

**TOWN OF LANSING, TOMPKINS COUNTY, NEW YORK  
LOCAL LAW NUMBER 6 OF 2007**

**LOCAL LAW TO PROHIBIT AND REGULATE ILLICIT DISCHARGES, ACTIVITIES  
AND CONNECTIONS TO THE SEPARATE STORM SEWER SYSTEM**

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**SECTION 2: TITLE & APPLICATION** - This Local Law shall be known as "Local Law Number 6 of 2007". Local Law Number 6 of 2007 applies only within those portions of the Town of Lansing, Tompkins County, New York, that are outside of the Village of Lansing. This Local Law does not replace or supplant any requirements of Local Law local Law Number 1 of 2005 ("Stormwater and Erosion Control"), but instead shall be read in harmony therewith.

**SECTION 3: PURPOSE** - The Town of Lansing believes that many Illicit Connections, non-compliant discharges and Illicit Discharges of water and other substances exist within the Town that cause and/or contribute to flooding, pollution, sedimentation, soil loss, and the creation or augmentation of other deleterious conditions that affect the health and welfare of the citizens of the Town of Lansing and those living around and using Cayuga Lake and its tributaries and watersheds. The purpose of this Local Law is to provide for the health, safety, and general welfare of the citizens of the Town of Lansing through the regulation of Non-Stormwater Discharges to the municipal separate storm sewer system ("MS4", as defined further below) and to surface waters to the maximum extent practicable as required by federal and state law. This Local Law establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The objectives of this Local Law include:

- 3.1 To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;
- 3.2 To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-Stormwater wastes;
- 3.3 To prohibit Illicit Connections, illicit activities and Illicit Discharges to the MS4 and to surface waters;
- 3.4 To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Local Law; and
- 3.5 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 Materials, hazardous waste, sediment and other pollutants into the MS4 and into surface waters.

**SECTION 4: 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 have meanings as set forth below:

- 4.1 **Best Management Practices or 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; and also including treatment practices, operating procedures, and other practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- 4.2 **Clean Water Act:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.),

and any subsequent amendments thereto.

- 4.3 Construction Activity: Activities requiring authorization under the SPDES Permit for Stormwater discharges from Construction Activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.
- 4.4 Department: The New York State Department of Environmental Conservation.
- 4.5 Hazardous Materials: Means (i) 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, and/or (ii) "Hazardous materials" as defined under or in relation to any environmental law, rule, regulation or order, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601 *et seq.* and 40 CFR §302.1 *et seq.*), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.* and 40 CFR § 116.1 *et seq.*), the Superfund Amendment and Reauthorization Act ("SARA"), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 *et seq.*), the New York State Environmental Conservation Law, the New York State Navigation Law, and those federal, state and local laws relating to lead based paint, hydrocarbons, asbestos, flammable materials, explosives, radioactive or nuclear substances, polychlorinated biphenyls, carcinogens, oil and other petroleum products, radon gas, urea formaldehyde, chemicals, gases, solvents, and other pollutants or contaminants that could be a detriment or pose a danger to the environment or to the health or safety of any Person, each and all as now exist or as hereafter amended or re-codified, together with and including any other hazardous or toxic materials, wastes and substances which are defined, determined or identified as such in any past, present or future federal, state or local laws, bylaws, rules, regulations, codes, orders or ordinances, or any judicial or administrative interpretation thereof.
- 4.6 Illicit Connections: Any drain or conveyance, whether on the surface or subsurface, which allows an Illicit Discharge to enter the MS4 or surface waters, including but not limited to:
1. Any conveyance(s) which allow any Non-Stormwater Discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 or a surface water and any connections to the storm drain system or a surface water 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

