

Introductory Local Law Number 20 Of 2007

County Of Ulster

A Local Law Of The County Of Ulster, New York Prohibiting Illicit Discharges, Activities And Connections To The Ulster County Separate Storm Sewer System

BE IT ENACTED, by the County Legislature of the County of Ulster, as follows:

SECTION 1. PURPOSE/INTENT AND FINDINGS.

The purpose of this law is to provide for the health, safety, and general welfare of the citizens of the County of Ulster through the regulation of stormwater and non-stormwater discharges, as regulated hereunder, to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This law establishes methods for controlling the introduction of pollutants into the MS4 in order for the County of Ulster to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. Among the several purposes of this law are the following:

- a. To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;
- b. To regulate the contribution of pollutants to the MS4;
- c. To prohibit Illicit Connections, Activities and Discharges to the MS4;
- d. To establish legal authority to carry out all inspection, monitoring and enforcement procedures necessary to ensure compliance with this 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 the MS4.

Based upon the Record had before this Legislature, the following findings are made in consideration of this Local Law:

- f. This Legislature finds and determines that the regulation of non-stormwater discharges to the County-owned municipal separate

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storm sewer system, to the maximum extent practicable, is essential to protect the health, safety and general welfare of the citizens of Ulster County.

- g. This Legislature further finds and determines that controlling the introduction of polluted stormwater and non-stormwater pollutants into the County-owned municipal separate storm sewer system is critical in order to comply with requirements of the State Pollution Discharge Elimination System General Permit No. GP-02-02 for Municipal Separate Storm Sewer Systems.
- h.. In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Local Law which is deemed to be an imminent threat to public health, safety, and welfare, may further be 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 violation and/or nuisance may be taken in accordance with the procedures set forth within this Local Law.
- i. This Local Law shall apply to all MS4 designated areas situate within the County of Ulster.

SECTION 2. DEFINITIONS.

Whenever used in this Local Law, unless a different meaning is stated in a definition applicable to only a portion of this Local Law, the following terms will be defined and shall have meanings set forth below:

AGRICULTURE: All agricultural operations and activities related to a "farm operation" as such term is defined in Section 301(11) of the Agricultural and Markets Law (AML) or governed by the AML of the State of New York and the guidelines and opinions issued by the New York State Commissioner of Agriculture and Markets to the extent that such practices are consistent with

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6 NYCRR Section 663.2 and not excluded thereby.

AGRICULTURAL STORMWATER RUNOFF: Means any stormwater runoff from farm operations, and other non-point source agriculture and agricultural uses, but not discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24.

BEST MANAGEMENT PRACTICES (also referred to as 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 stormwater, receiving waters, or stormwater 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 requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01 and GP-02-02, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres unless otherwise excluded from regulation under GP-02-01 and/or GP-02-02. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

COUNTY-OWNED MUNICIPAL SEPARATE STORM SEWER SYSTEM (also referred to as MS4): A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, manholes, gutters, ditches, man-made channels, or storm drains) owned or operated by the County of Ulster which includes roads, infrastructure and facilities, designed or used for collecting or conveying stormwater which is not a combined sewer and which is not part of a Publicly Owned Treatment Works

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(POTW) as defined at 40 CFR 122.2. A copy of a listing of County owned roads and properties shall be included herein as Exhibit “A” and a copy shall be kept on file with the Clerk of the Ulster County Legislature. Said listing shall include any and all new roadways and County owned properties as required under the MS4 Regulations.

DEPARTMENT: The New York State Department of Environmental Conservation.

DEPARTMENT OF PUBLIC WORKS: The Ulster County Department of Public Works and the County Department of which the Stormwater Management Office forms a part in accordance with the provisions of this Local Law.

DISCHARGE: Means any addition or introduction of any pollutant, stormwater, or any other regulated substance whatsoever into the municipal separate storm sewer system (MS4) or into waters of the United States.

EPA: The Environmental Protection Agency of the United States of America.

DISCHARGER: Means any person as defined herein, who causes, allows, permits, or is otherwise responsible for a discharge into a municipal storm sewer.

FACILITY: Any lands and appurtenances, including but not limited to, construction sites, required by the Federal Clean Water Act to have a permit to discharge stormwater associated with industrial activity and/or any other regulated activity.

