

A. Bill 1C of 2007 – Prohibiting Illicit Discharges of Non-Stormwater

Deputy Mayor Schenkler opened the public hearing, duly advertised in the February 12, 2007 Port Washington News, to consider the adoption of Bill 1B of 2007, to amend the Code of the Village of Port Washington North to Prohibit Illicit Discharges of Non-Stormwater. A stenographic transcript of the hearing is on file with the Village Clerk. All those present wishing to speak having been heard, the Deputy Mayor closed the hearing. On motion of Trustee Malatino, seconded by Trustee Hoffman, it was RESOLVED that Bill 1C of 2007 be and hereby is adopted as Local Law 2 of 2007 to read as follows:

Local Law 2 of the year 2007

A local law amending the Code of the Village of Port Washington North to prohibit illicit discharges.

Be it enacted by the Board of Trustees of the Village of Port Washington North

Section 1. The Code of the Village of Port Washington North is hereby amended to add a new chapter, Chapter 108, Illicit Discharges, to read as follows:

“Chapter 108

Illicit Discharges

§ 108-1. Legislative intent.

The purpose of this local law is to provide for the health, safety, and general welfare of the residents of the Village through the regulation of connections to MS4s and the regulation of non-stormwater discharges to MS4s to the maximum extent practicable as required by federal and state law. This local law establishes methods for controlling the introduction of pollutants into MS4s in order to comply with requirements of the DEC SPDES General Permit (GP-02-02) for MS4s. The objectives of this local law are:

- A. To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit No. GP-02-02, as amended and revised;
- B. To regulate the contribution of pollutants to MS4s, since such systems are not designed to accept, process, or discharge non-stormwater wastes;
- C. To prohibit unauthorized and illicit connections, activities, and discharges to the Village’s MS4;
- D. To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this local law; and
- E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment, and other pollutants into MS4s.

§ 108-2. Definitions.

Unless otherwise expressly stated, the following words shall, for the purposes of this chapter, have the meanings herein indicated:

BEST MANAGEMENT PRACTICES - Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention, educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage, leaks, sludge, water disposal, and drainage from raw materials storage.

BMPs - best management practices.

CLEAN WATER ACT - The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), as amended and revised.

CONSTRUCTION ACTIVITY - Activities requiring authorization under a DEC SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended and revised, or activities covered by erosion and sediment control or pollution prevention plan laws, rules, or regulations of the Village. Such activities include construction projects resulting in land disturbance of one or more acres. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

COUNTY - The County of Nassau.

DEC – The State Department of Environmental Conservation.

DESIGN PROFESSIONAL – A State licensed professional engineer or registered architect.

HAZARDOUS MATERIALS - Any material, including any substance or waste, or combination thereof, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment.

ILLCIT ACTIVITY - Any action or condition, active or passive, which results in non-stormwater entering the Village's MS4 or into an MS4 that flows into the Village's MS4.

ILLCIT CONNECTION - Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the Village's MS4 or into an MS4 that flows into the Village's MS4, including, but not limited to:

- A. Any conveyances which allow any non-stormwater discharge including, but not limited to, treated or untreated sewage, process wastewater, and wash water to enter the Village's MS4, and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency;
- B. Any drain or conveyance connected from a commercial or industrial land use to the Village's MS4 which has not been documented in plans, maps, or equivalent records and approved by the Village;
- C. Any building or other structure's floor drain or trench drain; and
- D. Any unauthorized connection as defined elsewhere in this chapter.

ILLCIT DISCHARGE - Any discharge through an unauthorized connection, and any direct or indirect non-stormwater discharge to the Village's MS4 or into an MS4 that flows into the Village's MS4, except as exempted in §108-5(B) of this chapter.

INDIVIDUAL SEWAGE TREATMENT SYSTEM - A facility serving one or more parcels of land or residential households, or a private, commercial, or institutional facility that treats sewage or other liquid wastes for discharge into the groundwaters of the State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

INDUSTRIAL ACTIVITY – Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended and revised.

MS4 – A Municipal Separate Storm Sewer System.

MUNICIPAL SEPARATE STORM SEWER SYSTEM - A conveyance or system of conveyances and retention and infiltration facilities, including, but not limited to, roads with drainage systems, curbs and gutters on municipal streets, manholes, catch basins, ditches, man-made channels, storm drains, stormwater basins, drainage reserve areas, drywells, and all other components of a stormwater system, that is:

- A. Owned or operated by the Village or another municipal entity;
- B. Designed or used for collecting, conveying, storing, infiltrating, and/or managing stormwater;
- C. Which is not a combined sewer; and
- D. Which is not part of a Publicly Owned Treatment Works, as defined in 40 CFR 122.2.

