

STREAM CORRIDOR PROTECTION
PROGRAM RULES
(ARTICLE 12)

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Approved by the Board of Directors

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Equal Opportunity Employer

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12:00:01. Definitions

Words used in this article mean:

1. “Applicant,” a town, village located wholly or partially in the New York City West of Hudson Watershed, or property owner with a property within same that has submitted a proposal to implement an eligible project to the CWC Stream Corridor Protection Program;
2. “Application Form,” specific document requesting information from the Applicant and supplied by the CWC;
3. “Board,” the Board of Directors of the CWC;
4. “Capital costs,” costs of implementation, design, construction, and other reasonable and necessary costs for construction of projects;
5. “Construction cost,” cost of activities to build appropriate stream corridor management project(s);
6. “CWC,” the Catskill Watershed Corporation, a not for profit local development corporation;
7. “DEP,” the New York City Department of Environmental Protection;
8. “Grant Proposal”, the collection of information, forms, specifications, drawings, and other materials submitted to the CWC by an Applicant or Project Sponsor applying for a grant under the CWC Stream Corridor Protection Program;
9. “FAD” Filtration Avoidance Determination issued to New York City Department of Environmental Protection pursuant to the federal Safe Drinking Water Act;
10. “MOA,” the 1997 New York City Watershed Memorandum of Agreement;
11. “NYC,” the City of New York;
12. “Program” the CWC Stream Corridor Protection Program;
13. “Project Sponsor” an approved Applicant awarded a CWC Stream Corridor Protection Program grant by the Board or agent authorized to act on behalf of an Applicant as Project Sponsor to coordinate implementation of and application for CWC funding for the CWC Stream Corridor Protection Program project;
14. “Stream” a visible path through which surface water travels on a regular basis, which is a tributary to the New York City water supply and is located in, or near, a village, hamlet or population center, as determined by CWC. A drainage ditch, swale or surface feature that contains water only during and immediately after a rainstorm or a snowmelt shall not be considered to be a stream;
15. “Stream Management Plan” a completed stream management plan funded pursuant to the MOA or subsequently issued FAD;
16. “Village, hamlet, or population center” one of the following communities;
Hamlet of Andes, Hamlet of Arkville, Hamlet of Ashland, Hamlet of Bloomville, Hamlet of Boiceville, Hamlet of Bovina Center, Hamlet of Claryville, Hamlet of Clovesville, Hamlet of Conesville, Hamlet of DeLancey, Village of Delhi, Delhi Trailer Park / Mobile Home (Route 28), Hamlet of Denning, Hamlet of East Jewett, Village of Fleischmanns, Hamlet of Grahamsville, Hamlet of Grand Gorge, Hamlet of Haines Falls, Hamlet of Halcottsville, Hamlet of Hamden, Hamlet of Hensonville, Village of Hobart, Hamlet of Hubbell’s Corners, Village of Hunter, Hamlet of Jewett Center, Hamlet of Kelly Corners, Hamlet of Lanesville, Hamlet of Lexington, Village of Margaretville, Hamlet of Neversink, Hamlet of New Kingston, Hamlet of Phoenicia, Hamlet of Pine Hill, Hamlet of Prattsville, Hamlet of Roxbury, Scribner Hollow in the Town of Hunter, Hamlet of Shandaken, Hamlet of Shokan, Hamlet of South Kortright, Village of Stamford, Stratton Falls Trailer Court, Hamlet of Sundown, Village of Tannersville, Traver Hollow Road in the Town of Olive, Hamlet of Trout Creek, Village of Walton, Hamlet of West Conesville, Hamlet of West Kill, Hamlet of Windham, and the Hamlet of Woodland Valley Road or any area agreed to by CWC and DEP;
17. “Watershed” the West of Hudson River Watershed serving the New York City Water Supply.

