

# **Stormwater Management and Erosion & Sediment Control**

A local law to amend the Zoning Law of the Village of Voorheesville,  
Local Law Number 3 of the Year 2007.

Be it enacted by the Village Board of Trustees of the Village of Voorheesville as follows:

## **Article 1. General Provisions**

### **Section 1. Finding of Fact**

It is hereby determined that:

- 1.1 Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- 1.2 This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- 1.3 Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- 1.4 Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- 1.5 Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- 1.6 Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- 1.7 Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- 1.8 The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety;
- 1.9 Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with natural functions of particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development;

### **Section 2. Purpose**

The purpose of this local law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing with this jurisdiction and to address the findings of fact in Section 1 hereof. This local law seeks to meet those purposes by achieving the following objectives:

- 2.1 Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no GP-02-02 or as amended or revised;
- 2.2 Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination

System (SPDES) General Permit for Construction Activities GP02-01 or as amended or revised;

- 2.3 Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- 2.4 Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- 2.5 Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- 2.6 Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

### **Section 3. Statutory Authority**

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Village of Voorheesville Board of Trustees has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the Village of Voorheesville and for the protection and enhancement of its physical environment. The Village Board of Trustees of Voorheesville may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

### **Section 4. Applicability**

- 4.1 This local law shall be applicable to all land development activities as defined in this local law, Article 2, Section 1.
- 4.2 The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management officer may (1) review the plans, (2) upon approval by the Village of Voorheesville Board of Trustees, engage the services of a licensed professional engineer to review the plans, specifications and related documents at a cost to be determined paid by the applicant of property owner.
- 4.3 All land development activities subject to review and approval by the Planning Commission as defined in the Village of Voorheesville Zoning Law and Subdivision Regulations shall be reviewed subject to the standards contained in this local law.
- 4.4 All land development activities not subject to review as stated in section 4.3 shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this law.

### **Section 5. Exemptions**

The following activities may be exempt from review under this law.

- 5.1 Agricultural activity as defined in this local law.
- 5.2 Silvicultural activities except that landing areas and log haul roads are subject to this law.
- 5.3 Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- 5.4 Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.

- 5.5 Any part of a subdivision if a plat for the subdivision has been approved by the Village of Voorheesville on or before the effective date of this law.
- 5.6 Land development activities for which a building permit has been approved on or before the effective date of the law.
- 5.7 Cemetery grave.
- 5.8 Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- 5.9 Emergency activity immediately necessary to protect life, property or natural resources.
- 5.10 Activities of an individual engaging in-home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- 5.11 Landscaping and horticultural activities in connection with an existing structure.

**Article 2. Zoning Law Amendment: Stormwater Control**

The Zoning Law is hereby amended to include Article XX, 4, a new supplemental regulation titled Stormwater Control.

**Section 1. Definitions**

The terms used in this local law or in documents prepared or reviewed under this local law shall have the meaning as set forth in this section.

**Agricultural Activity** – the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation or the construction of new structures associated with agricultural activities.

**Applicant** – a property owner or agent of a property owner who has filed an application for a land development activity.

**Building** – any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

**Channel** – a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**Clearing** – any activity that removes the vegetative surface cover.

**Dedication** – the deliberate appropriation of property by its owner for general public use.

**Department** – the New York State Department of Environmental Conservation.

**Design Manual** – the *New York State Stormwater management Design Manual*, most recent version including applicable updates that serves as the official guide for stormwater management principles, methods and practices.

**Developer** – a person who undertakes land development activities.

**Erosion Control Manual** – the most recent version of the *New York Standards and Specifications for Erosion and Sediment Control* manual, commonly known as the “Blue Book”.

**Grading** – excavation or fill of material, including the resulting conditions thereof.

**Impervious Cover** – those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

**Industrial Stormwater Permit** – a State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries, which regulates the pollutant levels, associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**Infiltration** – the process of percolating stormwater into the subsoil.

