

PERMITTING AND REGULATORY INFORMATION

This section discusses how development in WOH communities is subject to both NYSDEC and NYCDEP review, as mentioned previously. The 2010 updated NYS Stormwater Management Design Manual and NYC DEP Watershed Rules and Regulations¹⁶, also updated in 2010, require documentation of how LID strategies have been considered or will be implemented to maintain pre-development hydrologic conditions.

Currently, some municipal codes are more rigid than those imposed by NYS or NYC. This is usually the result of not allowing for LID/GI practices, which can sometimes be an obstacle for, or even prevent, development. Specific instances include:

- A development site that is too small for a stormwater pond or other conventional stormwater infrastructure;
- Minimum parking space requirements that are based on maximum needs;
- Excessive sidewalk minimums;
- Excessive street and driveway width requirements;
- No allowance for permeable paving, or specifically requiring impervious surfacing materials;
- No allowance for bioretention, or specifically requiring gray infrastructure.

If municipalities take note of the updated regulations and requirements that follow and infuse their local codes with LID principles it should limit confusion and delays for developers, and might attract more developers to the area for those reasons. Also, by maintaining the natural beauty of the area, the scenic and recreational benefits are likely to attract new residents, tourists, and developers.

1. New York State Stormwater Requirements

1A. Construction Stormwater Permit: DEC regulates all soil disturbances greater than one acre in size through their State Pollution Discharge Elimination System (SPDES) General Permit, GP-0-10-001. This was revised in 2010 to require LID and BSD elements, primarily through documented consideration of preserving natural areas and reducing impervious surfaces, resulting in the use of LID techniques or specific reasons for why they cannot be applied to the site. If the techniques cannot be applied, this is often due to specific requirements in municipal regulations, such as those described previously.

1B. SWPPP: A Stormwater Pollution Prevention Plan (SWPPP) is required any time soil disturbances will be greater than one acre. A basic SWPPP must address how soil loss will be prevented and how local water sources will be protected. NY Standards and Specifications for Erosion and Sediment Control (NYSSESC) provide the technical standards for these practices.

A full SWPPP is required in certain instances, and must include plans for post-construction stormwater management. Full SWPPPs are required to document how the protection of natural areas, reduction of impervious surfaces, and use of LID practices will be implemented in the stormwater management plan, when possible. Specific technical requirements and guidance can be found in the NYS Stormwater Design Manual. Chapter 5 of that manual is particularly relevant because it addresses Preservation of Natural Features, Reduction of Impervious Cover, and Green Infrastructure Techniques. These subsections of Chapter 5 are briefly summarized in Appendix B. Also in Appendix B are tables showing selection matrices for LID/GI practices.

¹⁶ "Rules and Regulations for Protection from Contamination, Degradation and Pollution of the New York City Water Supply and its Sources." Final Regulations – Effective May 1, 1997, as Amended April 4, 2010

1C. Notice of Intent: The Notice of Intent (NOI) is a 10-page form that can be filled out online and provides a summary of the proposed project; including the location, any erosion and sediment control practices to be used, and post-construction stormwater management practices that will be installed, if applicable. The length of review is dependent on whether or not the project summary meets the GP-0-10-001 requirements. If the project summary meets those requirements, the owner will receive a letter authorizing the start of construction within 5 days. Otherwise, the SWPPP for the project will be subject to a 60-day DEC review.

1D. Freshwater wetlands: 12.4 acres or greater are regulated by New York State. Smaller wetlands are regulated only if they have been identified and/or delineated and deemed to be of local significance, a fact that highlights the importance of having a natural resource database and documented sensitive areas to maximize the effectiveness of LID principles.

1E. Additional Resources: The DEC websites linked below have more information about the following: GP-0-10-001, technical standards manuals, NOI and other forms and documents, as well as freshwater wetlands regulations or the Uniform Procedures Act¹⁷:

<http://www.dec.ny.gov/chemical/8694.html>

<http://www.dec.ny.gov/chemical/43133.html>

<http://www.dec.ny.gov/lands/4937.html>

<http://www.dec.ny.gov/permits/6081.html>

The web addresses for these documents are periodically updated, so they can alternatively be found by searching for a combination of "NYSDEC" and the key word of what you are looking for, i.e. "GP-0-10-001" or "Uniform Procedures Act".

