

**STREAM CORRIDOR PROTECTION
DEBRIS REMOVAL PROGRAM RULES
(ARTICLE 12A)**

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**Approved by the Board of Directors
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Equal Opportunity Employer

CWC STREAM CORRIDOR DEBRIS REMOVAL PROTECTION PROGRAM

ARTICLE 12A

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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. "Debris", includes all items washed from the interior and exterior of households and commercial enterprises and shall include large woody debris if it can be mobilized in a flood event.
8. "DEP," the New York City Department of Environmental Protection;
9. "SWCD," the Soil & Water Conservation District in Delaware, Greene, Schoharie, Sullivan, or Ulster Counties;
10. "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;
11. "FAD" Filtration Avoidance Determination issued to New York City Department of Environmental Protection pursuant to the federal Safe Drinking Water Act;
12. "MOA," the 1997 New York City Watershed Memorandum of Agreement;
13. "NYC," the City of New York;
14. "Program" the CWC Stream Corridor Protection Program;
15. "Project Sponsor" an approved Applicant awarded a CWC Stream Corridor Debris Removal Protection Program grant by the Board or agent authorized to act on behalf of an Applicant as Project Sponsor to coordinate implementation of an application for CWC funding for the CWC Stream Corridor Debris Removal Protection Program project;
16. "Stream" a visible path through which surface water travels on a regular basis, which is a tributary to the New York City water supply. 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;
17. "Stream Management Plan" a completed stream management plan funded pursuant to the MOA or subsequently issued FAD;
18. "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 the removal of flood debris in stream channels and/or floodplains in the Watershed. Only towns, villages, or owners of property in need of flood debris removal or Soil and Water Conservation District (SWCD) acting on their behalf may be considered Applicants. The Program is wholly funded by CWC through fund transfers pursuant to Watershed MOA paragraphs 128(e) and 129(f). Preference will be given to projects in areas flooded by Tropical Storms Irene and/or Lee on or after August 28, 2011.

12:00:03. Eligible Projects

Projects that are eligible for grants under this Program shall consist of the removal of flood debris located in stream channels and/or floodplains within the WOH Watershed. Projects located in a stream or on a stream bank may be coordinated and overseen by County SWCDs

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

1. SWCD together with DEP and CWC, through evaluation of proposals for funds as allocated by CWC Board on a watershed-wide or project by project basis as discussed in Section 12:01 of these rules. Application forms shall be distributed upon request.
2. Towns, Village, property owners or SWCD (in coordination with and/or on behalf of towns, businesses and landowners), shall propose for funding to DEP and CWC projects 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 or have applied 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 fund 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 shall allocate funds up to the amount of Board authorization to eligible projects.
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 Town, Village, Property Owner, or a SWCD to implement the project.
5. If the project is approved by the CWC Board on an individual basis, the project must go through the right of objection process described in the Watershed MOA. CWC Board approval of funding on a watershed wide basis is also subject to 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 Town, Village, Property Owner or SWCD to implement the selected project. CWC may also directly hire contractor(s) to complete an individual 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, DEP, and SWCD 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. Stream Management Plan guidelines
 - vi. These program rules and standards.
1. Eligible costs may include the following as needed to implement the project:
 - a. Labor, fuel, equipment, and materials necessary for flood-debris removal and site restoration. 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.

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. 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.
 - c. 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.
 - d. 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. CWC Board may approve funding on a watershed wide basis or on an individual project by project basis. 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 Application shall be prepared by Town, Village, property owner, or the Soil and Water Conservation District where the property is located and shall identify the project site location, the debris to be removed and detail the proposed project in the grant proposal. CWC shall send one copy to DEP for its joint review, comment, and approval and the Soil and Water Conservation District where the property is located for its review and comment.
2. 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 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 Projects

12:01:01. Application Elements

1. In order to apply for grant funding, Town, Village, property owner or Soil and Water Conservation District shall submit a grant proposal including an application form supplied by CWC. The grant proposal shall supply information to allow CWC jointly with DEP and SWCD to evaluate proposed project(s) and to prepare a proposed schedule and budget for each project. 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.

12:01:02. Grant Funding

1. Requests for funding may be submitted to CWC by town, village, individual property owner or SWCD, 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. 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 where applicable 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. 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, DEP, and visit proposed sites, and obtain input from local planning and code enforcement representatives. Oversight in project planning and design (if design is needed) from the relevant SWCD Stream Management Program (Delaware, Greene, Ulster, Sullivan) for projects to be undertaken in Stream Channel or Stream Bank is strongly advised.

 - a. A completed application form.
 - b. Any other information that may be requested by the CWC in order to assist in application review.
6. CWC jointly with DEP and SWCD will provide assistance in completing the application.

12:01:04. CWC Action on Grant Proposals

1. For projects requiring Board approval of funding,
 - a. the CWC staff jointly with DEP and SWCD 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 SWCD.
 - b. the Wastewater Committee will review all proposals and recommendations. All proposals, accompanied by the Wastewater Committee and DEP and SWCD 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.
2. Where CWC Board has approved watershed-wide funding, CWC staff jointly with DEP and SWCD will evaluate all proposed projects and provided sufficient funding exists and the project is eligible, approve jointly with DEP a project for funding. CWC staff shall report monthly or as often as requested to CWC Wastewater Committee the status of watershed wide funding and projects included therein

Chapter 12:02 – Project Administration

12:02:01. Project Contracting

1. Board approval of a project or approval of funding amount watershed wide 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 the watershed or a 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 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. 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.

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.