**Jurisdictional Wetland** – an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly know as hydrophytic vegetation.

**Land Development Activity** - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acres of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**Landowner** - the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**Maintenance Agreement** - a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

**Nonpoint Source Pollution** - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**Phasing** - clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

**Pollutant of Concern** - sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

**Project** - land development activity.

**Recharge** - the replenishment of underground water reserves.

**Sediment Control** - measures that prevent eroded sediment from leaving the site.

**Sensitive Areas** - cold-water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

**SPDES General Permit for Construction Activities GP-02-01** - a permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

**SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02** - a permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

**Stabilization** - the use of practices that prevent exposed soil from eroding.

**Stop Work Order** - an order issued which requires that all construction activity on a site be stopped.

**Stormwater** - rainwater, surface runoff, snowmelt and drainage.

**Stormwater Hotspot** - a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

**Stormwater Management** - the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

**Stormwater Management Facility** - one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

**Stormwater Management Officer** - an employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board, and inspect stormwater management practices.

**Stormwater Management Practices (SMPs)** – measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**Stormwater Pollution Prevention Plan (SWPPP)** – a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**Stormwater Runoff** – flow on the surface of the ground, resulting from precipitation.

**Surface Waters of the State of New York** – lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground water), which are wholly or partially within or bordering the state or within its jurisdiction.

Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to man made bodies of water which neither were originally created in waters of the state (such as the disposal area in wetlands) nor resulted from impoundment of waters of the state.

**Watercourse** – a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

**Waterway** – a channel that directs surface runoff to a watercourse or to the public storm drain.

## **Section 2. Stormwater Pollution Prevention Plans**

**2.1 Stormwater Pollution Prevention Plan Requirement.** No application for approval of a land development activity shall be reviewed until the appropriate board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this local law.

### **2.2 Contents of Stormwater Pollution Prevention Plans.**

**2.2.1** All SWPPPs shall provide the following background information and erosion and sediment controls:

1. Background information about the scope of the project, including location, type and size of project, and receiving waters
2. Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s) and offsite topographic and planimetric features for 250 linear feet. Site map should be at a scale no smaller than one inch equals one hundred feet (e.g. one inch equals one hundred feet)

3. Description of the soil(s) present at the site;
4. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) areas shall be disturbed at any one time unless pursuant to an approved SWPPP.
5. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
6. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
7. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
8. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
9. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
10. Temporary practices that will be converted to permanent control measures;
11. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
12. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
13. Name(s) of the receiving water(s);
14. Delineation of SWPPP implementation responsibilities for each part of the site;
15. Description of structural practices designed to divert flows from exposed soils, storm flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
16. Any existing data that describes the stormwater runoff at the site.

2.2.2 Land development activities as defined in Section 1 of this Article and meeting Condition "A", "B" or "C" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Section 2.2.3 below as applicable:

**Condition A** – Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's

303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

**Condition B** – Stormwater runoff from land development activities disturbing five (5) or more acres.

**Condition C** – Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.

### 2.2.3 SWPPP Requirements for Condition A, B and C;

1. All information in Section 2.2.1 of this local law;
2. Description of each post-construction stormwater management practice;
3. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
4. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
5. Comparison of post-development stormwater runoff conditions with pre-development conditions;
6. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
7. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;
8. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;
9. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article 2, Section 4 of this local law.

### 2.3 Plan Certification

The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.

### 2.4 Other Environmental Permits

The applicant shall provide written proof that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

### 2.5 Contractor Certification

- 2.5.1 Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification

statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards".

2.5.2 The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

2.5.3 The certification statement(s) shall become part of the SWPPP for the land development activity.

2.6 A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of the initiation of construction activities to the date of the final stabilization.

### **Section 3. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control**

All land development activities shall be subject to the following performance and design criteria:

#### **3.1 Technical Standards**

For the purpose of this local law, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

3.1.1 The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)

3.1.2 New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

#### **3.2 Equivalence to Technical Standards**

Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Article 2, Section 3.1 and the SWPPP shall be prepared by a licensed professional.

