

LOCAL LAW PERM 5 OF 2020
Local Law Intro. No. 3 of 2020

**A LOCAL LAW CREATING CHAPTER 306 OF THE BROOME COUNTY CHARTER
AND CODE REGARDING PROHIBITING ILLICIT DISCHARGES, ACTIVITIES**

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

Section 1 Chapter 306 of the Broome County Charter and Code is created as follows:

Prohibit Illicit Discharges, Activities and Connections to the Broome County Separate Storm Sewer System

Section 306-1. Purpose/Intent. The purpose of this Local Law is to provide for the health, safety, and general welfare of the citizens of the County of Broome through the regulation of stormwater and non-stormwater discharges 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 Broome to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The objectives of this Local Law are:

- 1.1 To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-15-003 or as amended or revised;
- 1.2 To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- 1.3 To prohibit Illicit Connections, Activities and Discharges to the MS4;
- 1.4 To establish legal authority to carry out all inspection, monitoring and enforcement procedures necessary to ensure compliance with this law; and
- 1.5 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 waste, sediment and other pollutants into the MS4.

This Local Law shall apply to all MS4 designated areas situated within the County of Broome.

Section 306-2. 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 have meanings set forth below:

- 2.1 **Agricultural Stormwater Runoff:** 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.

- 2.2 Best Management Practices (BMPs):** Schedules of activities, prohibitions of practices, general good housekeeping 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.
- 2.3 Clean Water Act:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*), and any subsequent amendments thereto.
- 2.4 Construction Activity:** Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-0-20-001, 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.
- 2.5 County-Owned Municipal Separate Storm Sewer System (MS4):** A conveyance or system of conveyances (including roads/streets, facility parking lots & drives, and parks with drainage systems including; catch basins, curbs, manholes, gutters, ditches, culverts, man-made channels, or storms drains) owned or operated by the County of Broome, which includes roads, infrastructure and facilities, designed and used for collecting or conveying stormwater, that is not a combined sewer, and which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2. A listing of all County owned roads and properties within the defined MS4 boundary shall be included as Exhibit "A" and said listing shall include any and all new roadways and County-owned properties as required under the MS4 Regulations.
- 2.6 Department:** The New York State Department of Environmental Conservation.
- 2.7 Department of Public Works:** The Broome County Department of Public Works is the County Department that is responsible for managing, monitoring, and reporting on the County's Stormwater Management Program in accordance with the general MS4 Permit and this Local Law.
- 2.8 Design Professional:** New York State licensed professional engineer or licensed architect.
- 2.9 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 the waters of the United States.
- 2.10 Discharger:** Means any person or entity who causes, allows, permits, or is otherwise responsible for a discharge into a municipal storm sewer.
- 2.11 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.

- 2.12 Farm Operation:** The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and managing 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 non-contiguous to each other.
- 2.13 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.
- 2.14 Illicit Connections.** Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the County-owned MS4, 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 MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
 - B. Any drain or conveyance connected from a commercial or industrial land use to the County-owned MS4 which has not been (1) documented in plans, maps, or equivalent records, and (2) lawfully approved by an authorized enforcement agency.
- 2.15 Illicit Discharge.** Any direct or indirect regulated non-stormwater discharge to the County-owned MS4, except as exempted in Section 6 of this Local Law.
- 2.16 Illicit Discharge Board of Appeals:** A Broome County appeals board consisting of, at minimum, one representative of each of the County Departments: 1) Health Department – Environmental Health, 2) Planning Department – Environment Management Council, 3) Department of Public Works – Engineering, and which representatives shall be appointed by the Department Head of each Department. Said board shall follow the procedure set forth within Section 15 of this Local Law.
- 2.16 Industrial Activity.** Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.
- 2.17 Municipal Separate Storm Sewer System (MS4).** The system of conveyances (including but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
- A. Owned and/or operated by Broome County;
 - B. Designed or used for collecting or conveying stormwater;
 - C. Which is not a combined sewer; and
 - D. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2