12:00:02. Purpose and Goals

The purpose of the CWC Stream Corridor Protection Program is to fund stream corridor protection projects that mitigate or correct existing situations in hamlets, villages or population centers that present imminent and substantial danger to persons or properties in such hamlets, villages, or population centers. Only towns, villages or owners of property in need of stream repair may be considered Applicants. In order to be considered for funding under the Program, a proposed project must be consistent with the recommendations set forth in any applicable Stream Management Plan. The Program is wholly funded by CWC through fund transfers pursuant to Watershed MOA paragraphs 128(e) and 129(f).

12:00:03. Eligible Projects

Projects that are eligible for grants under this Program: 1) shall consist of the design or construction of work to repair stream conditions that pose a threat to a village, hamlet or population center in the Watershed which if left uncorrected present an imminent and substantial danger to persons, property, or water quality, as determined by CWC, and 2) must be consistent with the recommendations set forth in any applicable Stream Management Plan.

12:00:04. Overview of Identification and Selection of Projects

1. CWC will select projects, jointly with DEP, through evaluation of grant proposals for Program funding, as discussed in Section 12:01 of these rules. Application forms shall be distributed upon request.
2. CWC, jointly with DEP, shall select for funding only those projects evaluated and determined to be eligible pursuant to the criteria set forth in section 12:00:03. Applicants are not required to contribute any portion of the project costs, however, added weight may be given to a project in which an Applicant makes such contribution. Such contributions can consist of in-kind services directly associated with the Applicant's project per Section 12:00:05 of these rules. If the proposed project is eligible for emergency assistance (e.g.: FEMA or NRCS Emergency Watershed Program reimbursement), the Applicant must also apply to the appropriate federal or state agency for funding of eligible components of the project. CWC grant funds cannot be used for components that are eligible for funding under an approved federal or state emergency funds grant(s). CWC shall be reimbursed by a Project Sponsor for any Program funds used to pay for such components.
3. In determining allocation of grant funds, the CWC, jointly with DEP, may consider the size of the hamlet, village or population center affected, the benefit to water quality, of the cost-effectiveness of the project, the severity or nature of the threat posed to persons or property, and the projects consistency with the recommendations set forth in the related Stream Management Plan, as is further discussed in section 12:02 of these rules. CWC and DEP staff will provide written evaluations to the Board that addresses these criteria.
4. Once approved by the Board, the Executive Director of the CWC shall execute written grant agreements (per section 12:02:01- Project Contracting) with a Project Sponsor to implement the project.
5. Funding per Project shall be limited to no more than \$100,000 (One Hundred Thousand Dollars).
6. Once approved jointly by CWC and DEP the project must go through the right of objection process described in the Watershed MOA. Thereafter, the Executive Director of the CWC shall enter written grant agreements (per section 12:02:01- Project Contracting) with a project sponsor to implement the selected project.

12:00:05. Eligible Costs

In order for a project cost to be eligible, such cost must be reasonable and necessary as determined by CWC and DEP and must be for work done in compliance with the following:

- i. Watershed Regulations.
 - ii. All applicable Federal, State and local regulations.
 - iii. The Watershed MOA.
 - iv. The Grant Agreement.
 - v. These program rules and standards.
1. Eligible costs may include the following as needed to implement the project:
 - a. Design fees, including fees for permitting and environmental assessments. Such costs can include preparation of a Short Environmental Assessment Form and preparation of a Negative Declaration for SEQRA compliance. The Board pursuant to section 12:00:08 of these rules must pre-approve any cost for additional environmental review.
 - b. Construction costs and an as-built survey.
 - c. Force account work for construction activities during installation of a project may be an eligible cost, if approved by CWC as part of the grant proposal. Force account work shall be identified in the application and payment requests. Force account work shall consist of project related work done by the grantee rather than by private firms. The value of the force account work shall be based on the Means' data for estimating construction costs, and the Equipment Rental Rate Schedule of NYSDOT, established pursuant to Highway Law Section 12 and subject to updates and revisions as approved by the Board, jointly with DEP.
 - d. Other reasonable costs including post construction monitoring if approved by CWC and NYCDEP.
 2. Reasonable costs shall be documented as follows:
 - a. Reasonable costs shall in general be determined based on recent prices for similar work in the same geographic area. The project sponsor shall compile documentation illustrating the same. In the event that the bids are deemed unreasonable based on prevailing prices for recent similar work in the same geographic area, the project sponsor shall re-bid the project.
 - b. The costs of design may be justified by design costs for similar projects.
 - c. Reasonable cost for materials shall be justified by procurement through competitive quotes. Procurement for public entities shall be in accordance with their own policies. Procurement for private entities shall be in accordance with CWC's procurement policies. In addition, comparable prices from recent work of similar scope in the same geographic area shall be provided.
 - d. Reasonable cost for professional services shall be justified by prices for recent similar work in the same geographic area. In addition, the project sponsor shall demonstrate that cost as well as qualification was considered in the selection of professionals.
 - e. Reasonable cost for construction contractor services shall be justified by procurement, in accordance with General Municipal Law, with competitive bids. In addition, comparable prices from recent work of similar scope in the same geographic area shall be provided. Finally, the costs shall be compared to unit costs in any cost-estimating manual in standard use.