NON-STORMWATER DISCHARGE - Any discharge to an MS4 that is not composed entirely of stormwater.

PERSON - Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law.

POLLUTANT – Any of the following which may cause or might reasonably be expected to cause pollution of the waters of the State in contravention of the pertinent standards promulgated by the federal government, the State, the Village, or any other municipality or department thereof, having legal jurisdiction to impose such standards: dredged spoil; filter backwash; solid waste; incinerator residue; treated or untreated sewage, garbage, and sewage sludge; munitions; chemical wastes; biological, radioactive, and hazardous materials; heat; wrecked or discarded equipment; industrial, municipal, and agricultural waste; ballast discharged into water; paints, varnishes, and solvents; oil and other automotive fluids; hazardous and non-hazardous liquid and solid wastes; yard wastes, including branches, grass clippings, and leaves; refuse, rubbish, garbage, litter, and other discarded or abandoned objects and accumulations so that same may cause or contribute to pollution; discharges of soaps, detergents, and floatables; pesticides, herbicides, and fertilizers; sewage, fecal coliforms, and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building, structure, or site improvements; cement, rock,

gravel, sand, silt, mud, other soils; and all other noxious or offensive matter of any kind.

PREMISES - Any lot, parcel of land, or portion of land whether improved or unimproved, and all of the buildings and other structures thereon, including adjacent sidewalks and parking strips.

SPDES - State pollutant discharge elimination system.

SPECIAL CONDITIONS.

- A. Discharge Compliance with Water Quality Standards. The condition that applies where a municipality has been notified that the discharge of stormwater authorized under its MS4 SPDES permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
- B. 303(d) Listed Waters. The condition in an MS4 SPDES permit that applies where the MS4 discharges to a DEC 303(d) listed water. Under this condition the MS4's stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
- C. TMDL Strategy. The condition in an MS4 SPDES permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a water body or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the MS4 was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- D. The condition in an MS4 permit that applies if a TMDL is approved in the future by EPA for any water body or watershed into which an MS4 discharges. Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within 6 months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

STATE - State of New York.

SPDES STORMWATER DISCHARGE PERMIT - A permit issued by DEC that authorizes the discharge of pollutants to waters of the State.

STORMWATER - Rainwater, surface runoff, subsurface drainage, and snowmelt.

SUPERINTENDENT - The Village Superintendent of Public Works or his/her authorized deputies, agents, or representatives, or such other person or persons as may, from time to time, be designated by the Mayor or the Board of Trustees to perform the duties of the Superintendent pursuant to this chapter.

303(d) LIST - A list of all surface waters in the State for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial) are impaired by pollutants, prepared periodically by DEC as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes, and streams that fall

short of state surface water quality standards and are not expected to improve within the next 2 years.

TMDL - Total Maximum Daily Load.

TOTAL MAXIMUM DAILY LOAD - The maximum amount of a pollutant allowed to be released into a water body so as not to impair uses of the water, allocated among the sources of that pollutant.

UNAUTHORIZED CONNECTION - A permanent or temporary unapproved direct or indirect conveyance to the Village's MS4. Any connection, pipe, hose, or other conveyance, whether permanent or temporary, that is not documented on plans, maps, or equivalent records signed by the Superintendent, or that is not approved by a permit issued by the Superintendent, is considered unauthorized regardless of whether the discharge is otherwise allowed by this chapter.

UNCONTAMINATED – Not having any pollutants.

WASTEWATER - Water that is not stormwater, is contaminated with pollutants and is, or will be, discarded.

§ 108-3. Applicability.

This chapter shall apply to discharge connections to the Village's MS4. This includes activities that result in discharge, seepage, or deposition into the Village's MS4, and all water entering the Village's MS4 generated on any premises unless explicitly exempted by an authorized enforcement agency and allowed by a discharge or connection permit or other document approved by the Superintendent. This chapter shall also apply to discharges and connections entering another MS4 that flows to the Village's MS4.

§ 108-4. Responsibility for administration.

The Superintendent shall administer, implement, and enforce the provisions of this chapter.

§ 108-5. Discharge prohibitions.