2. Any drain or conveyance connected from a commercial or industrial land use to the MS4 or any surface water which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- 4.7 Illicit Discharge: Any direct or indirect Non-Stormwater Discharge to the MS4 or a surface water, except as exempted by Section 8 of this Local Law.
- 4.8 Individual Sewage Treatment System: A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility that treats sewage or other liquid wastes for discharge into the groundwater of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.
- 4.9 Industrial Activity: Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.
- 4.10 MS4: Municipal Separate Storm Sewer System.
- 4.11 Municipal Separate Storm Sewer System: A conveyance or system of conveyances intended to manage, divert, restrict, direct, hold or otherwise affect Stormwater, any runoff, or any natural or artificial waterway, watercourse or flow including, but not limited to, roads with drainage systems, municipal streets, culverts, catch basins, curbs, gutters, ditches, drains, man-made channels, ponds, berms, swales, and/or storm drains:
1. Owned or operated by the Town of Lansing;
  2. Designed or used for collecting or conveying Stormwater;
  3. Which is not a combined sewer; and
  4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. § 122.2.
- 4.12 Municipality: The Town of Lansing.
- 4.13 Non-Stormwater Discharge: Any discharge to the MS4 or any surface water that is not composed entirely of Stormwater.
- 4.14 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.
- 4.15 Pollutant: Any Hazardous Material or other material which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of legal or regulatory standards, including, but not limited to: dredged spoil, filter

backwash, solid waste, incinerator residue, treated or untreated sewage, detergents, automotive fluid or residue, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial waste, municipal waste, agricultural waste, Hazardous Materials, or ballast discharged into water.

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

4.17 Special Conditions:

1. Discharge Compliance with Water Quality Standards: The condition that applies where a municipality has been notified that the discharge of Stormwater authorized under their MS4 permit may have caused, or has the reasonable potential to cause or contribute to, the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

2. 303(d) Listed Water(s): The condition in the municipality's MS4 permit that applies where the MS4 discharges to a § 303(d) listed water. Under this condition the Stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) Listed Water(s).

3. Total Maximum Daily Load ("TMDL") Strategy: The condition in the municipality's MS4 permit where a TMDL, including requirements for control of Stormwater discharge, has been approved by EPA for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL Stormwater allocations prior to September 10, 2003, the municipality was required to modify its Stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

4. The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges: Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of Stormwater discharges. If an MS4 is not meeting the TMDL Stormwater allocations, the municipality must, within 6 months of the TMDL's approval, modify its Stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

4.18 State Pollutant Discharge Elimination System ("SPDES") Stormwater Discharge Permit or SPDES Permit: A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.

4.19 Stormwater: Rainwater, surface runoff, snowmelt, drainage, and such other occurring flows and runoff as is defined as Stormwater by the Department.

- 4.20 **Stormwater Management Officer or SMO:** An employee, the municipal engineer or other public official(s) designated by the Municipality to enforce this Local Law. The SMO may also be 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.
- 4.21 **Surface Water(s):** Ponds, lakes, reservoirs, rivers, streams, creeks, intermittent streams, and wetlands. This definition includes manmade bodies of water created for the treatment of Stormwater, but does not include manmade bodies of water specifically designed to treat Non-Stormwater Discharges, according to practices approved by the relevant regulatory agencies. Wetlands are defined, in part, (by the US Environmental Protection Agency and Army Corps of Engineers) as "areas that are inundated to saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions." "Wetlands" also include those areas defined by the Department.
- 4.22 **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 § 303(d) of the Clean Water Act. Section 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.
- 4.23 **TMDL:** Total Maximum Daily Load.
- 4.24 **Total Maximum Daily Load:** 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.
- 4.25 **Wastewater:** Water that is not Stormwater, is contaminated with pollutants, and is or will be discarded.

**SECTION 5: APPLICABILITY** - This Local Law shall apply to all water or other discharge(s) generated on any developed or undeveloped lands entering the MS4 or any surface waters, unless explicitly exempted by an authorized enforcement agency.

**SECTION 6: RESPONSIBILITY FOR ADMINISTRATION** - The SMO shall administer, implement, and enforce the provisions of this Local Law. Such powers granted or duties imposed upon the SMO may be delegated in writing by the SMO as may be authorized by the Municipality.