12:00:06. Program Funding

1. Funding for the Program shall be determined annually through the budget process, whereby the Executive Director of the CWC proposes annual budget allocations to the Board for its approval. CWC does not guarantee funding to any or all projects that meet the minimum criteria for ranking in these Rules.

2. All Stream Corridor Protection projects will be funded in accordance with the Watershed MOA.

12:00:07. Coordination with DEP and Local Planning and Code Enforcement Personnel

1. Each Applicant shall identify the project site location, the issues to be corrected, the hamlet or population center affected by these issues, and detail the proposed project and plan for maintenance (e.g.: annual inspections, etc.) in the grant proposal. CWC shall send one copy to DEP for its joint review, comment, and approval and one copy to local planning and code enforcement personnel for consultation.
2. Upon receipt from the Project Sponsor, CWC shall submit a copy of project design, maintenance plan and construction specifications to program review parties consisting of CWC, DEP and appropriate soil and water conservation district(s). No such design shall be considered complete until such parties have reviewed and approved the design documents. Once the documents have been approved by CWC and DEP, the Applicant may begin constructing the project.
3. After substantial completion of construction, but prior to final completion and release of contract retainages, the above review parties shall be notified in writing of substantial completion and given 10 business days to conduct a site inspection and comment before final completion. At least 10% of the construction cost shall be retained after substantial completion until review parties have had an opportunity to schedule a site inspection and comment. Payment for eligible costs shall be made in accordance with section 12:02:02 of these Rules, Project Payment.

Notwithstanding anything in these Rules to the contrary, if a project being funded under this Program requires a permit under the Watershed regulations, all timeframes set forth in the Watershed regulations shall apply.

12:00:08. Coordination with Regulatory Agencies

1. The project sponsor, or its agents, shall coordinate with all regulatory agencies with review authority over the project, and shall complete all permit processes as needed. No design shall be considered complete until all reviews are complete and all approvals and permits have been obtained.
2. Project sponsors are responsible for complying with the State Environmental Quality Review Act ("SEQRA"). This Program is intended to provide water quality benefits and no project selected for funding shall adversely impact watercourses or wetlands. If a SEQRA Lead Agency determines that a proposed project may have a potentially significant adverse impact on the environment, the project sponsor may apply to the Board, with a proposed budget, for approval of costs of additional environmental review. If such review is needed, the project shall not be funded for construction until the SEQRA process is complete.

12:00:09. Amendment of Rules

1. The Board, jointly with DEP, may amend the Stream Corridor Protection Program Rules at any time.

Chapter 12:01 - Application for and Ranking of Projects

12:01:01. Application Elements

1. In order to apply for grant funding, each Applicant shall submit a grant proposal including an application form supplied by CWC. The grant proposal shall supply information to allow CWC jointly with DEP to evaluate proposed projects and to prepare a proposed schedule and

budget for each project and priority grouping. The application shall identify the proposed site location, describe the proposed project, contain estimated construction costs, if applicable, identify administrative and other estimated costs, and contain a tentative schedule and budget, if known. Applicants may apply for design funding prior to applying for construction funding.