2. New York City Stormwater Requirements

As part of the New York City Water Supply System Watershed, WOH communities are subject to regulations designed to protect New York City's supply of drinking water¹⁸. These NYCDEP requirements are triggered when planning construction or land-altering activities meet certain criteria. When those criteria are met, projects are administered by NYCDEP. Municipalities are involved in the circulation of applications for review and comment.

2A. Commonly Regulated Development Activities¹⁹: Described below and in Figures 2-4²⁰

- Septic systems – not allowed within 100' of a watercourse or wetland; 300' of a reservoir or reservoir stem²¹. This is shown in Figure 2.
- New impervious surfaces are not allowed within 100' of a watercourse or 300' of a reservoir or reservoir stem. Access roads for subdivisions are allowed within the 100' buffer if DEP approves the project SWPPP. These are shown in Figure 2. Exemptions may apply in designated hamlet areas, as seen in Figure 3.
- Land clearing/grading of two or more acres, on slopes of 15% or greater, or within 100' of a watercourse requires preparation of a full SWPPP. This is shown in Figure 2.

¹⁷ The Uniform Procedures Act provides time frames and procedures for filing and reviewing applications, providing public notice, holding public hearings, and reaching final decisions.

¹⁸ Found at <http://www.nyc.gov/html/dep/pdf/recrules/regulations.pdf>

¹⁹ From "Building in the NYC Watershed" at <http://www.gcswwd.com/swp/wap/building-nyc-watershed.html>

²⁰ Found at http://www.gcswwd.com/images/stories/pdf/wap/mbsdw/lid_guide_final_9_28_11.pdf

²¹ **Reservoir stem** means any watercourse segment which is a tributary to a reservoir and lies within 500 feet or less of the reservoir.

- Construction of a new individual residence that is within 100' of a perennial stream²² but not within a subdivision, or a subdivision approved before Oct. 16, 1996, requires an Individual Residential Stormwater Permit (IRSP) from DEP. This is shown in Figure 2.

2B. SWPPP: NYCDEP requires a full SWPPP any time that the conditions outlined below are met. Plans must address construction and post-construction erosion and sediment controls. A SWPPP for DEP has all of the technical requirements that DEC uses (GP-0-10-001), but sometimes plans are required by DEP when they would not be required by DEC. A full SWPPP is required for the following:

- Development or disturbance of more than 5 acres of total land area. These do not have to be contiguous acres.
- Clearing/grading of 2 or more acres within 100' of a watercourse or on slopes exceeding 15%. Shown in Figure 2.
- Subdivisions of 5 lots or more of 5 acres or less per lot.
- Construction of a new facility that creates more than 40,000 square feet of impervious surface.
- Construction of an impervious surface in a village, hamlet, or commercially-zoned area within 100' of a watercourse or wetland, or 300' of a reservoir or reservoir stem. Shown in Figure 3.

