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☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Canandaigua

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Local Law No. _____ of the year 20¹⁶

A local law Creation of Chapter 170 (Stormwater Management) and Chapter 172 (Illicit Discharge
(Insert Title)
Detection and Elimination)

Be it enacted by the Town Board _____ of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Canandaigua _____ as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SECTION ONE. Legislative Intent. The intent of this Local Law is to regulate and govern stormwater management in the Town of Canandaigua by adding a new Chapter 170 to the Town of Canandaigua Town Code.

SECTION TWO. There is hereby added a new Chapter 170 to the Town of Canandaigua Town Code, which shall read in its entirety as follows:

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**CHAPTER 170
STORMWATER MANAGEMENT**

Section 170-1. PURPOSE AND FINDINGS.

- A. The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town, and to address the findings of fact in Section 170-1(A) of this chapter. This chapter seeks to meet those purposes by achieving the following objectives:
- (1) Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit GP-0-15-003, as amended or revised;
 - (2) Require Land Development Activities to conform to the substantive requirements of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-15-002, as amended or revised;
 - (3) Minimize increases in stormwater runoff from Land Development Activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
 - (4) Minimize increases in pollution caused by stormwater runoff from Land Development Activities which would otherwise degrade local water quality;
- B. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- C. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.
- D. It is hereby determined that:
- (1) Land Development Activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase

stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;

- (2) This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- (3) Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- (4) Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- (5) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- (6) Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- (7) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from Land Development Activities;
- (8) The regulation of stormwater runoff discharges from Land Development Activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety; and
- (9) Regulation of Land Development Activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

Section 170-2. DEFINITIONS.

The following terms used in this Chapter or in documents prepared or reviewed under this Chapter shall have the meanings indicated:

- (1) **Agricultural Activity.** The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the

operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

- (2) **Agricultural Structure.** Any barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agricultural use.
- (3) **Applicant.** A landowner or agent of a landowner who has filed an application for a Land Development Activity.
- (4) **Channel.** A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
- (5) **Clearing.** Any activity that removes the vegetative surface cover.
- (6) **Construction Activity.** Any clearing, grading, excavation, filling, demolition or stockpiling activities that result in soil disturbance. Clearing activities include, but are not limited to, logging equipment operation, the cutting and skidding of trees, stump removal and/or brush root removal. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility.
- (7) **Construction Permit.** The SPDES General Permit for Construction Activities GP-0-15-002, or latest revision.
- (8) **DEC.** The New York State Department of Environmental Conservation.
- (9) **Design Manual.** The *New York State Stormwater Management Design Manual*, most recent version including applicable updates that serves as the official guide for stormwater management principles, methods and practices.
- (10) **Developer.** A person who undertakes Land Development Activities.
- (11) **Direct Discharge (to a specific surface waterbody).** When the first point discharge from a Land Development Activity, either by overland flow or through a separate storm sewer system, is the specific surface waterbody.
- (12) **Erosion Control Manual.** The most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book."
- (13) **Facility Owner.** The person, persons or legal entity which owns or leases the property on which a stormwater management facility is located; and/or an entity that has legal responsibility for the long term operation and maintenance of a stormwater management facility.
- (14) **Grading.** Excavation or fill of material, including the resulting conditions thereof.

- (15) **Impervious Cover.** Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).
- (16) **Industrial Permit.** A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.
- (17) **Infiltration.** The process of percolating stormwater into the subsoil.
- (18) **Land Development Activity.** Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct Land Development Activities may take place at different times on different schedules, including the construction of agricultural structures.
- (19) **Landowner.** The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.
- (20) **Licensed/Certified Professional.** A person currently licensed to practice engineering in New York State, a registered landscape architect or a Certified Professional in Erosion and Sediment Control (CPESC).
- (21) **Nonpoint Source Pollution.** Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
- (22) **Phasing.** Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.
- (23) **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.
- (24) **Pollutant of Concern.** Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant (such as phosphorus) that has been identified as a potential cause of impairment of any water body that will receive a discharge from the Land Development Activity.
- (25) **Project.** Land Development Activity.