#### **3.3 Water Quality Standards**

Any land development activity shall not cause an increase in turbidity that will



result in substantial visible contrast to natural conditions in surface water of the state of New York.

#### **Section 4. Maintenance, Inspection and Repair of Stormwater Facilities**

##### **4.1 Maintenance and Inspection During Construction**

- 4.1.1 The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- 4.1.2 The applicant or developer or their representative shall be onsite at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The report shall be delivered to the Stormwater Management Officer on a monthly basis, and also copied to the site logbook.

##### **4.2 Maintenance Easement(s)**

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Village of Voorheesville to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Village of Voorheesville.

##### **4.3 Maintenance after Construction**

The owner or operator of permanent stormwater management practices installed in accordance with this law shall be operated and maintained to achieve the goals of this law. Proper operation and maintenance also includes as a minimum, the following:

- 4.3.1 A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this laws.
- 4.3.2 Written procedures for operation and maintenance and training new maintenance personnel.
- 4.3.3 Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Article 2, section 3.2.

#### 4.4 Maintenance Agreements

The Village of Voorheesville shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this local law entitled Sample Stormwater Control Facility Maintenance Agreement. The Village of Voorheesville in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise for inspection and regular maintenance.

#### Section 5. Severability and Effective Date

##### 5.1 Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

##### 5.2 Effective Date

This Local Law shall be effective upon filing with the office of the Secretary of State.

Approved by: \_\_\_\_\_ Date \_\_\_\_\_

#### ARTICLE 3. Subdivision Regulation Amendment

The Subdivision Regulations of the Village of Voorheesville are hereby amended by adding the following to the information requirements:

- A. For Preliminary Subdivision Plat add: Stormwater Pollution Prevention Plan: A stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Article 1 and 2 of this local law shall be required for Preliminary Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Preliminary Subdivision Plat shall be consistent with the provisions of this local law.
- B. For Final Subdivision Plat approval add: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law and with the terms of preliminary plan approval shall be required for Final

Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Final Subdivision Plat shall be consistent with the provisions of this local law.

#### **Article 4. Site Plan Review Regulations Amendment**

The Site Plan Review regulations of the Village of Voorheesville Zoning Law is/are hereby amended by adding the following to the information requirements:

Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Site Plan shall be consistent with the provisions of this local law.

#### **Article 5. Administration and Enforcement**

##### **Section 1. Construction Inspection**

##### **1.1 Erosion and Sediment Control Inspection**

The Village of Voorheesville Stormwater Management Officer may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Village of Voorheesville enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

- 1.1.1 Start of construction
- 1.1.2 Installation of sediment and erosion control measures
- 1.1.3 Completion of site clearing
- 1.1.4 Completion of rough grading
- 1.1.5 Completion of final grading
- 1.1.6 Close of the construction season
- 1.1.7 Completion of final landscaping
- 1.1.8 Successful establishment of landscaping in public areas

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

##### **1.2 Stormwater Management Practice Inspections**

The Village of Voorheesville Stormwater Management Officer is responsible for conducting inspections of stormwater management practice (SMPs). All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed and prior to issuance of a Certificate of Compliance. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

### **1.3 Inspection of Stormwater Facilities After Project Completion**

Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspection of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

### **1.4 Submission of Reports**

The Village of Voorheesville Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

#### **1.5.1 Right-of-Entry for Inspection**

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Village of Voorheesville the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph 1.3.

## **Section 2. Performance Guarantee**

### **2.1 Construction Completion Guarantee**

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Village of Voorheesville in its approval of the Stormwater Pollution Prevention Plan, the Village of Voorheesville may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village of Voorheesville as the beneficiary. The security shall be in an amount to be determined

by the Village of Voorheesville based on submission of final design plan, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Village of Voorheesville, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Village of Voorheesville. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

### **2.2.1 Maintenance Guarantee**

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Village of Voorheesville with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Village of Voorheesville may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection cost.

### **2.3 Record Keeping**

The Village of Voorheesville may require entities subject to this law to maintain records demonstrating compliance with this law.