12:01:02. Grant Funding

1. Requests for funding may be submitted to CWC by an applicant or project sponsor, at any time.

12:01:03. Grant Proposal Requirements

1. Each Applicant shall prepare and submit to the CWC four copies of a grant proposal, with a complete application form and budget, that outlines the Applicant's proposal and the amount of grant monies requested.
2. CWC will provide application forms upon request. The form must be completed and signed before CWC considers a grant proposal complete for review and distribution. The application form shall contain the following information:
 - a. Applicant's name and address.
 - b. Contact person, address, and telephone number.
 - c. Tax identification number of parcels involved.
 - d. Amount of funding requested, along with an estimated project budget.
 - e. Approximate start-up date, project schedule and completion date.
 - f. Descriptions of entity or entities applying for grant (i.e. type of organization).
 - g. Description of site characteristics needed to rank the impact of the stream on the hamlet or population center, per the application form. For this program only, CWC and DEP shall determine the location and project impact on the hamlet or population center.
 - h. Description of how the project is consistent with the recommendations set forth in the applicable Stream Management Plan.
 - i. Documentation that the Applicant has the ability to administer and complete the project.
3. Grant proposals must be accompanied (if applicable) by a certified copy of the resolution(s) of the appropriate governing body of the applying entity which authorizes the applicant to make such application for grant funding, and to receive and administer such funding. Completed grant proposals will be submitted to the Board for review and approval.
4. An Applicant whose application was not selected may re-apply for funding. Any Project Sponsor who applies for another Program grant must demonstrate compliance with contract terms of the selected project before any additional funding requests will be approved. An Applicant who has defaulted on a CWC contract may be excluded from funding.
5. The following is required for all grant applications:

A narrative project plan that fully describes the proposed project and, the need therefore. In determining the need for a proposed project, applicants should consult with CWC and DEP and visit proposed sites, and obtain input from local planning and code enforcement representatives.

 - a. A completed application form.
 - b. Site location map, if applicable.
 - c. Existing site schematic, photos, and aerial photos, if applicable or available, drainage area, wetlands, other mapped characteristics as applicable and available.
 - d. A site schematic (or detailed plans if available) of the proposed project, if applicable, showing proposed project.
 - e. Description of project team, qualifications and role of each team member.
 - f. Any other information that may be requested by the CWC in order to assist in application review.

6. CWC jointly with DEP will provide assistance in completing the application. The Applicant may also request assistance from other agencies, including a county Soil and Water Conservation District.

12:01:04. CWC Action on Grant Proposals

1. The CWC staff jointly with DEP will evaluate all proposed projects and make a written recommendation to the CWC Wastewater Committee. CWC staff shall provide an evaluation in narrative form and a numeric ranking, addressing the applicable criteria listed in section 12:02:05 of these rules. Such evaluation shall incorporate applicable and appropriate comment from CWC, DEP, and local planning and code enforcement personnel.
2. The Wastewater Committee will review all proposals and recommendations.
3. All proposals, accompanied by the Wastewater Committee and DEP recommendation, shall be presented to the Board for a decision as to whether the proposed project will be included in the Program and if so, it's ranking within Program. The CWC staff shall provide copies of the evaluations and budgets to the Board at least seven days before the Board votes on the proposed projects.

12:01:05. Criteria for Ranking Proposals

CWC, jointly with DEP, shall prioritize grant proposals for inclusion in the Program. The CWC may also consider availability of other funding for the proposed project.

1. When prioritizing and selecting sites as well as allocating funds, CWC shall take into account the availability of program funding.
2. CWC, jointly with DEP, shall review the grant proposals and shall allocate funds based on:
 - a. The size and population of the hamlet or population center affected by the issues to be addressed by the proposed project
 - b. The imminence of danger to human life
 - c. The imminence of danger to property
 - d. A cost / benefit analysis of the proposed project
 - e. Possible other considerations, such as basin restrictions, availability of other funding, the project's design life, and other site-specific considerations.
 - f. Whether the proposed project is consistent with the recommendations set forth in the applicable Stream Management Plan.