- (26) **Recharge.** The replenishment of underground water reserves.
- (27) **Redevelopment Activity.** Those Land Disturbance Activities that include the disturbance and reconstruction of existing impervious surfaces and meet the requirements of Chapter 9 of the Design Manual.
- (28) **Sediment Control.** Measures that prevent eroded sediment from leaving the site.
- (29) **Sensitive Areas.** Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.
- (30) **SPDES General Permit for Construction Activities GP-0-15-002.** A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.
- (31) **SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-0-15-003.** A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.
- (32) **Stabilization.** The use of practices that prevent exposed soil from eroding.
- (33) **Steep Slope Area.** Land area with a Soil Slope Phase that is identified as an E or F, or the map unit name is inclusive of 25% or greater slope, on the United States Department of Agricultural ("USDA") Soil Survey for Ontario County, New York, or as otherwise defined by the Construction Permit as those areas where disturbance is not eligible for coverage due to slope
- (34) **Stormwater.** Rainwater, surface runoff, snowmelt and drainage.
- (35) **Stormwater Hotspot.** A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.
- (36) **Stormwater Management.** The use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.
- (37) **Stormwater Management Facility.** One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

- (38) Stormwater Management Program (SWMP) Coordinator. An employee designated by, and serving at the pleasure of, the Town Board to implement, manage, and supervise the Town's MS4 program. The SWMP Coordinator shall be a health and safety officer, superintendent, or other individual having responsibility for environmental, health, or safety matters for the Town.
- (39) Stormwater Management Officer (SMO). Any Code Enforcement Officer or other official designated by, and serving at the pleasure of, the Town Board to enforce this chapter.
- (40) Stormwater Management Practices (SMPs). Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.
- (41) Stormwater Pollution Prevention Plan (SWPPP). A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.
- (42) Surface Waters of the State of New York - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.
- (43) Town. The Town of Canandaigua.
- (44) Watercourse. A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- (45) Waterway. A channel that directs surface runoff to a watercourse or to the public storm drain.
- (46) Wetland. An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation, including areas regulated as wetlands under federal or state law.

Section 170-3. APPLICABILITY.

This chapter shall be applicable to all Land Development Activities as defined in Section 170-2 of this chapter.

Section 170-4. RESPONSIBILITY FOR ADMINISTRATION.

- A. The Stormwater Management Program (SWMP) Coordinator shall review all Stormwater Pollution Prevention Plans (SWPPP). The Coordinator may:
- (1) Personally review and approve plans, or
 - (2) Engage the services of a Licensed/Certified Professional to review and make recommendations as to approval of plans, specifications and related documents, or
 - (3) Accept the certification of a Licensed/Certified Professional that the plans conform to the requirements of this chapter.
- B. When the SWMP Coordinator engages the services of a licensed professional engineer as authorized by Section 170-4.A.2, above, the Applicant shall be responsible for the payment of any Administrative Fees, as defined in Chapter 111 of the Town code. Application forms promulgated by the Town shall include an acknowledgement that the Applicant shall be jointly and severally liable to the Town of Canandaigua for all administrative fees, as defined in Chapter 111 of the Town Code, and the application form shall also include a statement that a copy of the current Fee Schedule may be obtained from the Town Clerk's Office.
- C. The SWMP Coordinator shall be the local stormwater public contact as defined in SPDES General Permit GP-0-15-003. They shall be responsible for public concerns regarding stormwater management and compliance with the SPDES General Permit.
- D. The Stormwater Management Officer (SMO) shall administer, implement, and enforce the provisions of this chapter. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the Town Board.

Section 170-5. EXEMPTIONS.

The following activities are exempt from review under this chapter.

- (1) Agricultural activity as defined in this chapter.
- (2) Silvicultural activity except that landing areas and log haul roads are subject to this chapter.
- (3) Routine maintenance activities that disturb less than five acres and are

performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.

