



# Stormwater Credits Policy

## Non-Residential Properties

### Why Manage Stormwater

The Town of Orchard Park is subject to a stormwater permit under the New York State Department of Environmental Conservation and Federal Clean Water Act that regulates Orchard Park's stormwater drainage system. This permit, known as a Municipal Separate Storm Sewer System (MS4) permit, imposes specific mandates in the Town for preventing new water pollution and reducing pollution from existing sources.

Stormwater, defined as rain and melted/sleet/ice/snow that runs off the land. In natural, undeveloped areas, soil absorbs and filters most stormwater in a process called infiltration. The water that runs off the land in Orchard Park flows to Smokes Creek /tributaries, Neuman Creek, Rush Creek, and/or Cazenovia Creek.

During land development, natural areas (grass/woods) are replaced with roofs, driveways, sidewalks and parking lots. These hard surfaces, called impervious surfaces, do not allow water to penetrate them and increase the volume and velocity of stormwater runoff. Stormwater runoff carries sediment, fertilizers, oil, grease, heavy metals, trash, and anything else deposited on impervious surfaces. This flows directly into the Town's storm drains and natural waterways. This runoff can cause; Erosion of streams and decreased water quality; Contamination of downstream water and drinking water supplies; Property damage and damage to public storm drains systems.

The Town is now taking action to clean up our community's polluted stormwater runoff and to make necessary investments in our aging stormwater infrastructure BMP.

### **Definitions.**

Best Management Practice (BMP) – schedule of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Board – Orchard Park Town Board (Supervisor and 4 Councilmembers)

Credit Rate – Discount based on criteria (specific), Stormwater Quantity Control Credits, will receive a credit of 20%. Stormwater Quality Control Credits will receive a credit of 20%. In cases where both quantity and quality may be controlled through on site BMP's, owners will receive a credit of 40%.



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Equivalent Dwelling Unit (EDU) – A unit of impervious surface measurement equal to one single family home (average) by which stormwater fees can be imposed upon each improved (non-residential) property as determined by the Town Board.

Impervious Surface – Any surface on a property that, because of the surface's composition or compacted nature, impedes or prevents natural infiltration of water into the soil. This include, but is not limited to, roofs, solid decks, driveways, patios, sidewalks (other than public walks located in the Town's right-of-way), parking areas, tennis and basketball courts, concrete, asphalt, or crusher run streets, driveway or paths, or compacted gravel/dirt surfaces, as determined by the Town Engineer.

Impervious Surface Area – As recorded or calculated by the Orchard Park Engineering Departmental, or verified by a licensed engineer or surveyor the number of square feet of horizontal surface on a lot/property covered by an impervious surface.

Lot – Parcel of land/property, as set forth by the current Erie County Tax Map on file with the Erie County Real Property Tax Services Department.

Nonresidential Lot – All developed improved lots other than residential lots.

Property Class Code – The property type classification code, as defined by New York State Office of Real Property Services in the Assessors' Manual, assigned to a lot by the Erie County Real Property Tax Services Department, this may be updated by that Department as required.

Property Owner or Owners – The person on file as the owner of a lot/parcel as shown on the Erie County tax records.

Residential Lot – A developed lot with a Property Class Code of 210, 215, 220, 230, 240, 241, 242, 250, 260, 280, 281, or identical successor designations.

Stormwater – Surface water that originates from precipitation, including heavy rain and meltwater from hail, sleet, ice and snow. It's is runoff that flows off building rooftops, driveways, lawns, streets, parking lots, construction sites, industrial storage yards, etc.

Stormwater services – The Town program for protection of stormwater quality/quantity and for the partial control and conveyance of stormwater, including, but not limited to: public education; monitoring, removing, and regulating stormwater pollutants; other activities described in the Town's New York SPDES permit; mapping; planning; regulating, reviewing and inspecting private stormwater infrastructure; operating, constructing, improving, cleaning, and maintaining the Town's Stormwater System; and any and all expenses deemed reasonably necessary to the management of stormwater within the Town; in the judgement of the Town Engineer and Highway Superintendent, or as instructed from time to time by the Town Board, including but



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not limited to payment of debt principal and debt service, and the establishment of reserve capital fund, to pay for these services.

Stormwater System – The system of natural and constructed conveyances for collecting and transporting stormwater. This includes but is not limited to lakes, ponds, creeks, perennial, intermittent, and/or channeled streams, connected wetlands, open ditches, catch basins and other inlets, pipes, sewers, drains, culverts, stormwater chambers, and created stormwater management facilities. That provide partial treatment by passive means such as wet detention ponds, detention basins, and stormwater wetlands.

Stormwater management fee – The fee charged by the Town for costs incurred to provide and maintain stormwater services.