A. Prohibition of Illegal Discharges.

- (1) No person shall discharge or cause to be discharged into the Village's MS4 any illicit discharge or any other materials other than stormwater, except as provided in subsection B hereof.
- (2) No person shall permit, tolerate, or allow to be discharged from his/her premises into the Village's MS4 any illicit discharge or any other materials, other than stormwater, except as provided in subsection B hereof.

B. Exceptions:

- (1) The following discharges are exempt from discharge prohibitions established by this chapter, unless they are subsequently determined to be substantial contributors of pollutants: water line flushing, or flushing from other potable water sources, uncontaminated landscape irrigation, lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water from foundation or footing drains, uncontaminated crawl space or basement sump pump discharges, air conditioning

condensate, uncontaminated irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants. When deemed appropriate by the Superintendent, such exempt discharges shall be made in accordance with a plan for reducing pollutants.

- (2) Discharges approved in writing by the Superintendent to protect life or property from imminent harm or damage, provided that such approval shall not be construed to constitute compliance with other applicable laws, rules, and regulations, and further provided that such discharges may be permitted for a specified time period and under such conditions as the Superintendent may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this chapter.
- (3) Dye testing in compliance with applicable State and local laws, rules, and regulations is an allowable discharge, but requires a verbal notification to the Superintendent prior to the time of the test.
- (4) Any discharge permitted under a SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of DEC, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws, rules, and regulations, and provided that written approval has been granted for any discharge to the Village's MS4 by the Superintendent.

§ 108-6. Prohibition of unauthorized connections.

- A. Connections to the Village's MS4 without a permit are prohibited.
 - (1) The construction, use, maintenance, or continued existence of an unauthorized connection to the Village's MS4 is prohibited.
 - (2) The prohibitions in this section expressly include not only future connections, but also, without limitation, connections made in the past, regardless of whether the connection was permissible under law, rule, regulation, or practice applicable or prevailing at the time of the connection.
 - (3) The connection of interior floor drains and trench drains at the entrances to buildings or other structures is prohibited.
- B. No person shall, or shall cause another, to construct, use, maintain, or continue to use or maintain an unauthorized connection to the Village's MS4.
- C. No person shall permit, tolerate, or allow an unauthorized connection from his/her premises to the Village's MS4.

§ 108-7. Prohibition against failing individual sewage treatment systems.

No persons shall operate a failing individual sewage treatment system in areas that flow to the Village's MS4. A failing individual sewage treatment system is one which has one or more of the following conditions:

- A. The backup of sewage into a structure.
- B. Discharges of treated or untreated sewage onto the ground surface.

- C. A connection or connections to a separate stormwater sewer system.
- D. Liquid level in the septic tank above the outlet invert.
- E. Contamination of off-site groundwater.
- F. Structural failure of any components of the individual sewage treatment system that could lead to any of the other failure conditions as noted above in this section.

§ 108-8. Prohibition against activities contaminating stormwater or maintaining or using an unauthorized connection to the Village's MS4.

- A. Activities that are subject to the requirements of this section are those types of activities that:
 - (1) Cause or contribute to a violation of the Village's MS4 SPDES permit.
 - (2) Cause or contribute to the Village being subject to Special Conditions.
 - (3) Cause or contribute to the Village's MS4 receiving pollutants.
 - (4) Cause, or contribute to the Village's MS4 receiving discharges from an unauthorized connection.
- B. Such activities include failing individual sewage treatment systems as defined in § 108-7 of this chapter, improper management of pet waste, and any other activity that causes or contributes to violations of the Village's MS4 SPDES permit authorization.
- C. Upon notification to a person that he/she is engaged in activities that cause or contribute to violations of the Village's MS4 SPDES permit authorization, or cause or contribute to pollutants being discharged into the Village's MS4, that person shall immediately take all reasonable and necessary actions to correct such activities and thereafter continue to use due diligence to correct such activities so that he/she no longer causes or contributes to violations of the Village's MS4 SPDES permit authorization or causes or contributes to pollutants to be discharged or deposited into the Village's MS4.

§ 108-9. Requirement to prevent, control, and reduce stormwater pollutants by the use of BMPs.

- A. BMPs. Where the Superintendent has identified illicit discharges or activities contaminating stormwater, the Superintendent may require implementation of BMPs to control those illicit discharges and activities.
 - (1) The owner, tenant, and operator of a commercial or industrial establishment shall each be responsible, jointly and severally, for assuring that provision is made for reasonable protection from the discharge, accidental or otherwise, of pollutants or other prohibited materials or wastes into the Village's MS4 through the use of structural and non-structural BMPs.
 - (2) The owner, tenant, and any other person responsible for premises, which are or may be the source of an illicit discharge or an activity contaminating stormwater, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the

source of pollutants to the Village's MS4 in the most practicable and expeditious manner under the circumstances.