- (4) Repairs to any stormwater management practice or facility deemed necessary by the SMO.
- (5) Any part of a subdivision if a plat for the subdivision has been approved by the Town on or before the effective date of this chapter.
- (6) Land Development Activities for which a building permit has been approved on or before the effective date of this chapter.
- (7) Cemetery graves.
- (8) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- (9) Emergency activity immediately necessary to protect life, property or natural resources.
- (10) Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- (11) Landscaping and horticultural activities in connection with an existing structure.
- (12) Land development activities that are ineligible for coverage under SPDES General Permit GP-0-15-002 because they directly discharge into Canandaigua Lake and disturb one or more acres of land with no existing impervious cover and are located in steep slope areas.

Section 170-6. STORMWATER POLLUTION PREVENTION PLANS

- A. No application for final approval of a Land Development Activity shall be approved until the appropriate board or Town official has received a SWPPP prepared in accordance with the specifications in this chapter and approved by the SMO.
- B. All SWPPPs shall provide the following background information and erosion and sediment controls:
 - (1) Information as to the scope of the project, including location, type and size of project.
 - (2) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map shall show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing

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vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; location(s) of any stormwater hotspots; and location(s) of the stormwater discharges(s);

- a) Description of the soil(s) present at the site;
- b) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
- c) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
- d) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
- e) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
- f) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- g) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
- h) Temporary practices that will be converted to permanent control measures;
- i) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
- j) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
- k) Name(s) of the receiving water(s);

- l) Delineation of SWPPP implementation responsibilities for each part of the site;
 - m) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
 - n) Any existing data that describes the stormwater runoff at the site.
- C. Land Development Activities meeting Condition "A", "B", or "C" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Section 170-6 (D) below, as applicable:
- (1) Condition A - Stormwater runoff from Land Development Activities directly discharging to either an impaired water identified on the DEC's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
 - (2) Condition B - Stormwater runoff from Land Development Activities disturbing five (5) or more acres.
 - (3) Condition C - Stormwater runoff from Land Development Activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction activities listed on Table 1 in Appendix B of the Construction Permit.
- D. SWPPP Requirements for Conditions A, B, and C:
- (1) All information required in Section 170-6(B) of this chapter;
 - (2) Description of each post-construction stormwater management practice;
 - (3) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
 - (4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
 - (5) Comparison of post-development stormwater runoff conditions with pre-development conditions;
 - (6) Dimensions, material specifications and installation details for each post-construction stormwater management practice;
 - (7) Maintenance schedule to ensure continuous and effective operation of each

post-construction stormwater management practice;

(8) Maintenance and Inspection Easement Agreement binding on all subsequent landowners served by the on-site stormwater management measures, in accordance with Section 170-8; and

(9) For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this chapter.

E. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the Land Development Activity prior to approval of the final stormwater design plan.

F. Contractor Certification.

(1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any Land Development Activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

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

(3) The certification statement(s) shall become part of the SWPPP for the Land Development Activity.

G. A copy of the SWPPP shall be retained at the site of the Land Development Activity during construction from the date of initiation of construction activities to the date of final stabilization.

Section 170-7. PERFORMANCE AND DESIGN CRITERIA.

All Land Development Activities shall be subject to the following performance and design criteria:

(1) Technical Standards.

a) For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in

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accordance with these technical documents shall be presumed to meet the standards imposed by this chapter:

(i) The Design Manual.

(ii) The Erosion Control Manual.

(iii) The Town's Site Design and Development Criteria.

(2) Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Section 170-7(A)(1) of this chapter and the SWPPP shall be prepared by a licensed professional.

(3) Water Quality Standards.

- a) Any Land Development Activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.
- b) Any Land Development Activity within the Town shall provide Enhanced Phosphorus Treatment as outlined by the Design Manual.

(4) Water Quantity Standards.

Any Land Development Activity shall limit storm water discharge to an amount no more than 90% of that which occurs currently, except:

- a) When the Land Development Activity includes the disturbance of undeveloped or agricultural lands, then the storm water discharge shall be no more than 90% of that which would normally occur under a natural, undeveloped condition (meadows, brush, and/or woods in good condition as defined by USDA NRCS Technical Release 55 (TR-55) Urban Hydrology for Small Watersheds).

Section 170-8. MAINTENANCE, INSPECTION AND REPAIR OF STORMWATER FACILITIES.