FARM OPERATION: The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other [See Section 301(11) of the Agriculture and Markets Law and the definition herein contained for “Agriculture”]

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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 present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLICIT CONNECTIONS: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the County-owned municipal separate storm sewer system, including but not limited to:

- a. Any conveyances as regulated under this Local Law which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the County-owned municipal separate storm sewer 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
- b. Any drain or conveyance connected from a commercial or industrial land use to the County-owned municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and lawfully approved by an authorized enforcement agency.

ILLICIT DISCHARGE: Any direct or indirect regulated non-stormwater discharge to the County-owned municipal separate storm sewer system, except as exempted in Section 6 of this Local Law.

ILLICIT DISCHARGE BOARD OF APPEALS: A County of Ulster appeals board consisting of, at minimum, one (1) representative of each of the following departments and which representatives shall be appointed by the department heads of each of the departments so designated:

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a) The Department of the Environment; b) The Department of Health; and c) The Planning Department. Said board shall follow the procedures set forth within Section 15 of this Local Law.

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

MUNICIPALITY OR COUNTY: The County of Ulster.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances (including, but not limited to, sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and/or operated and/or maintained by the County and designed or used for collecting or conveying stormwater.

NON-POINT SOURCE: Means any source of any discharge that is not a "point source".

NON-STORMWATER DISCHARGE: Any discharge to the County-owned municipal separate storm sewer system that is not composed entirely of stormwater.

OPERATOR: Means the party or parties that either individually or taken together meet the following two criteria: 1) They have operational control over the site activities (including the ability to make modifications in activities); and 2) they have the such operational control to those activities at the site necessary to ensure compliance with SWPPP requirements and any related permit conditions.

PERSON: Any individual, association, organization, partnership, firm, company, corporation, trust, estate, governmental entity [including the County of Ulster], or other entity recognized by law and acting as either the owner or as the owner's agent. This term shall also include owners, operators, dischargers and all other entities as set forth within this Local Law.

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POINT SOURCE: Means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete, fissure, container, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged and as regulated under this Local Law and/or the Clean Water Act.

POLLUTANT: Includes, but is not limited to, dredged spoil; solid waste; incinerator residue; sewage; garbage; sewage sludge; filter backwash; munitions; hazardous waste; chemical wastes; biological materials; toxic materials; radioactive materials; wrecked or discarded equipment; rock; sand; cellar dirt; and industrial, municipal, recreational, regulated, agricultural waste and other regulated wastes discharged into the municipal separate storm sewer system, which may cause or might reasonably be expected to cause pollution of the waters of the State in contravention of the standards, set forth within this Local Law and the Clean Water Act. [33 CFR Part 1251, et seq.].

PREMISES: Any building, structure, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks, parking strips, roadways and other appurtenances.

RELEASE: Means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of illicit discharges into surface water, ground-water, subsurface soils, surface soils and/or by any other direct or indirect discharge which is made to the municipal separate stormwater sewer system (MS4), the Water of New York State and/or the Waters of the United States.

SPECIAL CONDITION DISCHARGE COMPLIANCE WITH WATER QUALITY STANDARDS: The condition that applies where a municipality has been notified pursuant to this law that the discharge of stormwater authorized under its County-owned municipal separate storm sewer system 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

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actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

SPECIAL CONDITION 303(D) LISTED WATERS: The condition in the County-owned municipal separate storm sewer system permit that applies where the County-owned municipal separate storm sewer system discharges to a 303(d) listed water. Under this condition the County Stormwater Management Program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.

SPECIAL CONDITION TOTAL MAXIMUM DAILY LOAD (TMDL) STRATEGY: The condition in the County-owned municipal separate storm sewer system permit where a TMDL, including requirements for control of stormwater discharges, has been approved by EPA for a waterbody or watershed into which the County-owned municipal separate storm sewer system discharges.

SPECIAL CONDITION: The condition in the County-owned municipal separate storm sewer system permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an County-owned municipal separate storm sewer system 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 six (6) months of the TMDL's approval, modify its stormwater management program to take all necessary actions ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (also referred to as SPDES): Stormwater Discharge Permit. A permit issued by the Department that authorizes the discharge of pollutants to waters of the State.

STORMWATER: Rainwater, surface runoff, snowmelt and drainage.

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STORMWATER MANAGEMENT OFFICE: The County Office which is responsible for administering, enforcing and promulgating regulations and fees pursuant to this Local Law, upon adoption of this Local Law, said office shall be designated by the County Legislature as being a part of and organized as a Division of and under the County of Ulster Department of Public Works and the Stormwater Management Officer shall be appointed by the department head of the Ulster County Department of Public Works. Budgetary, employment and other customary administrative procedures associated with the Stormwater Management Office shall be the responsibility of the Ulster County Department of Public Works.

