

Federal Stormwater Management Requirements and Pollution

Point source pollution prevention

Within Federal power over interstate commerce

Nonpoint source pollution prevention historically is a within the legal control of state and local land use governments

Because MS4s are owned and operated by local governments, the federal Phase II Stormwater Management Program requirements expands Federal control to nonpoint sources of surface water pollution

Comprehensive plan

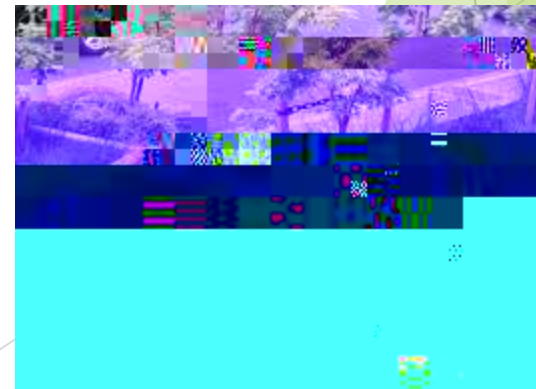
Zoning requirements and incentives

Subdivision regulations

Site plan regulations

Conditions imposed on project approvals

Enforcement of conditions





Traditional Zoning = Encourages Impervious Coverage

Impervious coverage prevents water infiltration on-site and speeds up the flow of stormwater off-site, worsening flooding and pollution downstream.

Single-family zoning regulations may allow, for example, 40% impervious coverage.

Half acre zoning = 20,000 sq. feet x 40% = 16,000 sq. ft. of building and pavement

Zoning Requirements and Incentives

Zoning itself can be reformed to protect against non-point source pollution from stormwater.



Similarly, site plan regulation can require low impact development using the same techniques.

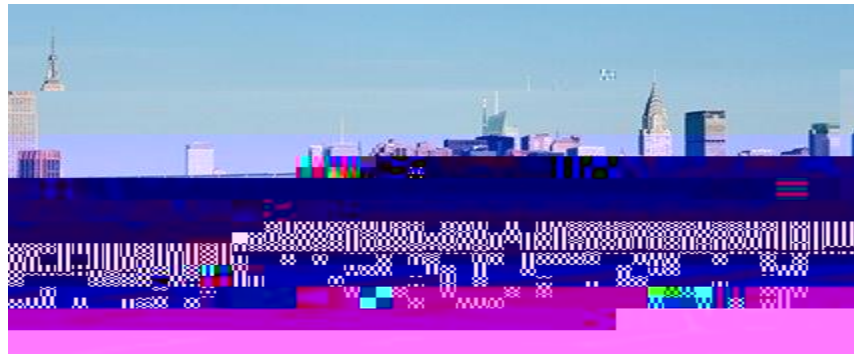




Enforcement

No building permit or certificate of occupancy is awarded if the stormwater management conditions are not complied with.

Localities are adopting post-occupancy enforcement standards requiring that inspections be done a year or more after occupancy to demonstrate continued compliance.



Legal Authority for Adopting Such Laws

The Municipal Home Rule Law – Article 2 §10 permits local laws for the protection and enhancement of the physical and visual environment

Town, Village, and the General City Law permit localities to adopt plans, zoning, and land use regulations to achieve “ the most appropriate use of the land.”

Both of these laws are broadly interpreted by the courts, giving great flexibility to municipalities

Options

1. Overlay Zoning

Leaves existing zoning in place & establishes standards for specific resources, such as flood plains

2. Conservation Zoning Districts

Changes Zoning to Conservation Uses and Standards that prevent off-site pollution

3. Cluster Zoning or Subdivision

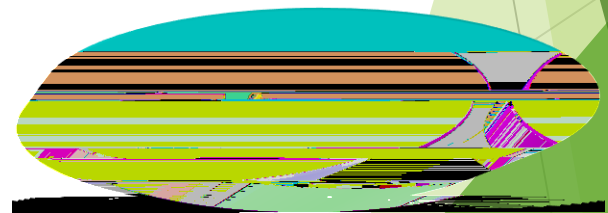
Pulls development away from vulnerable areas

4. Incentive Zoning

Gives developer more density to pay the costs of measures that reduce runoff

HAS ADOPTED FIVE OVERLAY ZONES

WETLAND



Localities may adopt laws to protect the physical environment.