- (3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section.

B. Individual sewage treatment systems. Where individual sewage treatment systems are contributing to the Village's MS4 being subject to Special Conditions, the owner, tenant, and operator of the premises upon which such individual sewage treatment system is located or which are otherwise being serviced by such individual sewage treatment systems, shall be required to:

- (1) Maintain and operate individual sewage treatment systems as follows:
 - (a) Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within 3 inches of the bottom of the outlet baffle or sanitary tee, or the top of the sludge is within 10 inches of the bottom of the outlet baffle or sanitary tee.
 - (b) Avoid the use of septic tank additives.
 - (c) Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals.
 - (d) Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash, and other such items.
- (2) Repair or replace individual sewage treatment systems as follows:
 - (a) Individual sewage treatment systems shall be repaired or replaced in accordance with 10 NYCRR Appendix 75A or, if applicable, the Nassau County Department of Health's Manual of On Site Sewage Disposal, as amended and revised, to the maximum extent practicable.
 - (b) A design professional shall prepare design plans for any type of absorption field that involves:
 - [1] Relocating or extending an absorption area to a location not previously approved for such.
 - [2] Installation of a new subsurface treatment system at the same location.
 - [3] Use of an alternate system or an innovative system design or technology.
 - (c) A written certificate of compliance shall be submitted by the design professional to the Village at the completion of construction of the repair or replacement system.

§ 108-10. Suspension of access to the Village's MS4.

- A. Suspension due to imminent and substantial danger. The Superintendent may, without prior notice, suspend a person's access to the Village's MS4 when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, to the health, safety, or welfare of persons, to property, or to the Village's MS4. The Superintendent shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the Superintendent may take such steps as he/she deems necessary, in his/her sole discretion, to prevent or minimize damage to the environment, persons, property, or the Village's MS4.

- B. Suspension due to the detection of illicit discharge or unauthorized connection. Any person discharging to the Village's MS4 in violation of this chapter may have its access to the Village's MS4 terminated if such termination would abate or reduce an illicit discharge, or result in the remedy of an unauthorized connection. The Superintendent shall notify a violator in writing of the proposed termination of its access to the Village's MS4 and the reasons therefore. The violator may petition the Superintendent for a reconsideration and hearing. Access may be granted by the Superintendent if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence, or that the discharger has obtained proper permission for the connection. Access may be denied if the Superintendent determines in writing that the illicit discharge has not ceased, or is likely to recur, or the unauthorized connection has not been remedied. A person commits an additional offense if the person reconnects access to the Village's MS4 after such connection had been terminated pursuant to this section if such reconnection is without the prior approval of the Superintendent.

§ 108-11. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Superintendent prior to the allowing of discharges to the Village's MS4.

§ 108-12. Connection permits.

- A. General. Any connection to the Village's MS4 requires a permit issued by the Superintendent. Applications for permits shall be made on forms provided by the Superintendent. Permit applications shall be supplemented by any plans, specifications, analyses, calculations, or other information considered pertinent by the Superintendent. The Village considers connection to the Village's MS4 as a last resort to solve flooding problems. Before approving a connection, the Village may require that applicants use on-site BMPs to handle stormwater and other authorized non-stormwater discharges to the maximum extent practicable. The Superintendent may assess the adequacy of the applicant's on-site stormwater disposal BMPs and require additional practices if he/she deems it advisable.

- B. Permit Types.
 - (1) General Permit. An authorization for a connection permit and the discharge of stormwater, or authorized non-stormwater, pursuant to § 108.5(B)(1) of this Chapter, from properties occupied by private dwellings.