STORMWATER MANAGEMENT OFFICER (also referred to as SMO): A person, persons, or other public official(s) designated by the Stormwater Management Office to monitor activities, inspect areas and enforce this Local Law. The Stormwater Management Officer may also be designated to accept, review, and inspect stormwater pollution prevention plans, among his/her other responsibilities.

STORMWATER POLLUTION PREVENTION PLAN: Means a plan required by a SPDES permit to discharge stormwater associated with regulated activities, including but not limited to industrial activities and construction, and which describes and provides for pollutants in stormwater discharges associated with regulated activities.

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 use) are impaired by pollutants, prepared periodically by the Department 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 two years.

TOTAL MAXIMUM DAILY LOAD (also referred to as TMDL): The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.

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WASTEWATER: Any water that is not stormwater, is contaminated with pollutants and is or will be discarded. This term shall not include stormwater which is not contaminated by pollutants.

SECTION 3. APPLICABILITY.

This Local Law shall apply to all water entering the County-owned municipal separate storm sewer system within MS4 designated areas as generated on any developed and undeveloped lands unless explicitly exempted hereunder or unless explicitly exempted by the Department acting as the authorized enforcement agency.

SECTION 4. RESPONSIBILITY FOR ADMINISTRATION.

The Stormwater Management Officer (SMO) shall administer, implement, and enforce the provisions of this Local Law. Such powers granted or duties imposed upon and granted to the authorized enforcement official may be delegated in writing by the Stormwater Management Officer as may be authorized by the Stormwater Management Office. Such written delegation shall be kept and maintained within the Stormwater Management officer's files and copies shall further be provided by the Stormwater Management Officer to the County Attorney. The Stormwater Management Office shall possess the authority to promulgate rules and regulations as necessary to administer, enforce and forward this Local Law and its purposes, including but not limited to, the institution and use of permits, forms, fees and other regulatory mechanisms to advance the purposes of this Local Law.

SECTION 5. PROHIBITION OF ILLEGAL DISCHARGES.

No person shall discharge or cause to be discharged into the County-owned municipal separate storm sewer system any materials other than lawful discharges of stormwater, except as provided in Section 6. The commencement, conduct or continuance of any illegal discharge to the County-owned municipal separate storm sewer system is prohibited except as described in Section 6.

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SECTION 6. DISCHARGE EXEMPTIONS.

- a. The following discharges are exempt from discharge prohibitions established by this Local Law, unless the Department or the County has, pursuant to law, officially determined such discharges to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, 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, agricultural stormwater runoff from lawful agricultural practices and any other water source not containing pollutants. In no event shall this Local Law be read to create, permit or authorize agriculture discharge exemptions beyond those which are in effect pursuant to the Clean Water Act.
- b. Discharges approved in writing by the Stormwater Management Officer 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 and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the Stormwater Management Officer may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this Local Law.
- c. Dye testing in compliance with applicable State and local laws.
- d. The prohibition shall not apply to any discharge permitted under a SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all

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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 County-owned municipal separate storm sewer system. A lawfully issued SPDES permit shall constitute compliance with this sub-paragraph in all manner and respects, provided the person and/or discharger to which the permit is issued is fully compliant therewith.

- e. Activities and uses essential to ensure emergency police, fire, rescue functions and emergency response undertaken by either the County, or by a non-profit organization authorized by contract with the County to provide these public services. Essential activities to promote public health, safety, and well-being of persons and property therein, and to implement orders and regulations of the Ulster County Department of Health, the Ulster County Emergency Management Agency and/or the New York State Department of Health with notification to the County Stormwater Management Officer and any actual and ongoing emergency activity which directly addresses an imminent threat to life, property or structures of any kind. Such emergency activities may include, but are not limited to: fire suppression operations, preventative or remedial activities related to mitigation, cleanup, or control of stormwater and/or the contamination or threatened contamination of ground and surface water; response to imminent floods, hurricanes and all other storms that follow established emergency response plans, fire fighting and public health emergencies.

SECTION 7. PROHIBITION OF ILLICIT CONNECTIONS.

The construction, use, maintenance or continued existence of illicit connections to the County-owned municipal separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, connections made in the past, regardless of whether the connection was permissible under law and all lawful approvals were not granted and/or regardless of whether the connection was previously unregulated pursuant to practices applicable or prevailing at the time of connection. A person is considered to be in violation of

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this Local Law if the person illegally connects a line conveying sewage to the County-owned municipal separate storm sewer system, or allows such illegal a connection to continue.