## **Section 3. Enforcement and Penalties**

### **3.1 Notice of Violation**

When the Village of Voorheesville determines that a land development activity is not being carried out in accordance with the requirements of this local law, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- 3.1.1 The name and address of the landowner, developer or applicant;
- 3.1.2 The address when available or a description of the building, structure or land upon which the violation is occurring;
- 3.1.3 A statement specifying the nature of the violation;
- 3.1.4 A description of the remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the completion of such remedial action;
- 3.1.5 A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

3.1.6 A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

### **3.2 Stop Work Orders**

The Village of Voorheesville may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the Village of Voorheesville confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this local law.

### **3.3 Violations**

Any land development activity that is commenced or is conducted contrary to this local law, may be restrained by injunction or otherwise abated in a manner provided by law.

### **3.4 Penalties**

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

### **3.5 Withholding of Certificate of Compliance, Certificate of Occupancy, Certificate of Completion or Certificate of Use.**

If any building or land development activity is installed or conducted in violation of this local law the Stormwater Management Officer may withhold or revoke a certificate of compliance, occupancy, completion or use of a building or structure or use of land.

### **3.6 Restoration of Lands**

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Village of Voorheesville may take necessary corrective action, the cost of which shall become a lien up the property until paid.

#### Section 4. Fees for Services

The Village of Voorheesville may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Village of Voorheesville or performed by a third party for the Village of Voorheesville.

Schedule A		
Stormwater Management (From New York State)		Practices Acceptable for Water Quality Stormwater Management Design Manual Table 5.1:
Group	Practice	Description
Pond	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P-4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
Wetland	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.
	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.
Infiltration	Infiltration Trench (I-1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.
	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.

Filtering Practices	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Upland Sand Filter (F-2)	A filtering practice that treats stormwater as it flows through a series of adjacent filtering chambers.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter in place of sand.
	Bioretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept Groundwater for water quality treatment.

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### Maintenance Agreement

Whereas, the Village of Voorheesville and \_\_\_\_\_ (facility owner) consent to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Village of Voorheesville for the below named project, and

Whereas, the Village of Voorheesville and \_\_\_\_\_ (facility owner) require that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the Village of Voorheesville and \_\_\_\_\_ (facility owner) agree as follows:

1. This agreement binds the Village of Voorheesville and \_\_\_\_\_ (facility owner), its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.
2. The \_\_\_\_\_ (facility owner) shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following; drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention and detention ponds.
3. The \_\_\_\_\_ (facility owner) shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
4. The \_\_\_\_\_ (facility owner) shall provide for the periodic inspection of the stormwater control measures, to be determined by the Village of Voorheesville, but not less than once in every five-year period, to



determine the condition and integrity of the measures. A Professional Engineer licensed by the State of New York shall perform such inspection. The inspecting engineer shall prepare and submit to the Village of Voorheesville within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.

5. The \_\_\_\_\_ (facility owner) shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Village of Voorheesville.
6. The \_\_\_\_\_ (facility owner) shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Village of Voorheesville or in accordance with the recommendations of the inspecting engineer.
7. The \_\_\_\_\_ (facility owner) shall provide to the Village of Voorheesville within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of a Bond, letter of credit or escrow account.
8. This agreement shall be recorded on the Office of the County Clerk, County of Albany, together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to.
9. If ever the Village of Voorheesville determines that the \_\_\_\_\_ (facility owner) has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Village of Voorheesville or by the inspecting engineer, the Village of Voorheesville is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.
10. This agreement is effective \_\_\_\_\_.

Reference Local Law # 3 of 2007.