Floodplain regulations

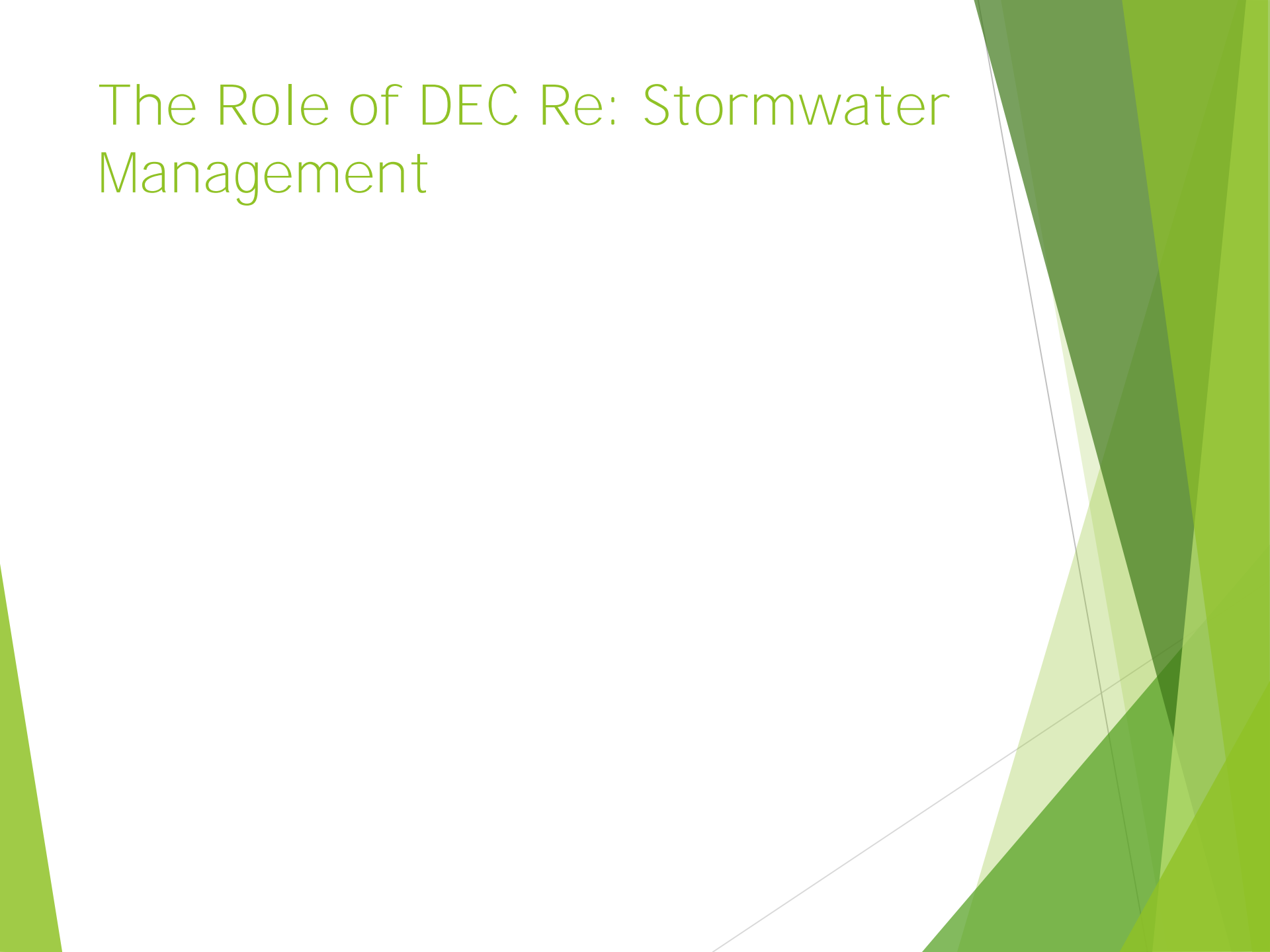
Erosion and Sedimentation controls

Steep slope limitations

Ridgeline protections

Wetlands controls - allows protection of wetlands as small as one-half an acre.

The Role of DEC Re: Stormwater Management





2016 Model Local Law for Erosion and Sediment Control and Stormwater Management

There are 2 versions – one has
stronger optional community
resiliency provisions.

The goal of providing the model law is to assist communities in amending existing laws and ordinances and/or adopting new provisions of local law to meet the new federal and state guidelines for stormwater control.