SECTION 8. PROHIBITION AGAINST ACTIVITIES CONTAMINATING STORMWATER.

- a. Activities are prohibited that cause or contribute to a violation of the County-owned municipal separate storm sewer system MS4 SPDES permit or cause or contribute to the County being subject to the Special Conditions as defined in Section 2 of this Local Law.
- b. Upon written notification to a person that they are engaged in activities that cause or contribute to violations of the County-owned municipal separate storm sewer system SPDES permit authorization, that person shall, upon receipt of such notice, immediately take all reasonable actions to correct such activities such that they no longer cause or contribute to violations of the County's MS4 SPDES permit authorization.

SECTION 9. REQUIREMENT TO PREVENT, CONTROL AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

- a. Where the Stormwater Management Officer has identified illicit discharges as defined in Section 2 or by way of activities contaminating stormwater as defined in Section 8, the County may, among other remedies as set forth within this Local Law, require the implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.
- b. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the

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County-owned municipal separate storm sewer system through the use of structural and non-structural BMPs.

- c. Any owner, discharger or operator, or other person responsible for a property or premises, which is or may be, the source of an illicit discharge as defined in Section 2 or an activity contaminating stormwater as defined in this Local Law, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the County-owned municipal separate storm sewer system.
- d. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial and/or other regulated activities, shall be deemed compliance with the provisions of this section.

SECTION 10. SUSPENSION OF ACCESS TO COUNTY-OWNED MUNICIPAL SEPARATE STORM SEWER SYSTEM. ILLICIT DISCHARGES IN EMERGENCY SITUATIONS.

- a. Imminent danger. The Stormwater Management Officer may, without prior notice, suspend County-owned municipal separate storm sewer system 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, to the health or welfare of persons, or to the County-owned municipal separate storm sewer system. The Stormwater Management Officer 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 Stormwater Management Officer may take such steps as deemed necessary to prevent or minimize damage to the County-owned municipal separate storm sewer system or to minimize and abate any and all danger to persons.

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- b. Suspension due to the detection of illicit discharge. Any person discharging to the County-owned municipal separate storm sewer system in violation of this Local Law may have their County-owned municipal separate storm sewer system access terminated if such termination would abate or reduce an illicit discharge. The Stormwater Management Officer will notify an alleged violator in writing of the proposed termination of its County-owned municipal separate storm sewer system access and the reasons therefor. Within fifteen (15) days of the issuance of such Notice, the alleged violator may petition the Stormwater Management Officer for a reconsideration and hearing. Access to the MS4 may be granted by the Stormwater Management Officer if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access to the MS4 may be denied if the Stormwater Management Officer determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates County-owned municipal separate storm sewer system access to premises terminated pursuant to this Section, without the prior approval of the Stormwater Management Officer, or a court of competent jurisdiction.

SECTION 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 reasonably acceptable to the Stormwater Management Officer prior to the allowing of discharges to the County-owned municipal separate storm sewer system. Upon such proof being provided, the Stormwater Management Officer shall render his/her determination as to acceptability and shall provide the person with a written confirmation of such determination.

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SECTION 12. ACCESS AND MONITORING OF DISCHARGES.

- a. Applicability. This section applies to all facilities that the Stormwater Management Officer must inspect to enforce any provision of this Local Law, or whenever the authorized enforcement agency has probable cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Local Law.
- b. Access to Facilities. Upon compliance with the requirements of this Local Law, the Stormwater Management Officer shall be permitted to enter and inspect facilities subject to regulation under this Local Law as often as may be necessary to determine compliance with this Local Law. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the reasonable and necessary arrangements to allow access to the Stormwater Management Officer.
 1. Facility operators shall allow the Stormwater Management Officer ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this Local Law.
 2. Unreasonable delays in allowing the County access to a facility subject to this Local Law is a violation of this Local Law. A person who is the operator or owner or discharger of a facility subject to this Local Law commits an offense if the person denies the Stormwater Management Officer reasonable access to the facility for the purpose of conducting any activity authorized or required by this Local Law.