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## ILLICIT DISCHARGE AND CONNECTION ORDINANCE

### SECTION 1. PURPOSE/INTENT.

The purpose of this ordinance is to provide for the health, safety, and ~~general~~ welfare of the citizens of the Village of Voorheesville through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the General Permit for Municipal Separate Storm Sewer Systems (SPEDES) permit process. The objectives of this ordinance are:

1.1 To meet the requirements of the SPEDES General Permit for Stormwater Discharges from MS4's, Permit no. GP-02-02 or as amended or revised;

1.2 To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.

1.3 To prohibit illicit connections and discharges to the MS4.

1.4 To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

1.5 To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, greases, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

## **SECTION 2. DEFINITIONS.**

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency: Employees or designees of the director of the municipal agency designated to enforce this ordinance.

Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, general good house keeping 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.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity: Activities subject to SPEDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials: Any material, including any substance, 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 when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge: Any direct or indirect non-storm water discharge to the storm drains system, except as exempted in Section 8 of this ordinance.

Illicit Connections: An illicit connection is defined as either of the following:

- Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system 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 or,
- Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity: Activities subject to SPEDES Permits.

Municipal Separate Storm Sewer System (MS4): The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the Village of Voorheesville and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge: Any discharge to the storm drain system that is not composed entirely of storm water.

Person: Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant: Anything, which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System: Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, dry wells, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Storm Water Management Plan: A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

### **SECTION 3.           APPLICABILITY.**

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Village of Voorheesville.

### **SECTION 4.           RESPONSIBILITY FOR ADMINISTRATION.**

The Village of Voorheesville shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Village of Voorheesville may be delegated in writing by the Board of Trustees of the Village of Voorheesville to persons or entities acting in the beneficial interest of or in the employ of the agency.

### **SECTION 5.           COMPATIBILITY WITH OTHER REGULATIONS.**

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

### **SECTION 6.           SEVERABILITY.**

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

## **SECTION 7. ULTIMATE RESPONSIBILITY.**

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

## **SECTION 8. DISCHARGE PROHIBITIONS.**

### **8.1. Prohibition of Illegal Discharges.**

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.

Discharges or flow from firefighting, and other discharges specified in writing by the Village of Voorheesville as being necessary to protect public health and safety.

(3) Discharges associated with dye testing, however this activity requires a verbal notification to the Village of Voorheesville prior to the time of the test.

(4) The prohibition shall not apply to any non-storm water discharge permitted under a SPEDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

*Note: the Village of Voorheesville may evaluate and remove any of the above exemptions if it is determined that they are causing an adverse impact.*

## 8.2. Prohibition of Illicit Connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
- (4) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, or as so determined by the Village of Voorheesville.
- (5) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Village of Voorheesville requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Village of Voorheesville.

## **SECTION 9. WATERCOURSE PROTECTION.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property, free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

## **SECTION 10. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.**

### 10.1. Submission of NOI to Village of Voorheesville.

- (1) Any person subject to an industrial or construction activity SPEDES permit shall comply with all provisions of such permit. Proof of compliance with said permit may

be required in a form acceptable to the Village of Voorheesville prior to the allowing of discharges to the MS4.

(2) The operator of a facility, including construction sites, required to have an SPEDES permit to discharge storm water associated with industrial activity shall submit a copy of the Notice of Intent (NOI) to the Village of Voorheesville at the same time the operator submits the original Notice of Intent to the EPA as applicable.

(3) The copy of the Notice of Intent may be delivered to the Village of Voorheesville either in person or by mailing it to:

*Notice of Intent to Discharge Storm Water*

**Village of Voorheesville**

*P.O. Box 367*

*Voorheesville, New York 12186*

(4) A person commits an offense if the person operates a facility that is discharging storm water associated with industrial activity without having submitted a copy of the Notice of Intent to do so to the Village of Voorheesville.

## **SECTION 11. COMPLIANCE MONITORING**

### **11.1. Right of Entry: Inspection and Sampling.**

The Village of Voorheesville shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

(1) If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Village of Voorheesville.

(2) Facility operators shall allow the Village of Voorheesville ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an SPEDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) The Village of Voorheesville shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Village of Voorheesville to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The Village of Voorheesville has the right to require the discharger to install monitoring equipment as necessary. 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 storm water flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Village of Voorheesville and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the Village of Voorheesville access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with an SPEDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Village of Voorheesville reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

#### 11.2. Search Warrants.

If the Village of Voorheesville has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, 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 ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Village of Voorheesville may seek issuance of a search warrant from any court of competent jurisdiction.