A. Maintenance and Inspection During Construction.

- (1) The applicant or developer of the Land Development Activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by twenty-five (25) percent.

- (2) For Land Development Activities meeting Condition A and B in Section 170-6 (C) of this chapter, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices twice every 7 calendar days. Inspection reports shall be made using the Town's Standard SWPPP Inspection Form, maintained in a site log book, and electronically submitted to the SMO
- (3) For Land Development Activities meeting Condition C in Section 170-6 (C) of this chapter, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices once every 7 calendar days. Inspection reports shall be made using the Town's Standard SWPPP Inspection Form, maintained in a site log book, and electronically submitted to the SMO.
- (4) SMO Required Inspections. The applicant shall have a qualified professional conduct a site inspection whenever requested by the SMO. Inspection reports shall be made using the Town's Standard SWPPP Inspection Form, maintained in a site log book, and electronically submitted to the SMO.

B. Maintenance After Construction.

- (1) The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall ensure they are operated and maintained to achieve the goals of this chapter. Proper operation and maintenance also includes as a minimum, the following:
 - a) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this chapter.
 - b) Written procedures for operation and maintenance and training new maintenance personnel.
 - c) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations, in accordance with the provisions of Section 170-7 of this chapter.

C. Stormwater Maintenance Agreement.

Prior to the issuance of final approval of a Land Development Activity that has a stormwater management facility that will remain in private ownership as one of the requirements, the Facility Owner shall execute the Town's Standard Stormwater Maintenance Agreement, which provides for maintenance of the facility, by the Facility Owner, in accordance with the requirements of this chapter together with access to the facility at reasonable times for periodic inspection by the Town to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The

Stormwater Maintenance Agreement shall be recorded in the office of the County Clerk after approval by the Town Board.

D. Dedication Permitted.

The Town Board, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. Offers for dedication to the Town Board shall be in accordance with Section 174-33 of this code.

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Section 170-9. INSPECTIONS BY THE SMO.

A. Construction Inspection

(1) Erosion and Sediment Control Inspection

a) The SMO may require such inspections as necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant how the work fails to comply with the requirements of this chapter and the SWPPP as approved. To obtain inspections, the applicant shall notify the SMO at least 48 hours before any of the following as required by the SMO:

- (i) Start of construction;
- (ii) Installation of sediment and erosion control measures;
- (iii) Completion of site clearing;
- (iv) Completion of rough grading;
- (v) Completion of final grading;
- (vi) Close of the construction season;
- (vii) Completion of final landscaping; and
- (viii) Successful establishment of landscaping in public areas.

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

(2) Stormwater Management Practice Inspections.

The SMO is authorized to conduct inspections of stormwater management practices (SMPs). All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

(3) Inspection of Stormwater Facilities After Project Completion.

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

(4) Submission of Reports.

The SMO may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.

(5) Right of Entry for Inspection.

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town the right to enter the property at reasonable times, and in a reasonable manner for the purpose of inspection as required or allowed by this chapter. This right to enter may be granted by the agreement provided in accordance with Section 170-8(C) of this chapter.

(6) SMO Inspection Report

Inspections conducted by the SMO shall be reported using the Town's Standard SWPPP Inspection Form.

B. Sureties.

The Town, in order to ensure the full and faithful compliance with an approved SWPPP, may require the applicant or developer to provide sureties in accordance with Section 174-32 of this code.

C. Recordkeeping.

The SMO may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

Section 170-10. ENFORCEMENT AND PENALTIES.

A. Notice of Violation.

(1) When the SMO determines that a Land Development Activity is not being carried out in accordance with the requirements of this chapter, the SMO may issue a written notice of violation to the landowner, applicant and/or developer. The notice of violation shall contain:

- a) The name and address of the landowner, developer and/or applicant;
- b) The address, when available, or a description of the building, structure or land upon which the violation is occurring;
- c) A statement specifying the nature of the violation;
- d) A description of the remedial measures necessary to bring the Land Development Activity into compliance with this chapter and a time schedule for the completion of such remedial action; and
- e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.