Treatment Efficiency - As determined by the Town Engineer or a private licensed engineer (third party), the calculated effectiveness, expressed as a percentage of total possible effectiveness of an ideal stormwater management practice or structure, of a stormwater management practice or structure. Designed to remove a desired component through quality treatment, quantity attenuation, or both, as applicable.

### **Stormwater Management Fees**

The Town has been working diligently to develop solutions to improve our water quality and quantity challenges. After considering different options, like many other communities in the country the Town chose to implement a stormwater management fee. A stormwater management fee is a charge based on the amount of impervious area on a type of property.

This approach has several advantages:

First, it fairly distributes the cost of the Town's stormwater services, since the amount of impervious area is directly related to the amount of stormwater that must be managed. All property owners benefit from a well-maintained and regulated drainage management system. This concept is similar to measuring usage and calculating fees for public drinking water and sanitary sewer services.

Second, the amount of the fee must be directly correlated to the cost to provide stormwater management services addressing flood abatement, water quality protection, infrastructure BMP operations and maintenance, and regulatory compliance. All revenue deposited into the Consolidated Stormwater Management District account can only be used for stormwater management.

Each developed lot in the Town shall be subject to a yearly stormwater management fee equal to the product of \$116 times the number of EDUs of impervious surface on the lots as calculated below, less any credits for the lot approved by the Town Engineer to pursuant to.



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### **Equivalent Dwelling Unit (EDU).**

An equivalent dwelling unit is equal to 5,287 square feet of impervious area.

At least once every five years, the Town Engineer shall report to the Town Board regarding changes in the average impervious surface areas of residential lots, thus verifying the EDU.



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### How the fee is calculated Residential Lot

Every residential lot, and each non-residential lot with an impervious surface area less than or equal to one EDU, shall be deemed to have an impervious surface area equal to one EDU. All non-residential properties are directly charged based on the actual number of EDU's within the parcel.

### Sample Property

Factor	Calculation
Impervious Area	39,770 SF
1 EDU	5,287 SF
Number of EDU's For Property	$39,770 \div 5,287 = 7.52$ EDU's
Management fee	7.52 EDU x Rate set by Town Board





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### Can I reduce the Stormwater Fee?

Yes! Another advantage of a stormwater management fee approach, it allows the Town to provide “credits” to non-residential property owners who have implemented practices that reduce the impact of stormwater on the publicly managed system and local waterways.

Orchard Park non-residential property owners can reduce their fee in two ways:

#### 1) Reduce your impervious area.

Non-residential property owners can remove un-needed or un-used impervious area. If the removal of the impervious area results in fewer billing units, there would be a reduction in total fee charged. The Engineering Department is willing to work with any non-residential property owner to assess whether a planned reduction will result in a lower yearly fee.

#### 2) Take available credit for a privately installed and maintained stormwater management BMP on your property.

The Town will provide credit to nonresidential property owners who operate and maintain qualifying stormwater management BMPs. These stormwater BMPs help the Town by reducing the cost managing the public and /or natural system. Typical facilities include extended dry detention ponds, wet ponds and wetlands, bio-retention basins, bio-swales, filter strips and swirl type chambers.

This document provides a step-by-step process for determining whether your stormwater stormwater BMP qualifies for credit (below).

### **Credit Policy**

The Town will provide a stormwater management fee credit for any stormwater BMP, if it meets the requirements in the Credit Eligibility List below. (20% - Quality/20% - Quantity)

### **Credit Eligibility for Post Construction Stormwater BMPs**

#### **Technical Standards**

#### **Condition of Development**

- The stormwater BMP is designed, installed, and accepted by the Town in accordance with the current version of the New York State Department of Conservation (BMP) manual and the current Town of Orchard Park Stormwater Ordinances.



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### Maintenance Agreement

- As a condition for a new or renewed credit, the Town may require a maintenance agreement or an existing maintenance agreement to be updated to meet current standards for routine maintenance and inspections.

### Stormwater Function Verification

- The stormwater BMP must be functioning as designed.
- This requirement is satisfied if the stormwater BMP has previously been accepted by the Town, has passed its most recent inspection, and is compliant with any reporting requirements contained in the maintenance agreement.
- If the above conditions have not been met, this requirement is satisfied if a professional engineer, landscape architect, and/or surveyor recognized by the Town certifies that the stormwater BMP is operating as designed.
- If the stormwater BMP fails a Town inspection, or the owner fails to submit documents as required in the maintenance agreement, the Town will revoke the credit if corrective actions are not taken within the time specified by the Town.

The operator of the stormwater item/facility, or his/her legal agent, must assume all responsibility for the stormwater practice operation and maintenance. Failure to maintain the BMP shall result in cancellation of the credit.