- (2) Connection Permit. An authorization for a connection and a discharge, pursuant to § 108.5(B)(4) of this Chapter. A connection permit may be subject to special terms and conditions by the Superintendent. The permit will expire on, or before the expiration of the DEC SPDES permit, waiver, or order, or upon a change of ownership or use of the premises.
 - (3) Special Permit. An authorization for a connection permit and the discharge of stormwater, or authorized non-stormwater, pursuant to § 108.5(B)(1) of this Chapter, from all properties occupied by other than private dwellings.
- C. Permit Fees. Permit fees shall be set from time to time by resolution of the Board of Trustees.
- D. Inspection. All connections to the Village's MS4 shall be subject to the approval and inspection by the Superintendent. The applicant must notify the Superintendent at least 48 hours prior to commencing work and at least 48 hours prior to final restoration.
- E. Indemnification.
- (1) To the fullest extent permitted by law, the owner and the applicant, if different from the owner, shall, jointly and severally, indemnify and hold harmless the Village, the Mayor, the Board of Trustees and all of the Village's other elected and appointed officials, employees, agents, representatives, and volunteers (collectively, the "Indemnitees") from and against all claims, damages, losses, costs, and expenses, including, but not limited to, attorneys and expert witnesses' fees, arising out of or resulting from its installation and connection to the Village's MS4. Such obligation shall not be construed to negate, abridge, or to otherwise reduce any other right or obligation of indemnity which would otherwise exist to an Indemnitee.
 - (2) Nothing in this section shall be deemed to provide indemnification which is otherwise prohibited by Article 5 of the General Obligations Law.
 - (3) In any and all claims against the Indemnitees by any employee of the owner or the applicant, if different from the owner, anyone directly or indirectly

- H. Work within Village Roads. Any connection made within or involving work within a Village road must also comply with and be subject to any and all applicable laws, rules, and regulations pertaining to permits for work on and within Village roads. A permit under this chapter shall not relieve the applicant from the obligation to obtain all necessary permits under the foregoing laws, rules, and regulations.
- I. Other Permits Required. A connection permit issued pursuant to this chapter does not relieve the applicant from obtaining any and all other applicable permits and permissions, nor from compliance with all other applicable laws, rules, and regulations.
- J. Permit Rules and Regulations. The Superintendent may promulgate rules and regulations for the permitting process set forth within, and subject to the constraints of, this chapter.

§ 108-13. Access and monitoring of discharges.

- A. Applicability. This section applies to all facilities that the Superintendent is required or authorized to inspect in order to enforce the provisions of this chapter, and whenever the Superintendent has reason to believe that there may exist a condition that constitutes a violation of this chapter.
- B. Access to Facilities.
 - (1) The Superintendent shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be reasonable or necessary to determine compliance with this chapter. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the Superintendent.
 - (2) Facility operators shall allow the Superintendent ready access to all parts of their premises for the purposes of inspection, sampling, examination, and copying of records as may be required to implement this chapter.
 - (3) The Village shall have the right to set up on any facility subject to this chapter, such devices as are necessary, in the discretion of the Superintendent, to conduct monitoring and/or sampling of the facility's stormwater discharge.
 - (4) The Superintendent has the right to require the facilities subject to this chapter to install monitoring equipment as is reasonably necessary to determine compliance with this chapter. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
 - (5) Unreasonable delays in allowing the Village access to a facility subject to this chapter are a violation of this chapter. A person who is the operator of a facility subject to this chapter commits an offense if the person denies the Superintendent reasonable access to the facility for the purpose of conducting any activity authorized, or required by this chapter.

- (6) If the Superintendent has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter, or any order issued hereunder, then the Superintendent may seek issuance of a search warrant from the Village Court or any other court of competent jurisdiction.

§ 108-14. Notification of spills.

- A. Illegal discharges. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or other pollutants discharging into the Village's MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.
- B. Release of hazardous materials. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services, and, immediately thereafter, the Superintendent, the Village Police Department, and the Village Clerk.
- C. Release of nonhazardous materials. In the event of a release of nonhazardous materials, said person shall notify the Superintendent in person, by telephone or by facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Superintendent within 3 business days of the in person or by telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 3 years.

§ 108-15. Enforcement.

- A. Notice of Violation. When the Superintendent finds that a person has violated a prohibition or failed to meet a requirement of this chapter or of a permit issued pursuant to this chapter, he/she may order compliance by written notice of violation to the responsible person. Such notice shall be sent by Certified Mail Return Receipt Requested and by first class mail to the last know owner of the premises based upon the Village's latest assessment records and, in the event that there is a permittee different from such owner, to the permittee in the same manner, and shall be posted upon the premises. Such notice may require, without limitation, any or all of the actions listed below, and/or such other action as the Superintendent, in his/her own discretion, may deem appropriate:
 - (1) That a proper permit be obtained;
 - (2) The elimination of illicit or unauthorized connections or discharges;
 - (3) That violating discharges, practices, operations, activities, or connections shall cease and desist;
 - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected premises;
 - (5) The performance of monitoring, analyses, and reporting;