3. Contact Information

3A. New York State Stormwater Contacts

NYS DEC, Division of Environmental Permits

65561 State Hwy 10

Stamford, NY 12167

Kent Sanders, Deputy Regional Administrator, r4dep@gw.dec.state.ny.us

New York State Department of Environmental Conservation, Region 4

1130 North Westcott Rd.

Schenectady, NY 12306-2014

Division of Water: (518) 357-2045

3B. New York City Department of Environmental Protection Contacts

NYC DEP, Water Supply Bureau

71 Smith Ave.

Kingston, NY 12401

Joe Damrath, Stormwater Program Supervisor, (845) 340-7234, jdarrath@dep.nyc.gov

NYCDEP Stream Management Program

71 Smith Ave

Kingston NY 12401

Phone: (845) 340-7628

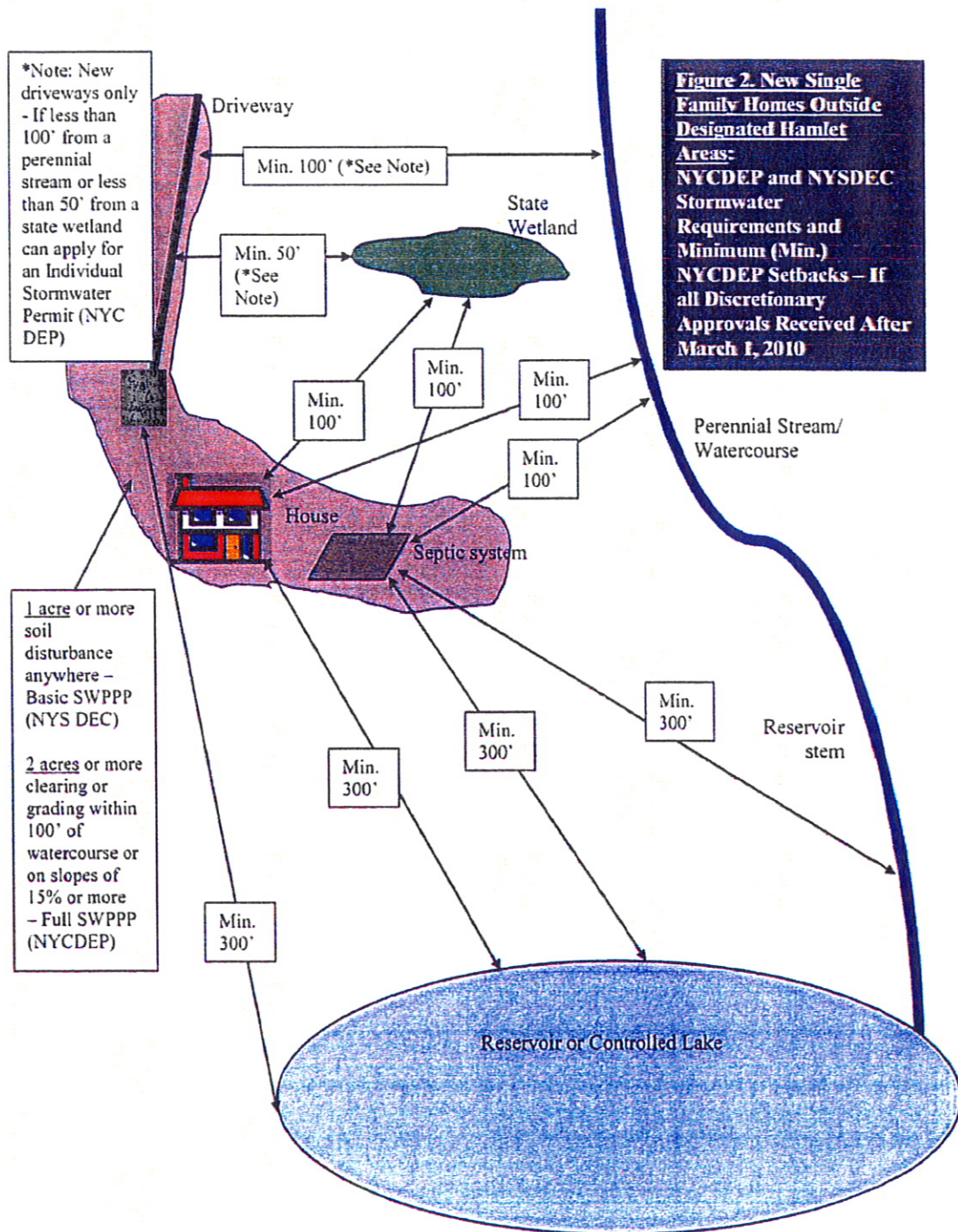
Dave Burns, Program Coordinator

E-Mail: dburns@dep.nyc.org

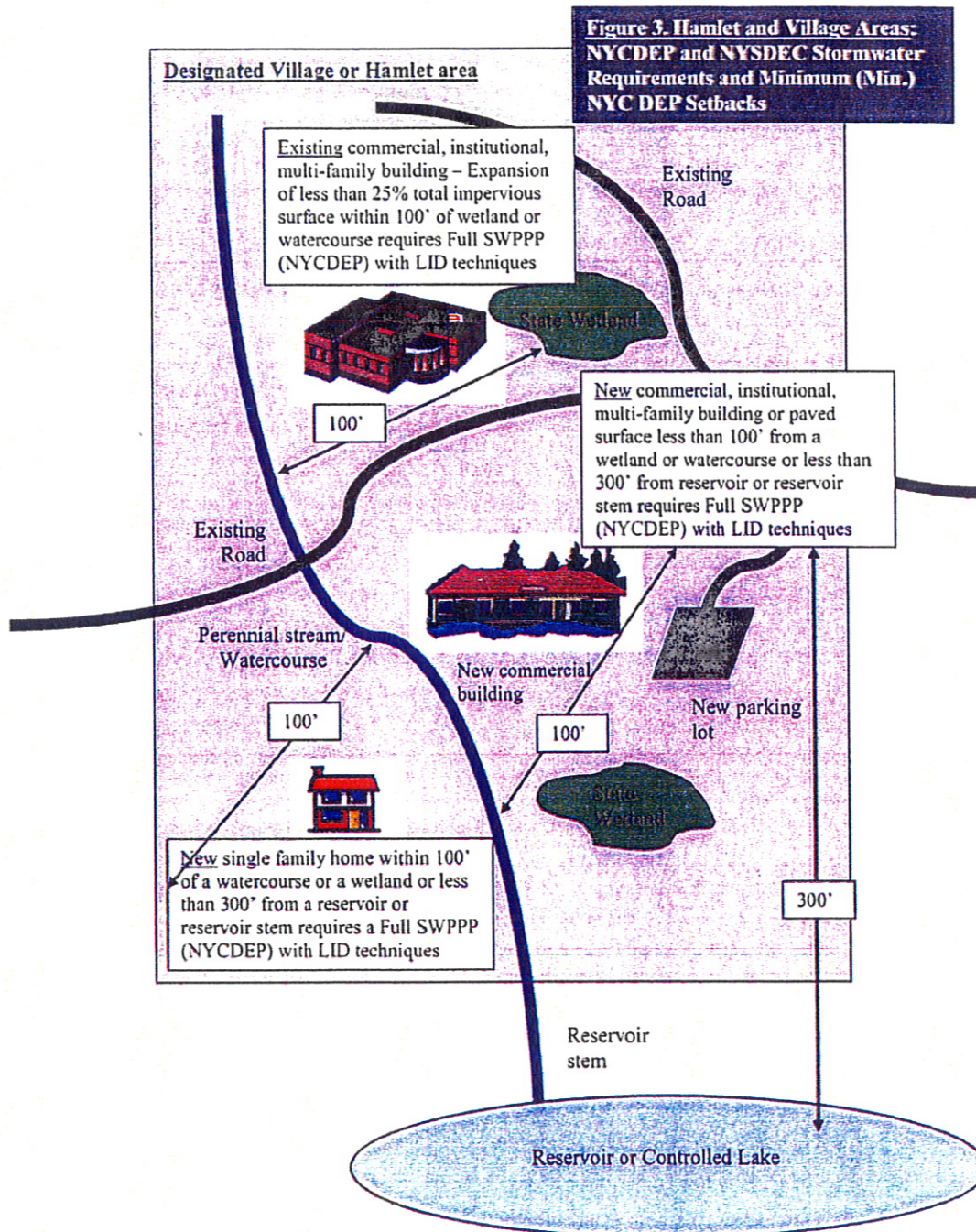
For septic system approval contact: Christopher Costello, (845) 340-7235; ccostello@dep.nyc.gov

²² Perennial stream means a watercourse that flows throughout the year from source to mouth.

Regulations of the NYC Watershed – Figure 2



Regulations of the NYC Watershed – Figure 3



Regulations of the NYC Watershed – Figure 4