**SECTION 7: SEVERABILITY** - The provisions of this Local Law are hereby declared

to be severable. If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Local Law shall be determined to be invalid or unenforceable by a court or other tribunal of competent jurisdiction, such invalidity or unenforceability shall not affect, impair or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law. Any such invalidity or unenforceability shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy and circumstances in which such determination shall have been rendered, and shall not apply to any other controversy or other circumstances.

**SECTION 8: DISCHARGE PROHIBITIONS -**

8.1 Prohibition of Illicit Discharges: No Person shall discharge or cause to be discharged into the MS4 or any surface water any materials, other than Stormwater, except as provided in Section 8.1.1. The commencement, conduct or continuance of any Illicit Discharge to the MS4 or any surface water is prohibited except as described as follows:

8.1.1 The following discharges are exempt from discharge prohibitions established by this Local Law, unless the Department or the Municipality has determined them 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, de-chlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants or Hazardous Materials. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

8.1.2 Discharges approved in writing by the SMO 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 SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this Local Law.

8.1.3 Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.

8.1.4 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 requirements of the permit, waiver, order, and/or other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

## 8.2 Prohibition of Illicit Connections:

8.2.1 The construction, use, maintenance or continued existence of Illicit Connections to the MS4 or any surface water is prohibited.

8.2.2 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.

8.2.3 A Person is considered to be in violation of this Local Law if the Person connects a line conveying sewage to the Municipality's MS4 or to any surface water, or allows such a connection to continue.

## SECTION 9: PROHIBITION AGAINST ACTIVITIES CONTAMINATING STORMWATER -

9.1 Activities that are subject to the requirements of this section are and include those activities and types of activities that:

9.1.1 Cause or contribute to a violation of the Municipality's MS4 SPDES Permit;

9.1.2 Cause or contribute to the municipality being subject to Special Conditions.

9.2 Such activities may include improper management of animal waste, excessive application of fertilizer or pesticides not in accordance with label directions, storage of such material(s) where they are exposed to Stormwater, or any other activity that causes or contributes to violations of the municipality's MS4 SPDES Permit authorization.

9.3 Agricultural activities are exempt from consideration under this section if they: (a) meet the requirements of any applicable agricultural regulations; and (b) are participating in the Agricultural Environmental Management program or otherwise applying current agricultural best management practices; or (c) are determined to be sound agricultural practices, as described in Agricultural and Markets Law of New York State.

9.4 Operation of a failing individual sewage treatment system may also be a source of contamination to Stormwater. Individual sewage treatment systems must be

properly operated and maintained. If a system shows signs of failure, the Tompkins County Health Department should and/or shall be consulted for assistance.

- 9.5 Upon notification to any Person that they are engaged in activities that cause or contribute to violations of the Municipality's MS4 SPDES Permit authorization, that Person shall take all reasonable actions to correct such activities such that they no longer cause(s) or contribute(s) to violations of the Municipality's MS4 SPDES Permit authorization.

**SECTION 10: REQUIREMENT(S) TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES -**

- 10.1 Best Management Practices: Where the SMO has identified Illicit Discharges, Illicit Connections, or any activities contaminating Stormwater, the Municipality may require implementation of Best Management Practices (BMPs) to control those Illicit Discharges, Illicit Connections, and activities.

10.1.1 The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials, Hazardous Materials, or other wastes into the MS4 or into surface water through the use of structural and non-structural BMPs.

10.1.2 Any Person responsible for any Premises that are, or may be, the source of an Illicit Discharge, and Illicit Connection, or any activity contaminating Stormwater, may be required to implement, at said Person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4 or to surface water.

10.1.3 Compliance with all terms and conditions of a valid SPDES Permit authorizing the discharge of Stormwater associated with Construction Activity or Industrial Activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

**SECTION 11: SUSPENSION OF ACCESS TO MS4 - Illicit Discharges in Emergency Situations.**

- 11.1 The SMO may, without prior notice, suspend MS4 discharge access to any 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 any Person, or to the MS4. The SMO shall notify the Person of such suspension within a reasonable time thereafter, in writing (the "Suspension or Termination Notice"), of the reasons for the suspension. If the Person thereafter fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to any Persons.