B. Stop Work Orders.

The SMO may issue a stop work order for violations of this chapter. Persons receiving a stop work order shall be required to halt all Land Development Activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the SMO confirms that the Land Development Activity is in compliance and the violation has been satisfactorily addressed in writing. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter.

C. Violations.

Any Land Development Activity that is commenced or is in violation with this chapter may be restrained by injunction or otherwise abated in a manner provided by law in an action authorized by the Town Board in State Supreme Court. Further, the SMO may issue appearance tickets for violations of this chapter.

D. Penalties.

- (1) In addition to or as an alternative to any penalty provided in this chapter or by law, any person who violates the provisions of this chapter shall be guilty of a

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violation

- a) Punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense;
- b) For conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and,
- c) Upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both.

(2) For the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

E. Withholding of Certificate of Occupancy.

If a Land Development Activity is conducted in violation of this chapter, the SMO may prevent the occupancy of said building or land, and the Building Inspector or Code Enforcement Officer may refuse to issue or may condition a Certificate of Occupancy or Certificate of Compliance pursuant to Chapter 92 of the Town Code.

F. Restoration of Lands.

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

Section 170-11. FEES FOR SERVICES.

The Town may require any person undertaking Land Development Activities regulated by this chapter to pay Administrative Fees as defined in Chapter 111 of the Town Code.

SECTION THREE. Title. Chapter 170 of the Town of Canandaigua Town Code shall hereby be titled as "STORMWATER MANAGEMENT."

Severability Clause. The provisions of this local law are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not

affect the validity of any remaining sections, subsections, sentences, clauses or part of this local law.

SECTION FOUR. Effective Date. This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

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SECTION ONE. Legislative Intent. The intent of this Local Law is to regulate and govern non-stormwater discharges to the municipal separate storm sewer system (MS4) by adding a new Chapter 172 to the Town of Canandaigua Town Code.

SECTION TWO. There is hereby added a new Chapter 172 to the Town of Canandaigua Town Code, which shall read in its entirety as follows:

CHAPTER 172 ILLICIT DISCHARGE DETECTION AND ELIMINATION

Section 172-1. PURPOSE AND INTENT.

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

- (1) To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit GP-0-15-003, as amended or revised;
- (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) To prohibit Illicit Connections, Activities and Discharges to the MS4;
- (4) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter; and
- (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.

Section 172-2. DEFINITIONS.

Whenever used in this chapter, unless a different meaning is stated in a definition applicable to only a portion of this chapter, the following terms will have meanings set forth below:

- (1) 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) Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. §1251, et seq.), and any subsequent amendments thereto.
- (3) Construction Activity. Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-0-15-002, as

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- 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) DEC. The New York State Department of Environmental Conservation.
 - (5) Design Professional. New York State licensed professional engineer or licensed architect.
 - (6) Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
 - (7) Illicit Connections. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:
 - a) Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
 - b) Any drain or conveyance connected to the MS4 which has not been documented in plans, maps, or equivalent records or has not been approved by an authorized enforcement agency.
 - (8) Illicit Discharge. Any direct or indirect non-stormwater discharge to the MS4, except as exempted in section 172-5(A)(2) of this chapter.
 - (9) Individual Sewage Treatment System. A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwaters of the State of New York, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.
 - (10) Industrial Activity. Activities requiring the SPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activities, GP-0-12-001, as amended or revised.
 - (11) MS4. Municipal Separate Storm Sewer System.
 - (12) Municipal Separate Storm Sewer System. A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
 - a) Owned or operated by the Town;
 - 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
 - (13) Non-Stormwater Discharge. Any discharge to the MS4 that is not composed entirely of stormwater.