### **SECTION 12. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

The Village of Voorheesville will adopt requirements identifying Best Management Practices (BMP's) for any activity, operation, or facility, which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid SPEDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water management plan (SWMP) as necessary for compliance with requirements of the SPEDES permit.

### **SECTION 13. NOTIFICATION OF SPILLS.**



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 pollutants discharging into storm water, the storm drain system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. 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. In the event of a release of non-hazardous materials, said person shall notify the Village of Voorheesville in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Village of Voorheesville within two business days of the phone 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 ten years.

Failure to provide notification of a release as provided above is a violation of this ordinance.

#### **SECTION 14. VIOLATIONS, ENFORCEMENT, AND PENALTIES.**

##### **14.1. Violations.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the Village of Voorheesville is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Village of Voorheesville is authorized to seek costs of the abatement as outlined in Section 17.

##### **14.2. Warning Notice.**

When the Village of Voorheesville finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Village of Voorheesville may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this

subsection shall limit the authority of the Village of Voorheesville to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

#### 14.3. Notice of Violation.

Whenever the Village of Voorheesville finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Village of Voorheesville may order compliance by written notice of violation to the responsible person.

The Notice of Violation shall contain:

- (1) The name and address of the alleged violator;
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (6) A statement that the determination of violation may be appealed to the Village of Voorheesville by filing a written notice of appeal within two days of service of notice of violation; and
- (7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property

- (5) Payment of a fine to cover administrative and remediation costs; and
- (6) The implementation of source control or treatment BMPs.

#### 14.5. Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the Village of Voorheesville may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

#### 14.6. Suspension Of MS4 Access.

##### 14.6.1. Emergency Cease and Desist Orders

When the Village of Voorheesville finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Village of Voorheesville may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

- (1) Immediately comply with all ordinance requirements; and
- (2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Village of Voorheesville may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Village of Voorheesville may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Village of Voorheesville that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Village of Voorheesville within two days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

#### 14.6.2. Suspension due to Illicit Discharges in Emergency Situations

The Village of Voorheesville may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Village of Voorheesville may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

#### 14.6.3. Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Village of Voorheesville will notify a violator of the proposed termination of its MS4 access. The violator may petition the Village of Voorheesville for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Village of Voorheesville.

#### 14.7. Civil Penalties.

In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within two days, or such greater period as the Village of Voorheesville shall deem appropriate, after the Village of Voorheesville has taken one or more of the actions described above, the Village of Voorheesville may impose a penalty not to exceed \$ 37,500 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

#### 14.8. Criminal Prosecution.

In addition to the civil penalties described above, any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$ 250 per violation per day and/or imprisonment for a period of time not to exceed 15 days. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

### **SECTION 15. APPEAL OF NOTICE OF VIOLATION.**

Any person receiving a Notice of Violation may appeal the determination of the Village of Voorheesville. The notice of appeal must be received within two days from

the date of the Notice of Violation. Hearing on the appeal before the Zoning Board of Appeals may be conducted within two days from the date of receipt of the notice of appeal. The decision of the Zoning Board of Appeals shall be final.

**SECTION 16. ENFORCEMENT MEASURES AFTER APPEAL.**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within two days of the decision of the Zoning Board of Appeals, then representatives of the Village of Voorheesville shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above. Regardless of the time to remedy, the owner, agent or person in possession of the premises is responsible for all violations and costs to remedy.

**SECTION 17. COST OF ABATEMENT OF THE VIOLATION.**

Within two days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within two days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the Village of Voorheesville by reason of such violation.

**SECTION 18. VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**SECTION 19. REMEDIES NOT EXCLUSIVE.**

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

The Village of Voorheesville may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

**SECTION 20. ADOPTION OF LOCAL LAW**

All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Reference Local Law # 3 of 2007.