11.2 Suspension due to the detection of Illicit Discharge: Any Person discharging to the Municipality's MS4 in violation of this Local Law may have their MS4 access terminated if such termination would abate or reduce an Illicit Discharge (a "Suspension or Termination Notice"). The SMO will notify any Person believed to be in violation of this Local Law, in writing, of the proposed termination of its MS4 access and the reasons therefor. Such Person may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if the SMO finds that the Illicit Discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the Illicit Discharge has not ceased or is likely to recur. A Person commits an offense if the Person reinstates MS4 access to premises terminated pursuant to this section without the prior written approval of the SMO.

**SECTION 12: INDUSTRIAL ACTIVITY OR CONSTRUCTION ACTIVITY DISCHARGES** - Any Person subject to an industrial or construction activity SPDES Stormwater Discharge Permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Municipality prior to the allowance of discharge(s) to the MS4.

**SECTION 13: ACCESS AND MONITORING OF DISCHARGES -**

13.1 Applicability: This section applies: to all facilities that the SMO must inspect to enforce any provision of this Local Law; or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any Premises any condition which constitutes a violation of this Local Law.

13.2 Access to Facilities:

13.2.1 The SMO 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/or clearance before entry into its Premises, the discharger shall make the necessary arrangements to allow access to the SMO.

13.2.2 Facility operators shall allow the SMO ready access to each and all parts of the Premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement and/or enforce this Local Law.

13.2.3 The Municipality shall have the right, upon any Premises or facilities that are subject to this Local Law, to set up, operate and monitor such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the Premises' or facility's Stormwater discharge(s).

- 13.2.4 The Municipality 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 at its own expense. All devices used to measure Stormwater flow and quality shall be properly calibrated to ensure their accuracy. Upon request of the SMO, any Person shall produce a certificate of calibration, or its equivalent, from a qualified independent third Person.
- 13.2.5 Unreasonable delays in allowing the Municipality access to any Premises or facility subject to this Local Law constitutes a violation of this Local Law. A Person who is the operator of any Premises or facility subject to this Local Law commits an offense if the Person denies the Municipality or the SMO reasonable access to the Premises or facility for the purpose of conducting any activities authorized, permitted or required by this Local Law.
- 13.2.6 If the SMO has been refused access to any part of the Premises from which Stormwater is discharged, and the SMO 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 a routine inspection and sampling program designed to verify compliance with this Local Law or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

**SECTION 14: NOTIFICATION OF SPILLS -** Notwithstanding other requirements of law, as soon as any Person responsible for (i) any Premises or facility, (ii) the management of operation thereof, or (iii) emergency response for any Premises or facility, or the operation or management thereof, has information of any known or suspected release of materials which are resulting, or may result, in an Illicit Discharge or the release of any Hazardous Materials or pollutants into the MS4 or any surface water, said Person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of Hazardous Materials said Person shall immediately notify emergency response agencies of the occurrence, and then notify the SMO as soon as possible thereafter. In the event of a release of non-hazardous materials, said Person shall notify the SMO 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 Municipality within three business days of the telephone notice. If the discharge of prohibited materials or Hazardous 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 three years.