### **How much credit can I get?**

The Town's credit system accounts for quantity and/or quality and encourages redevelopment of existing impervious areas. Some stormwater BMPs provide only quantity or quality control, while others provide both. Credits provided for quantity control, Stormwater Quantity Credits, will receive a credit of 20%. Credits applied for quality control, Stormwater Quality Control, will receive a credit of 20%. In cases where both quantity and quality may be controlled through on site BMP's, the property will receive a credit of 40%.

To determine whether a property qualifies for a credit, a qualifying property owner would need to complete and submit an application to the Engineering Department.



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Stormwater Quantity and Quality Credit applications shall include

- documentation (plans, calculations, models reports, etc.): prepared by a New York State licensed professional engineer, landscape architect or surveyor.
- Designs must follow the New York State Department of Environmental Conservation's Stormwater Management Design Manual guidelines, as amended or replaced by substantially identical guidelines and the current Town of Orchard Park Stormwater Ordinances.
- Property owners shall provide a statement annually to the Town Engineering Department certifying that they are maintaining the stormwater controls in accordance with the manufacturer and Town approved operation and maintenance plan and executed maintenance agreement.

If the Town finds that the applicant fails to operate and maintain the stormwater control consistent with the approved plans, the Town has the right to invalidate and remove the applied credit.

### Water Quantity

Controls on the property must reduce the peak flow discharge to contain 1-year, 10-year, 25-year, 50-year, and 100 year 24 hour design storms for post-development peak rates of runoff, while restricting the outflow rates to 1-year, 10-year, 25-year, 50-year, and 100 year 24 hour design storms for predevelopment peak rates of runoff.

Credit can be given for older detention structures that are maintained and in good working order. If the detention structure controls the discharge peak flow is equal to or less than pre-development discharge at the outlet of the site a twenty (20%) credit will be given.

### Water Quality

Control on the property must meet the requirements of NYSDEC reduction of the total water quality volume by green infrastructure techniques and SMP's to replicate pre-development hydrology.

### **How and when do I apply?**

A Stormwater Credit Application form must be submitted to the Town by the operator/owner of the stormwater structure, or his/her legal agent, and approved by the Town's Engineering Department. To receive credit the application must be received no later than September 1 for the following year management fees. Once an application is approved, it will be applied to the next tax-billing period.





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### Credit Application Checklist

Credit Application and Engineer Certification Form – This form is located under the “Forms” section at the end of this manual.

<https://www.orchardparkny.org/departments/engineering-department/stormwater-management/>

The following items must be submitted upon request, if not already on file with the Town:

- Drainage Area Map – Provide a scaled map showing the property lines, impervious areas, stormwater drainage area boundaries, and the total impervious surface draining to the stormwater structure(s).
- Stormwater Structure Design Plan/As-Built Drawing – Provide the design and as-built drawings for the BMP stormwater structure(s).
- Maintenance Agreement – Provide a copy of the agreement that allows the Town Inspection access to the site and establishes enforcement for maintenance and reporting requirements. An updated maintenance agreement may be required as a condition of receiving credit. (Town discretion)

### Annual Documentation

Annual documentation must be submitted to the Town to continue receiving a Credit. The Required documentation consists of the following:

- Annual certification report by the Property Owner or Chief Executive Officer that the Stormwater Facility is in place and in proper working order.
- Every 5 Years, an inspection and certification report from an independent, professional engineer, landscape architect or surveyor submitted to the Town Engineer.
- Recently dated photographs showing the conditions (including any known damage or disrepair of a stormwater facility. For stormwater ponds, these photos should include views of the outlet structure, all side slopes, a view from the downstream channel looking upstream and emergency spillway, a view from the pond showing the condition of the downstream channel, and a view of areas designed to catch sediment (if possible).
- Records demonstrating that required maintenance activities have been completed.

### Do I need to re-apply for credit (Every Five (5) Years)?

At the discretion of the Town, credit will continue to renew on an annual basis provided that the operator complies with all requirements of the maintenance agreement and annual reporting documentation. The Town reserves the right to change the criteria for receiving credit or require additional information from the operator of the stormwater structure to continue receiving credit.





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- Once the application is determined to be complete, the appeals officer will respond to the property owner within 30 days.
- If the hearing officer's decision is not in favor of the applicant, the applicant may further appeal to the Town Board within 30 days of response's receipt.  
The Town Board decision will be returned to the applicant within 30 days of the appeal's receipt.
- If payment of the bill is not made within 15 days after the expiration of the property owner's right to appeal, the unpaid fee will be considered delinquent.

### **Error Corrections and Payment Correction Appeal Determinations**

The Town will correct the fee amount information for those appeals that are determined to be valid and require an adjustment to the tax bill. The property owner's tax bill will be adjusted the following year, based on the amount determined to be different through appeal.

### **Administration of Appeals**

Successful appeal applicants will be reimbursed in the form of a credit in the next year's tax bill.