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3. If the Stormwater Management Officer 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 Local Law, or that there is a need to inspect and/or sample as part of such inspection and sampling program designed to verify compliance with this Local Law or any order issued hereunder, then the Stormwater Management Officer may seek issuance of a search warrant from any court of competent jurisdiction.
- c. **Monitoring.** Following any adjudicated violation of this Local Law, the County shall have the right to set up on any facility subject to this Local Law such devices as are necessary in the reasonable determination of the Stormwater Management Officer to conduct monitoring and/or sampling of the facility's stormwater discharge. In connection therewith, the County has the right to require the facilities subject to this Local Law to install monitoring equipment as is reasonably necessary to determine compliance with this Local Law. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger or the owner at its own expense. All devices used to measure stormwater flow and quality shall be properly calibrated to ensure their accuracy and proof of such calibration shall be furnished to the Stormwater Management Officer following request therefor.

SECTION 13. NOTIFICATION OF SPILLS.

Notwithstanding any 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

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materials which are resulting or may result in illicit discharges or pollutants discharging into the County-owned municipal separate storm sewer system, said person shall take such 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 and/or the County Stormwater Management Officer. In the event of a release of non-hazardous materials, said person shall notify the County Stormwater Management Officer in person or by telephone or 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 County within three (3) business days of the 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 promptly provided to the Stormwater Management Officer and such records shall be retained on site for at least five (5) years.

SECTION 14. ENFORCEMENT.

When the County's Stormwater Management Officer determines that a person has violated a prohibition or failed to meet a requirement of this Local Law, he/she may order compliance by written notice of violation to the owner and the discharger, if different than the owner, as the alleged responsible person. Such notice and/or subsequent enforcement remedies may require without limitation:

- a. The elimination of illicit connections or discharges;
- b. That violating discharges, practices or operations shall cease and desist;
- c. The abatement and/or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- d. The performance of monitoring, analyses and reporting;

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- e. Payment of a fine; and/or recoupment of all quantified County expenditures as necessary to abate the violation.
- f. The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is ultimately required, written confirmation 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 undertaken and completed by a designated County governmental agency or a County retained contractor and all expenses thereof shall be charged to the discharger and/or the owner as the violator.
- g. Order that all permits, approvals and/or authorizations be obtained, if lawfully permitted by statute, for any continuing discharges, practices and/or operations; and

Prior notice shall not be required in the event the Stormwater Management Officer reasonably determines that an imminent threat to life may exist as a result of the violation of this Local Law.

SECTION 15. APPEAL OF NOTICE OF VIOLATION.

- a. Procedure. Any person receiving a Notice of Violation may appeal the determination of the Stormwater Management Officer within 15 days of its issuance. Said appeal shall be filed with the Stormwater Management Officer who shall transmit his original findings, and the appeal to the Illicit Discharge Board of Appeals, which shall consist of one representative of each of the following County Departments: a) The Department of the Environment; b) The Department of Health; c) The Planning Department. Such board members shall be appointed by the department heads of each of the foregoing agencies. The Illicit Discharge Board of Appeals shall hear the appeal within 30 days after the filing of the appeal, and within five (5) days of making its written decision, file its decision in

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the office of the County Clerk and mail a copy of its decision by certified mail to the discharger.

- b. Relief. Persons who may be individually, jointly or severally aggrieved by any determination made by the Stormwater Management Officer and/or the Appeals Board may apply to the Supreme Court of the State of New York for review of such decision under Article 78 of the Civil Practice Laws and Regulations of the State of New York.

SECTION 16. CORRECTIVE MEASURES AFTER APPEAL.

- a. If an appeal under this Local Law has been pursued and the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, which has been administratively adjudicated under this Local Law, then within five (5) business days of the decision of the County authority upholding the decision of the Stormwater Management Officer, the Stormwater Management Officer shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.
- b. If refused access to the subject private property, the Stormwater Management Officer may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property, make any and all determinations which are authorized pursuant to this Local Law. Upon determination that a violation has occurred, and/or is continuing, the Stormwater Management Officer may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger as set forth within Section 14.

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- c. Nothing in this section shall be read to limit, abrogate or otherwise affect the authority possessed by the Stormwater Management Officer pursuant to Section 10(a) of this Local Law.

SECTION 17. PENALTIES.

A. Administrative Sanctions.

1. Any person who violates the provisions of this Local Law, including any provision of any authorization issued, any condition set or fee required pursuant to this Local Law, shall be liable to the County of Ulster for a civil penalty of not more than \$3,000.00 (Three Thousand Dollars) for every such violation. Each consecutive day of the violation will be considered a separate offence. Such civil penalty may be recovered in any action brought by the County at the request and in the name of the County in any court of competent jurisdiction. Such civil penalty may be released or compromised by action of the County and any action commenced to recover the same may be settled and discontinued by the County. Any such penalty of the County shall be enforceable in an action brought in any court of competent jurisdiction. Any civil penalty or order issued by the County pursuant to the criteria set forth herein shall be reviewable in a proceeding pursuant to Article 78 of the State Civil Practice Law and Rules.