**SECTION 15: ENFORCEMENT -**

- 15.1 **Notice of Violation:** When the SMO finds that any Person has violated a prohibition, or failed to meet a requirement, of this Local Law, the SMO may order compliance by written notice of violation to the responsible Person. Such notice may require, without limitation:
- 15.1.1 The elimination of Illicit Discharges, and Illicit Connections;
  - 15.1.2 That violating discharges, practices, or operations shall cease and desist;
  - 15.1.3 The abatement or remediation of Stormwater pollution or contamination hazards, and the restoration of any affected Premises;
  - 15.1.4 The performance of monitoring, analyses, and reporting requirements;
  - 15.1.5 The payment of a fine; and/or
  - 15.1.6 The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected Premises is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or contractor with the expense thereof to be charged to such Person and/or to become a lien against the Premises.
- 15.2 **Stop Work Orders:** The SMO may issue a stop work order for any violations of this Local Law. Any Person receiving a stop work order shall be required to halt all Construction Activities and Industrial Activities including, but not limited to, clearing, grading, demolition, construction, and similar activities, except for those activities that address the violations leading to the stop work order. The stop work order shall be and remain in effect until the SMO confirms compliance with this Local Law and that any violation has been satisfactorily addressed.
- 15.3 In addition to any other right or remedy allowed by law or in equity, the Municipality may also maintain actions or proceedings in a court of competent jurisdiction to compel compliance with or restrain by injunction the non-compliance with or the violation of any provision or requirement of this Local Law.
- 15.4 **Penalties and Fines:** All provisions of New York law generally applicable to misdemeanors shall apply to any criminal proceeding denominated as a misdemeanor and brought under this Local Law, and each and any such misdemeanor shall be deemed an unclassified misdemeanor. The following civil and criminal fines and penalties shall apply to any violation of the requirements or terms of this Local Law:
- 15.4.1 **First Violation:** Any Person that violates any of the provisions of this Local Law

shall be (1) guilty of a violation and subject to a fine of not less than \$100.00 nor more than \$500.00, or (2) subject to a civil penalty of not less than \$250.00 nor more than \$750.00 to be recovered by the Municipality in a civil action. Every such Person shall be deemed guilty of a separate offense for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each week that such violation, disobedience, omission, neglect or refusal shall continue.

15.4.2 **Second Violation:** Any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any other violation of this Local Law shall be deemed a second violation. Any Person that commits or permits any second violation upon the same or an adjacent Premises shall be (1) guilty of an unclassified misdemeanor and subject to a fine of not less than \$500.00 nor more than \$2,000.00, or (2) subject to a civil penalty of not less than \$1,000.00 nor more than \$5,000.00 to be recovered by the Municipality in a civil action. Every such Person shall be deemed guilty of a separate unclassified misdemeanor for each week that such violation, disobedience, omission, neglect, or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each week that such violation, disobedience, omission, neglect, or refusal shall continue.

15.4.3 **Third and Subsequent Violations:** Any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any second violation of this Local Law shall be deemed a third or subsequent violation, as applicable. Any Person who commits or permits a third or subsequent violation upon the same or an adjacent Premises shall be (1) guilty of an unclassified misdemeanor and subject to a fine not less than \$1,500.00 nor more than \$7,500.00 and/or a period of incarceration not to exceed 120 days, or (2) subject to a civil penalty of not less than \$3,000.00 nor more than \$15,000.00 to be recovered by the Municipality in a civil action. Every such Person shall be deemed guilty of a separate unclassified misdemeanor for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each week that such violation, disobedience, omission, neglect, or refusal shall continue.

15.5 Upon the occurrence of any non-compliance with, or violation of, this Local Law, the SMO may (1) withhold any Certificate of Compliance or Certificate of Occupancy, and/or (2) prevent the occupancy of any Premises.

15.6 Any Person who is not in compliance with this Local Law, or who violates any requirement hereof, may be required to restore or repair any Premises and/or remediate any discharge or contamination in accord with the requirements of this Local Law or any order of the Department or the SMO issued hereunder (a "Repair

or Remediation Order”). In the event that any remediation, repair or restoration is not undertaken and concluded within a reasonable time, the Municipality may take necessary corrective action, the cost of which shall become a lien upon the property until paid. In addition, the Town may commence any one or more civil proceedings in the Town of Lansing Justice Court, or any other court of competent jurisdiction, to recover the costs of such remediation, repair or restoration.

**SECTION 16: FEES** - The Municipality shall require any Person undertaking action regulated by this Local Law, or failing to take action required under this Local Law, or any Person in violation of this Local Law, to pay reasonable costs at prevailing rates for review of plans, BMPs, inspections, or maintenance performed by or for the Municipality, including but not limited to engineers’ or attorneys’ services and fees.