- 2.18 Non-Stormwater Discharge.** Any discharge to the County-owned MS4 that is not composed entirely of stormwater.
- 2.19 Operator.** 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 such operational control to those activities at the site necessary to ensure compliance with SWPPP requirements and any related permit conditions.
- 2.20 Person.** Any individual, association, organization, partnership, firm, company, corporation, trust, estate, government entity (including the County of Broome), 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.
- 2.21 Point Source.** Means any discernable, confined, and discrete conveyance, including but not limited to , any pipe, ditch, channel, tunnel, conduit, well, 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.
- 2.22 Pollutant.** Includes, but is not limited to, dredged spoil; filter backwash; solid waste; incinerator residue; treated or untreated sewage; garbage; sewage sludge; munitions; hazardous wastes; chemical wastes; biological materials; toxic materials; radioactive materials; heat, wrecked or discarded equipment; rock; sand; cellular dirt; and industrial, municipal, recreational, agricultural waste and other regulated waste discharged into the MS4 which may cause or might reasonably be expected to cause pollution of the waters of the State in contravention of the standards as set forth in this Local Law and the Clean Water Act.
- 2.23 Premises.** Any building, structure, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips, parking lots, roadways, and other appurtenances.
- 2.24 Release.** 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 County-owned MS4, the water of New York State and/or the Waters of the United States.
- 2.25 Special Condition - Discharge Compliance with Water Quality Standards.** The condition that applies where Broome County has been notified that the discharge of stormwater authorized under its County-owned 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 County must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
- 2.26 Special Condition - 303(d) Listed Waters.** The condition in the County-owned MS4 permit that applies where the County-owned MS4 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.

- 2.27 **Special Condition - Total Maximum Daily Load (TMDL) Strategy.** The condition in the County-owned MS4 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 MS4 discharges.
- 2.28 **Special Condition - The condition in the County-owned MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which a County-owned MS4 discharges.** Under this condition the County must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If a County-owned MS4 is not meeting the TMDL stormwater allocations, the County must, within six (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.
- 2.29 **State Pollutant Discharge Elimination System (SPDES) Stormwater Discharge Permit.** A permit issued by the Department that authorizes the discharge of pollutants to waters of the State.
- 2.30 **Stormwater.** Rainwater, surface runoff, snowmelt and drainage.
- 2.31 **Stormwater Management Office.** The County Office that is responsible for administering, enforcing and promulgating regulations and fees pursuant to this Local Law, upon adoption of this Local Law, and said office shall be designated by the County Legislature as being a part of the Engineering Division and under the County of Broome Department of Public Works.
- 2.32 **Stormwater Management Officer (SMO).** The Stormwater Management Officer responsibilities are designated under this Local Law to the Deputy Commissioner of Engineering – Department of Public Works. The SMO shall have the responsibility to enforce this local law, and may also be designated to accept, review, and inspect stormwater pollution prevention plans, and inspect stormwater management practices.
- 2.33 **Stormwater Pollution Prevention Plan.** A plan required by a SDES permit to discharge stormwater associated with regulated activities, including but not limited to industrial activities and construction, and which describes and provides for pollution in stormwater discharges associated with regulated activities.
- 2.34 **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.

2.35 Total Maximum Daily Load (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.

2.36 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 306-3. 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 by the Department acting as the authorized enforcement agency.

Section 306-4. 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 County's MS4 program files in the Stormwater Management Office, and copies shall be provided 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 purpose, 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 306-5. Discharge Prohibitions.

5.1 Prohibitions of Illegal Discharges.

No person shall discharge or cause to be discharged into the County-owned MS4 any materials other than lawful discharges of stormwater, except as provided in Section 6.2.1. The commencement, conduct, or continuance of any illegal discharge to the County-owned MS4 is prohibited except as described in Section 6.2.

5.2 Discharge Exemptions:

5.2.1 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 firefighting 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. Such exempt

discharges shall be made in accordance with an appropriate plan for reducing pollutants.

- 5.2.2 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.
- 5.2.3 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.
- 5.2.4 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, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the County-owned MS4. A lawfully issued SPDES permit shall constitute compliance with this sub-paragraph in all manner and respects, provided the person and/or discharge to which the permit is issued is fully compliant therewith.
- 5.2.5 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 Broome County Department of Health, Broome County Office of Emergency Services, and/or the New York State Department of Health with notification to the County SMO 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/or surface water; response to imminent floods, hurricanes and all other storms that follow established emergency response plans, firefighting and public health emergencies.

5.3 Prohibition of Illicit Connections.

- 5.2.1 The construction, use, maintenance or continued existence of illicit connections to the County-owned MS4 is prohibited.
- 5.2.2 This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law and whether all lawful approvals were granted and/or regardless of whether the

connection was previously unregulated pursuant to practices applicable or prevailing at the time of connection.

- 5.2.3 A person is considered to be in violation of this Local Law if the person illegally connects a line conveying sewage to the County-owned MS4 or allows such an illegal connection to continue.

Section 306-6. Prohibition Against Failing Individual Sewage Treatment Systems.

No persons shall operate a failing individual sewage treatment system in areas tributary to the County-owned MS4. A failing individual sewage treatment system is one which has one or more of the following conditions.

- 6.1 The backup of sewage into a structure.
- 6.2 Discharges of treated or untreated sewage onto the ground surface.
- 6.3 A connection or connections to a separate stormwater sewer system.
- 6.4 Liquid Level in the septic tank above the outlet invert.
- 6.5 Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.
- 6.6 Contamination of off-site groundwater.