Chapter 12:02 – Project Administration

12:02:01. Project Contracting

1. Board approval of the project will constitute the preliminary decision of the CWC for the purpose of paragraph 107 of the Watershed MOA. If no valid objection is timely filed with the Watershed Protection and Partnership Council, the Executive Director is authorized to enter into contract for the approved project after the right of objection period, consistent with the proposal approved by the Board, appropriate for the specific project sponsor. Any such contract shall contain the necessary provisions as required by the Watershed MOA and the contract between CWC and NYC for this Program and shall be consistent with these program rules.
2. In determining the amount of program funding to be allocated to each project, CWC shall include a contingency factor in each project budget estimate to ensure that unanticipated costs that may arise in the completion of projects are adequately funded. CWC shall delay entering into agreements with property owners or contractors to assess, design, and construct a lower priority project until actual costs of assessment, designing, and constructing higher priority

projects are determined and CWC concludes that sufficient funds are available to ensure that such higher priority projects will be completed.

3. CWC will develop a standard program contract in consultation with DEP. The standard program contract shall be used as a basis for all program contracts.
4. The contract between CWC and either the project sponsor or owner shall contain the following:
 - a. All Contracts (design/study and capital construction):
 - i. CWC shall enter into written agreements with project sponsors to assess, design construct, and implement the projects at sites selected for grant funding. Each agreement shall contain milestones for assessments or design and construction of the project. Selection of contractors, other than municipal or governmental entities such as Soil and Water Conservation Districts, shall be in accordance with the procedures set forth in Article 7 of West of Hudson Future Stormwater Controls agreement between CWC and NYC.
 - ii. The contract shall provide that if the cost of assessment or design, construction and installation of any project exceeds the maximum amount of program funds budgeted for the project by the CWC, the project sponsor shall complete construction of the project using its own resources or funding obtained from other sources. Nothing shall preclude the project sponsor from applying for additional funds from the CWC for reimbursement of any additional unforeseen costs upon submission of appropriate documentation and at the sole discretion of CWC. Additional Funds applications to CWC shall not reduce the project sponsor's obligation to complete and maintain the project.
 - iii. Entities that are not required to comply with NYS General Municipal Law shall solicit services on a competitive basis, and in accordance with the CWC's procurement policy.
 - iv. In the case of municipalities, each contract shall be accompanied by a resolution passed by the appropriate governing body authorizing a designated representative to enter into such contract. An Applicant may act as project sponsor or may authorize a separate agency to enter into contract on behalf of the Applicant as project sponsor. If a separate agency is entering into contract on behalf of a municipality, such contract shall be accompanied by a resolution passed by the appropriate governing body authorizing said agency to act on behalf of the municipality as project sponsor.
 - v. All contracts with design firms shall include the provision that the architect's/engineer's scope of work shall include the full range of design services required for design, implementation and construction of the project.
 - b. Capital Construction Contracts:

Contracts between project sponsor and contractors for capital construction shall require contractor to post a performance and completion bond in the full amount of the bid to secure the successful completion of all work and a payment bond to insure that all parties are paid for work performed.

12:02:02. Project Payments

1. Project payments shall be made as follows. Payments may be made either as reimbursement for payments made by the project sponsor or as invoiced payments for costs incurred. The project sponsor shall forward to CWC, in general no more frequently than monthly, an invoice documenting the tasks completed or the purchase agreement, and a certified CWC voucher itemizing the costs of the completed tasks/ agreed purchase price and certifying that all work being invoiced is in accordance with approved plans for the stream project and the contract between CWC and the project sponsor.

2. The CWC shall remit the approved payment due and owing to the project sponsor and/or contractor within 30 days of receipt of the certified voucher and supporting documentation.
3. If the project sponsor has paid for contracted project work and submits proof of such payment to CWC, CWC shall pay the project sponsor. Otherwise CWC shall pay the project sponsor and contractor.

12:02:03. Business Integrity – VENDEX

1. All contractors performing work under this program must abide by New York City “VENDEX” requirements.

12:02:04. Insurance and Procurement

1. All projects must abide by insurance and procurement provisions as provided for in the West of Hudson Future Stormwater Controls Contract.