**SECTION 17: LIMITATION UPON MUNICIPAL LIABILITY:** The Municipality and the SMO shall not be liable or responsible for any injury to any Person or damage to any Premises or property due to the Municipality’s actions, or failures to act, under or pursuant to this Local Law, unless it is proven to a reasonable degree of certainty that such injury or damage was solely caused by a willful or intentional act of the Municipality or the SMO. All Persons engaged in any activities (and including liabilities arising from or in connection with any completed operations), including, but not limited to, Construction Activity, Industrial Activity, clearing, grading, excavation, construction, cleanup, remediation, or restoration work shall indemnify and keep and save harmless the Municipality and the SMO from and against any and all losses, costs, damages, expenses, judgments, claims, or liabilities of any kind whatsoever which may accrue against or be charged to or recovered from the Municipality or the SMO from or by reason of or on account of accidents, injuries, damages, and/or losses to Persons, Premises or property arising under or in connection with this Local Law. This indemnity provision shall be construed and applied to the maximum extent permitted by law.

**SECTION 18: WAIVERS** - Where the Municipality finds that, due to the special circumstances of a particular case, a waiver of certain requirements is justified, a waiver may be granted. In all cases, no waiver shall be granted unless the Municipality finds and records in its minutes that: (1) granting the waiver would be keeping with the intent and spirit of this Local Law, and is in the best interests of the community; (2) there is no adverse effect upon the character, appearance, or welfare of any Person or Premises, including, but not limited to, any watercourses, watersheds, or surface waters; (3) the waiver will not result in the discharge of any Hazardous Materials; (4) there are special circumstances involved in the particular case; (5) denying the waiver would result in undue hardship, provided that such hardship has not been self-imposed; and (6) the waiver is the minimum necessary degree of variation from the requirements of this Local Law and/or is of a short-term and temporary duration.

**SECTION 19: APPEAL OF SUSPENSION OR TERMINATION NOTICE, NOTICE OF VIOLATION OR REPAIR, OR REMEDIATION ORDER** - Any Person receiving a Suspension or Termination Notice, a Notice of Violation, or a Repair or Remediation Order may appeal the determination of the SMO to the Municipality within 15 days of its issuance.

Such appeal shall be heard within 30 days after the filing of the appeal. A determination upon the appeal shall be rendered within 10 days, and such determination shall be filed with the Municipal Clerk and mailed to the appealing party within 5 days of being made. An appeal shall consist, at a minimum, of a written statement setting forth the reasons and factual bases for such appeal. The actions and determinations of the Municipality upon and after filing its determination on any appeal shall be deemed "final determinations" for purposes of Article 78 of the New York Civil Practice Laws and Rules. No appeal lies from the denial of a waiver, except pursuant to said Article 78.

**SECTION 20: ALTERNATIVE REMEDIES -**

20.1 Where a Person has violated a provision of this Local Law, such Person may be eligible for alternative remedies in lieu of a civil penalty upon recommendation of the Municipal Attorney, with the concurrence of the SMO, where:

20.1.1 The violation was unintentional;

20.1.2 The violator has no history of previous violations of this Local Law;

20.1.3 Environmental damage was minimal;

20.1.4 The violator acted quickly to remedy violation; and

20.1.5 The violator cooperated in investigation and resolution of the violation.

20.2 Alternative remedies may consist of one or more of the following:

20.2.1 Attendance at compliance workshops;

20.2.2 Storm drain stenciling or storm drain marking; and/or

20.2.3 Lake, river, stream, creek, or wetland cleanup activities

**SECTION 21: VIOLATIONS DEEMED A PUBLIC NUISANCE -** In addition to the enforcement processes and penalties provided for in, by, or under this Local Law, any condition caused or permitted to exist in violation of any of the provisions of this Local Law is hereby deemed and declared to be 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 undertaken by the Municipality in its sole discretion.

**SECTION 22: 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 Municipality, the Department, or any other authorized enforcement agency, to seek cumulative or other remedies.

**SECTION 23: EFFECTIVE DATE - This Local Law shall be and become immediately effective upon filing.**