Section 306-7. Prohibition Against Activities Contaminating Stormwater.

- 7.1 Activities that are subject to the requirements of this section are those types of activities that:
 - 7.1.1 Cause or contribute to a violation of the County's MS4 SPDES permit.
 - 7.1.2 Cause or contribute to the County being subject to the Special Conditions as defined in Section 306-2 (Definitions) of this Local Law.
- 7.2 Such activities include failing individual sewage treatment systems as defined in Section 7, improper management of pet waste or any other activity that causes or contributes to violations of the County-owned MS4 SPDES permit authorization.
- 7.3 Upon written notification to a person that he/she/they are engaged in activities that cause or contribute to violations of the County's MS4 SPDES permit authorization, that person shall, upon receipt of such notice, immediately take all reasonable actions to correct such activities such that he/she/they no longer cause or contribute to violations of the County's MS4 SPDES permit authorization.

Section 306-8. Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices.

8.1 Best Management Practices. Where the SMO has identified illicit discharges as defined in Section 306-2 or by way of activities contaminating stormwater as defined in Section 306-7 the County may, among other remedies as set forth in this Local Law, require implementation of Best Management Practices (BMP's) to control those illicit discharges and activities.

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

8.1.2 Any owner, discharger, or operator, or other person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in Section 306-2 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 MS4.

8.1.3 Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial and/or other regulated activities, to the extent practicable, shall be deemed compliant with the provisions of this section.

8.2 Individual Sewage Treatment Systems; Response to Special Conditions Requiring No Increase of Pollutants or Requiring a Reduction of Pollutants - Where individual sewage treatment systems are contributing to the County-owned MS4 being subject to the Special Conditions as defined in Section 306-2 of this Local Law, the owner or operator of such individual sewage treatment systems shall be required to follow Chapter 305 of the Broome County Charter and Code which stipulates that no persons shall discharge any sewage or sewage effluent into any watercourse or surface body of waters unless a permit has been issued under the provisions of the Public Health Law or State Sanitary Code for such discharge. If individual sewage treatment system discharges are found to exceed the limits of the County's MS4 permit, the owner or operator of such individual sewage treatment systems shall be required to implement best management practices to maintain and operate individual sewage treatment systems as follows:

8.2.1 Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within three inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within ten inches of the bottom of the outlet baffle or sanitary tee.

8.2.2 Avoid the use of septic tank additives.

8.2.3 Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals; and

8.2.4 Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items.

Section 306-9. Suspension of Access to County-Owned MS4. Illicit Discharges in Emergency Situations.

9.1 Imminent Danger. The SMO may, without prior notice, suspend County-owned 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/or substantial danger to the environment, to the health or welfare of persons, or to the County-owned MS4. The SMO 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 SMO may take such steps as deemed necessary to prevent or minimize damage to the County-owned MS4 or to minimize and abate any and all danger to persons.

9.2 Suspension due to the detection of illicit discharge. Any person discharging to the County-owned MS4 in violation of this Local Law may have their County-owned MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify an alleged violator in writing of the proposed termination of its County-owned MS4 access and the reasons therefor. Within fifteen (15) days of the issuance of such Notice, the alleged violator may petition the SMO for a reconsideration and hearing. Access to the County-owned MS4 may be granted by the SMO if he/she finds that the illicit discharge has ceased, and the discharger has taken steps to prevent its recurrence. Access to the County-owned MS4 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 County-owned MS4 access to premises terminated pursuant to this Section, without the prior approval of the SMO or a court of competent jurisdiction.

Section 306-10. 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 SMO prior to the allowing of discharges to the County-owned MS4. Upon such proof being provided, the SMO shall render his/her determination as to acceptability and shall provide the person with a written confirmation of such determination.

Section 306-11. Access to Facilities and Monitoring of Discharges.

11.1 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 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.

11.2 Access to Facilities.

11.2.1 Upon compliance with the requirements of this Local Law, 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 clearance before entry into its premises, the discharger shall make reasonable and necessary arrangements to allow access to the SMO.

11.2.2 Facility operators shall allow the SMO 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.

11.2.3 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 SMO reasonable access to the facility for the purpose of conducting any activity authorized or required by this Local Law.

11.2.4 If the SMO 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 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.

11.3 Monitoring.

11.3.1 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 SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.

11.3.2 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 calibrated to ensure their accuracy, and proof of such calibration shall be furnished to the SMO per request.

Section 306-12. 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 illicit discharges or pollutants discharging into the County-owned MS4, 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 and/or the County SMO. In the event of a release of non-hazardous materials, said person shall notify the County SMO in person, or by telephone, email, 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 or in-person 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 SMO and shall be retained on-site for at least five (5) years.

