan shall be processed and approved or disapproved in the same manner as Section 22.03 of this Article, and may be authorized by the Town of Schuyler through written authorization to the permittee, and shall include major amendments of the erosion and sediment control plan submitted to the Town of Schuyler. Field modifications of a minor nature may be approved verbally by the Town of Schuyler and noted in the site log book.

## **Section 22.05. DESIGN REQUIREMENTS**

A. Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the "NYS Erosion Control Standards and Specifications" manual. A copy of the manual is on file in the office of the Town Clerk of the Town of Schuyler.

B. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when approved by the Town of Schuyler. Clearing techniques that retain natural vegetation and drainage patterns, as described in "NYS Erosion Control Standards and Specifications" manual, shall be used to the satisfaction of the Town of Schuyler.

C. Clearing, except that necessary to establish sediment control devices, shall not begin until all start up erosion and sediment control devices have been installed and have been stabilized.

D. Phasing shall be required on all sites disturbing greater than 5 acres, with the size of each phase to be established at plan review and approved by the Town of Schuyler.

E. Erosion control requirements shall include stabilization measures applied as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. This requirement does not apply in the following instances:

1. Where the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently ceased is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable;

2. Where construction activity on a portion of the site is temporarily ceased, and earthdisturbing activities will be resumed within twenty-one (21) days, temporary stabilization measures need not be initiated on that portion of the site.
- F. If seeding or other vegetative erosion control method does not germinate within two weeks the Town of Schuyler may require the site to be reseeded, or a nonvegetative option employed.
- G. Special techniques that meet the design criteria outlined in the "NYS Erosion Control Standards and Specifications" manual for steep slopes and/or drainage ways shall be used. Soil stockpiles must be stabilized. At the close of the construction season, the entire site must be stabilized using a heavy mulch layer or another method that does not require seed germination to control erosion (if seed germination will not occur due to climate limitations).
- H. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
- I. Techniques that divert upland runoff past disturbed slopes shall be employed. Sediment control requirements shall include: settling basins, sediment traps or tanks, and perimeter controls.
- J. Settling basins that are designed for adaptation to long term stormwater management require approval by the Town of Schuyler.
- K. The permittee will protect adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.
- L. If a wet watercourse will be crossed regularly during construction, a temporary stream crossing practice approved by the Town of Schuyler will be installed. Stabilization of the watercourse channel and banks before, during, and after any in-channel work will be completed.
- M. Stabilization adequate to prevent erosion located at the outlets of all pipes, paved channels and all on-site stormwater conveyance channels will be designed according to the criteria outlined in "NYS Erosion Control Standards and Specifications" manual.
- N. Construction site access requirements shall include a temporary access road provided at all access points in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains or watercourses.

## **Section 22.06. INSPECTION**

The Town of Schuyler, or designated agent, shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and filling, bearing the stamp of approval of the the Town of Schuyler, shall be maintained at the site in the site log book throughout the duration of construction. To obtain inspections, the permittee shall notify the Town of Schuyler at least two working days before the following:

- A. Start of construction
- B. Installation of sediment and erosion measures
- C. Completion of site clearing
- D. Completion of rough grading
- E. Completion of final grading
- F. Close of the construction season
- G. Completion of final landscaping
- H. Successful establishment of landscaping in public areas.

The permittee shall designate a "responsible party" employed by the contractor who shall be on site on all days when construction or grading activity takes place. This employee will inspect and document the effectiveness of all erosion and sediment control practices. The documentation will be kept in a site log book. Inspection reports will be completed every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports will be delivered to the Town of Schuyler and copied to the site log book. All contractors and subcontractors identified in the Erosion and Sediment Control Plan shall sign a copy of the following certification statement before undertaking any construction activity at the site:

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

The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made. Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan.

**Section 22.07. MAINTENANCE**

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

**Section 22.08. ENFORCEMENT**

**A. Stop-Work Order; Revocation of Permit**

In the event that any person holding a permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Town of Schuyler may suspend or revoke the site development permit.

**B. Violation and Penalties**

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than three hundred fifty dollars (\$350.00) for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.