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- (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.
- (15) **Pollutant.** Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the State in contravention of the State standards.
- (16) **Premises.** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (17) **Special Conditions.**
 - a) **Discharge Compliance with Water Quality Standards.** The condition that applies if the Town is notified that the discharge of stormwater authorized under its 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 Town must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
 - b) **Discharge to 303(d) Listed Waters.** The condition in the Town'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.
 - c) **Total Maximum Daily Load (TMDL) Strategy.** The condition in the Town's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by the 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 Town was required to modify its Stormwater Management Program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
 - d) **Future TMDL.** The condition in the Town's MS4 permit that applies if a TMDL is approved in the future by the EPA for any waterbody or watershed into which an MS4 discharges. Under this condition the Town 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 Town 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.
- (18) **State Pollutant Discharge Elimination System (SPDES) Stormwater Discharge Permit.** A permit issued by the DEC that authorizes the discharge of pollutants to waters of the State.
- (19) **Stormwater.** Rainwater, surface runoff, snowmelt and drainage.

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- (20) Stormwater Management Officer (SMO). Any Code Enforcement Officer or other official designated by, and serving at the pleasure of, the Town Board to enforce this chapter.
 - (21) 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 DEC as required by section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.
 - (22) TMDL. Total Maximum Daily Load.
 - (23) 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.
 - (24) Town. The Town of Canandaigua.
 - (25) Wastewater. Water that is not stormwater; is contaminated with pollutants; and is or will be discarded.

Section 172-3. APPLICABILITY.

This chapter shall apply to all water entering the MS4 generated on any developed and/or undeveloped lands.

Section 172-4. RESPONSIBILITY FOR ADMINISTRATION.

The Stormwater Management Officer (SMO) shall administer, implement, and enforce the provisions of this chapter. Such powers granted or duties imposed upon the authorized enforcement official shall be authorized by the Town Board.

Section 172-5. DISCHARGE PROHIBITIONS.

A. Prohibition of Illegal Discharges.

- (1) No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater, except as provided in section 172-5(A)(2) of this chapter. The commencement, conduct or continuance of any discharge to the MS4 not authorized or exempted by this chapter is prohibited.
- (2) The following discharges are exempt from discharge prohibitions established by this chapter:
 - a) Flushing of water lines 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, authorized discharges from fire hydrants, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

- b) 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 chapter.
 - c) 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.
 - d) A discharge permitted under a SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the DEC, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations.
- B. Prohibition of Illicit Connections.
- (1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
 - (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - (3) A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the Town's MS4, or allows such a connection to continue.

Section 172-6. FAILING WASTEWATER TREATMENT SYSTEMS PROHIBITED.

- A. No persons shall operate a failing individual wastewater treatment system in areas tributary to the Town's MS4. A failing individual wastewater treatment system is one which meets the criteria of Chapter 202 of this code, and will require corrective measures in accordance with same.

Section 172-7. ACTIVITIES CONTAMINATING STORMWATER PROHIBITED.

- A. The following activities are prohibited as activities contaminating stormwater:
- (1) Activities that cause or contribute to a violation of the Town's MS4 SPDES permit.
 - (2) Activities that cause or contribute to the Town being subject to the Special Conditions as defined in section 172-2 of this chapter.
- B. Such activities include a failing Individual Sewage Treatment System, improper management of pet waste or any other activity that causes or contributes to violations of the Town's MS4 SPDES permit authorization.
- C. Upon notification to a person that he or she is engaged in activities contaminating stormwater, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the Town's MS4 SPDES permit authorization or the Special Conditions as defined in section 172-2 of this chapter.

Section 172-8. REQUIREMENTS TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS.

- A. Where the SMO has identified an Illicit Discharge, as defined in section 172-2 of this chapter, or activities contaminating stormwater, as defined in section 172-7 of this chapter, the SMO may require implementation of Best Management Practices (BMPs) to control such Illicit Discharge and/or 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 MS4 through the use of structural and non-structural BMPs.
- C. Any person responsible for a property or premise, which is, or may be, the source of an Illicit Discharge or an activity contaminating stormwater may be required to implement, at such person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollution to the MS4.
- D. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.
- E. Where an Individual Sewage Treatment Systems is contributing to the Town being subject to the Special Conditions, as defined in section 172-2 of this chapter, the owner or operator of such Individual Sewage Treatment System shall be required to:
 - (1) Maintain and operate individual sewage treatment systems as follows:
 - a) Have the septic tank inspected annually by a design professional 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.
 - b) Avoid the use of septic tank additives.
 - c) Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals; and
 - d) Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items.
 - (2) Repair or replace individual sewage treatment systems as follows:
 - a) In accordance with 10 NYCRR Appendix 75A, to the maximum extent practicable.
 - b) A design professional licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:
 - (i) Relocating or extending an absorption area to a location not previously approved for such.
 - (ii) Installation of a new subsurface treatment system at the same location.
 - (iii) Use of alternate system or innovative system design or technology.
 - c) A written certificate of compliance shall be submitted by the design professional to the SMO at the completion of construction of the repair or replacement system.