Section 306-13. Enforcement.

13.1 Notice of Violation. When the County's SMO 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 discharger, if different than the owner, as the alleged responsible person. Such notice and/or subsequent enforcement may require without limitation:

13.1.1 The elimination of illicit connections and/or discharges;

13.1.2 The violating discharges, practices, and/or operation shall cease and desist;

13.1.3 The abatement and/or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

13.1.4 The performance of monitoring, analyses, and reporting;

13.1.5 Payment of a fine; and/or recoupment of all qualified County expenditures as necessary to abate the violation;

13.1.6 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 the expenses thereof shall be charged to the discharger and/or the owner as the violator.

13.1.7 Order that all permits, approvals and/or authorizations be obtained, if lawfully permitted by statute, for any continuing discharges, practices and/or operations. Prior notice shall not be required in the event the SMO reasonably determines that an imminent threat to life may exist as a result of the violation of the Local Law.

Section 306-14. Appeal of Notice of Violation.

14.1 Procedure. Any person receiving a Notice of Violation may appeal the determination of the SMO within fifteen (15) days of its issuance. Said appeal shall be filed with the SMO who shall transmit his/her original findings, and the appeal to the Illicit Discharge Board of Appeals, which shall consist of one representative of each of the County Departments: 1) Health Department – Environmental Health, 2) Planning Department – Environment Management Council, 3) Department of Public Works – Engineering. 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 thirty (30) days after the filing of the appeal, and within five (5) days of making its written decision, file its decision in the office of the County Clerk and mail a copy of its decision by certified mail to the discharger.

14.2 Relief. Persons who may be individually, jointly, or severally aggrieved by any determination made by the SMO 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 Rules of the State of New York.

Section 306-15. Corrective Measures After Appeal.

15.1 If an appeal under this Local Law has been pursued and the violation has not been corrected pursuant to the requirement set forth in the Notice of Violation, which has been administratively adjudicated under this Local Law, then within five (5) business days of decision of the County authority upholding the decision of the SMO, the SMO 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.

15.2 If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property, and make any and all determinations which are authorized pursuant to this Local Law. Upon determination that a violation has occurred, the SMO 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 in Section 14.

15.3 Nothing in this section shall be read to limit, abrogate, or otherwise affect the authority possessed by the SMO pursuant to Section 306-9.1 of this Local Law.

Section 306-16. Penalties.

16.1 Administrative Sanctions. Any person who violates the provisions of this Local Law, including any provisions of any authorization issued, any condition set or fee required pursuant to this Local Law, shall be liable to Broome County for a civil penalty of not more than one thousand dollars (\$1000) for every such violation. Each consecutive day of the violation shall be considered a separate offense. 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 Civil Practice Laws and Rules of the State of New York.

16.2 Criminal Sanctions. 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 Five Hundred Dollars (\$500), and not more than One Thousand Dollars (\$1000); for a second and each subsequent offense, he/she shall be guilty of a misdemeanor punishable by a fine of not less than One Thousand Dollars (\$1000) and not more than Two Thousand Dollars (\$2000), or a term of imprisonment of not less than Thirty (30) days or more than Six (6) months, or both. Each violation shall

be deemed a separate and distinct offense, and in the case of a continuous violation, each day in a continuance thereof shall be deemed a separate and distinct offense.

16.3 Final Determination / Costs. In addition to the forgoing 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 SMO for all qualified 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 Regulations and/or any other applicable statutory authority for such violation.

Section 306-17. 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 SMO 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 and/or remediation of the violation, and/or for such other further relief as any court of competent jurisdiction may order.

Section 306-18. Alternative Remedies.

18.1 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, where a written determination is made that:

18.1.1 The violation was unintentional;

18.1.2 The violator has no history of pervious violations of this Local Law;

18.1.3 Environmental damage was minimal;

18.1.4 The violator acted quickly to remedy violation;

18.1.5 The violator cooperated in investigation and resolution.

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

18.2.1 Attendance at Stormwater Management compliance workshops.

18.2.2 Storm drain stenciling and/or storm drain marking.

18.2.3 Participation in community outreach programs concerning stormwater management such as river, stream or creek cleanup activities.

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 306-19. 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 SMO to seek cumulative remedies. Nothing in this Local Law shall be read to preclude the enforcement by Brome County of any other laws as may be applicable to illicit discharges, including but not limited to, statutory authorization as set forth within the New York State Highway Law, the New York State County Law, and the New York State Health Law.

Section 306-20. Conflict With Other Regulations. Where the standards and legal requirements of this Local 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 306-21. 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.

Section 2. Adoption of Law. This Local Law shall take effect immediately upon filing with the Secretary of State.