- (6) Payment of a fine and/or restitution for the damages that have occurred as a result of the violation or failure; and
 - (7) The implementation of source control or treatment BMPs.
- B. Abatement and restoration. If abatement of a violation and/or restoration of affected premises are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that should the violator fail to remediate or restore within the established deadline, the work may be performed by the Village and the expense thereof shall be charged to the violator and, if unpaid within 30 days, become a lien upon the violating premises and collected in the same manner as Village real property taxes.
- C. Penalties. In addition to, or as an alternative to, any penalty provided herein or otherwise by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine of not more than two thousand dollars, or imprisonment for a period not to exceed 15 days, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of 5 years, punishable by a fine of not more than five thousand dollars, or imprisonment for a period not to exceed 15 days, or both; and upon conviction for a third, or subsequent offense all of which were committed within a period of 5 years, punishable by a fine of not more than ten thousand dollars, or imprisonment for a period not to exceed 15 days, or both. Each week's continued violation shall constitute a separate additional violation.

§ 108-16. Appeal of notice of violation.

Any person receiving a Notice of Violation may appeal within ten calendar days of its issuance. The Superintendent shall hear the appeal within thirty days after the filing of the appeal, and within five days of making his/her decision, issue a decision by certified mail to the discharger. The Superintendent may conduct the hearing and take evidence, or may designate another officer or employee of the Village to do so.

§ 108-17. Corrective measures.

- A. If a violation has not been corrected pursuant to the requirements set forth in the Notice of Violation or, in the event of an appeal, within five business days of the decision of the Superintendent, or in the event that access is permitted to the Superintendent pursuant to the provisions of this chapter, then the Superintendent shall request the owner's permission to take any and all measures reasonably necessary to abate the violation and/or restore the premises.
- B. If refused access to the premises, the Superintendent may seek a warrant in the Village Court or another court of competent jurisdiction to be authorized to enter upon the premises to determine whether a violation is occurring or is reasonably likely to occur if immediate action is not taken. Upon determination that a violation has occurred or is reasonably likely to occur if immediate action is not taken, the Village may seek a court order permitting the Village to take any and all measures reasonably necessary to abate the violation and/or to prevent the violation from occurring and/or to restore the premises. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger. In any such action, the Village shall be entitled to its legal costs and expenses, including the fees of attorneys and witnesses, as may be awarded by the Court.

§ 108-18. Public nuisance and injunctive relief.

- A. It shall be unlawful for any person to violate any provision, or fail to comply with any of the requirements of this chapter.
- B. Any condition caused or permitted to exist in violation of any of the requirements of this chapter is a threat to the public health, safety, and welfare, and is declared and deemed a public nuisance.
- C. If a person has violated or continues to violate the provisions of this chapter, the Village may petition for a temporary restraining order, preliminary injunction, and/or permanent injunction restraining the person from activities which would create further violations, or compelling the person to perform abatement, or remediation of the violation. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger. In any such action, the Village shall be entitled to its legal costs and expenses, including the fees of attorneys and witnesses, as may be awarded by the Court.

§ 108-19. Alternative remedies.

- A. Where a person has violated a provision of this chapter, he/she may be eligible for alternative remedies in lieu of a fine, upon recommendation of the prosecuting attorney for the Village and with the concurrence of the Superintendent, where:
 - (1) The violation was unintentional.
 - (2) The violator has no history of significant previous violations of this chapter.
 - (3) Environmental damage was minimal.
 - (4) The violator acted quickly to remedy violation.
 - (5) The violator cooperated in the investigation and resolution.
- B. Alternative remedies may consist of one, or more of the following:
 - (1) Attendance at compliance workshops.
 - (2) Storm drain stenciling or storm drain marking.
 - (3) River, stream, or creek cleanup activities.
 - (4) Such other appropriate remedy to which the prosecuting attorney, Superintendent, violator, and the court may agree.

§ 108-20. Remedies not exclusive.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the Superintendent and of the Village to seek cumulative remedies.”

Section 2. Severability.

The provisions of this local law are hereby declared to be severable. If any provision, paragraph, clause, or sentence of this local law, or the application thereof to any person, establishment, or circumstance shall be held invalid, such invalidity shall not

affect any other provision, paragraph, clause, or sentence of this local law, or the application thereof to any other person, establishment, or circumstance.

Section 3. Effective date.

This local law shall take effect immediately.

Vote was recorded as follows: Trustee Cohen-aye, Trustee Hoffman-aye, Trustee Malatino-aye, Deputy Mayor Schenkler-aye. Motion carried.