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Section 172-9. SUSPENSION OF ACCESS TO MS4.

- A. Any person discharging to the Town MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an Illicit Discharge. Prior to access termination, the SMO shall notify the violator, in writing, of the proposed termination of its MS4 access and the reasons for such termination. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the SMO.
- B. The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the 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 MS4 or to minimize danger to persons.

Section 172-10. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

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

Section 172-11. ACCESS TO FACILITIES AND MONITORING OF DISCHARGES.

- A. The SMO shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
- B. 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 chapter.
- C. The SMO shall have the right to set up on any facility subject to this chapter such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.
- D. The SMO has the right to require the facilities subject to this chapter to install monitoring equipment as is reasonably necessary to determine compliance with this chapter. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- E. A person who is the operator of a facility subject to this chapter shall not unreasonably delay or deny reasonable access to the facility by the SMO for the purpose of conducting any activity authorized or required by this chapter.

- F. 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 chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, then the SMO, upon approval by the Town Board, may seek issuance of a search warrant from any court of competent jurisdiction.

Section 172-12. 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 illegal discharges or pollutants discharging into the MS4, such 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, such person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In addition to the reporting and record requirements of the emergency response agency, such person shall also 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 SMO within three 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 retained for at least three years and made available to the SMO upon request.

Section 172-13. ENFORCEMENT.

- A. When the SMO finds that a person has violated any provisions of this chapter, the SMO may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:
- (1) The elimination of illicit connections or discharges;
 - (2) That violating discharges, practices, or operations shall cease and desist;
 - (3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - (4) The performance of monitoring, analyses, and reporting; and
 - (5) The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Such 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 a contractor and the expense of that work shall be charged to the violator.
- B. Penalties.
- (1) In addition to or as an alternative to any penalty provided in this chapter or by law, any person who violates the provisions of this chapter shall be guilty of a violation

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- a) Punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense;
 - b) For conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and,
 - c) Upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both.
- (2) For the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- C. The SMO may issue appearance tickets for violations of this chapter.

Section 172-14. CORRECTIVE MEASURES AFTER NOTICE OF VIOLATION.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, the SMO, upon approval by the Town Board, shall request the owner's permission or seek a warrant from a court of competent jurisdiction for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property. The costs of implementing and maintaining such measures shall be recoverable, upon appropriate proceedings, from the violator.

Section 172-15. INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the Town Board may authorize an action for injunctive relief in State Supreme Court restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Section 172-16. ALTERNATIVE REMEDIES.

Where a person has violated a provision of this chapter, the SMO may, in his or her discretion, find the violator eligible for alternative remedies, in lieu of enforcement proceedings provided for in this chapter, where:

- (1) The violation was unintentional;
 - (2) The violator has no history of pervious violations of this Chapter;
 - (3) 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 compliance workshops;

- (2) Storm drain stenciling or storm drain marking;
- (3) River, stream or creek cleanup activities.

Section 172-17. VIOLATIONS DEEMED A PUBLIC NUISANCE.

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

Section 172-18. REMEDIES NOT EXCLUSIVE.

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

SECTION THREE. Title. Chapter 172 of the Town of Canandaigua Town Code shall hereby be titled as "ILLCIT DISCHARGE DETECTION AND ELIMINATION."

Severability Clause. The provisions of this local law are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this local law.

SECTION FOUR. Effective Date. This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

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(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20¹⁶ of the (County)(City)(Town)(Village) of Canandaigua was duly passed by the Town Board _____ on _____ 20¹⁶, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted _____ (Elective Chief Executive Officer*) on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. _____ (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: _____

(Seal)