B. Criminal Sanctions.

1. Any person who violates the provisions of this Local Law, including any provision of any authorization issued, any condition set or fee required pursuant to this Law, shall, in addition, for the first offense, be guilty of violation punishable by a fine of not less than \$500.00 (Five Hundred Dollars) and not more than \$1,000.00 (One Thousand Dollars); for a second and

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each subsequent offense he/she shall be guilty of a misdemeanor punishable by a fine of not less than \$1,000.00 (One Thousand Dollars) nor more than \$2,000.00 (Two Thousand Dollars) or a term of imprisonment of not less than 30 (thirty) days or more than 6 (six) months or both. Each violation shall be deemed a separate and distinct offense, and in the case of continuing violation, each day in continuance thereof shall be deemed a separate and distinct offense.

C. Final Determination/Costs.

1. In addition to the foregoing remedies, any person who violates the provisions of this Local Law and is found guilty by a final administrative determination and/or a final adjudicated determination by a Court of competent jurisdiction shall be responsible for paying over to and reimbursing the Stormwater Management Office for all quantified costs, penalties and/or fines as may result from, or be imposed by, the Department, the EPA and/or any other enforcement agency pursuant to the Clean Water Act, the SPDES Regulatory and/or any other applicable statutory authority for such violation.

SECTION 18. INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Local Law. If a person has violated or continues to violate the provisions of this Local Law, the Stormwater Management Officer may petition for a preliminary 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, and/or for such other further relief as any court of competent jurisdiction may order.

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SECTION 19. ALTERNATIVE REMEDIES.

- a. Where a person has been charged with violations of this Local Law and/or when a person has been determined to have violated a provision of this Local Law, he/she may be eligible for alternative remedies in lieu of a civil and/or criminal penalty, upon written recommendation of the County Attorney and concurrence of the Stormwater Management Officer, where a written determination is made that:
 1. the violation was unintentional;
 2. the violator has no history of previous violations of this Local Law;
 3. any environmental damage was minimal;
 4. the violator acted quickly to remedy violation; and
 5. the violator cooperated in investigation and resolution.

- b. Alternative remedies may consist of one or more of the following:
 1. Attendance at Stormwater Management compliance workshops.
 2. Storm drain stenciling and/or storm drain marking.
 3. Participation in community outreach programs concerning stormwater management. In the event of non-compliance with the foregoing alternative remedies, the County reserves the right to enforce any and all provisions of this Local Law.

SECTION 20. REMEDIES NOT EXCLUSIVE.

The remedies listed in this Local Law are not exclusive of any other remedies available under any applicable Federal, State or Local Law and it is within the discretion of the Stormwater Management Office. Nothing in this Local Law shall be read to preclude the enforcement by the County of Ulster of any other laws as may be applicable to illicit discharges, including but not limited

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to, statutory authorizations as set forth within the New York State Highway Law, the New York State County Law and the New York State Public Health Law.

SECTION 21. ANNUAL REVIEW.

The Stormwater Management Officer shall submit an annual report to the County Legislature not later than the first day of November of each year, concerning the administration, efficacy and enforcement of this Law. Such reports and recommendations shall assist the County to monitor and evaluate the extent to which the intent and purpose of this Local Law have been served.

SECTION 22. COMPLIANCE WITH STATE ENVIRONMENTAL QUALITY REVIEW ACT.

This Local Law has been duly reviewed and a determination as to significance upon the environment and associated Findings have been rendered by the County in accordance with SEQRA prior to this Laws adoption by the County [6 NYCRR Part 617, et seq].

SECTION 23. CONFLICT WITH OTHER REGULATIONS.

Where the standards and legal requirements of this Law are in conflict with other environmental and/or land use regulations, and/or other environmental protective measures, the more restrictive standards and legal requirements shall apply.

SECTION 24. SEVERABILITY.

If any article, section, subsection, paragraph, phrase or sentence of this Local Law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereof.

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SECTION 25. GOVERNING LAW.

This Local Law shall be interpreted under, construed by and governed pursuant to the Laws of the State of New York.

SECTION 26. EFFECTIVE DATE.

This Local Law shall take effect immediately.