

Introductory Local Law No. 3 of the year 2025

Illicit Discharge Connection Stormwater Local Law

Title: A Local Law to ensure the health, safety and general welfare of citizens and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act.

Be it enacted by the Town Board of the Town of Clarkson as follows:

Illicit Discharge Connection Stormwater Local Law

- Section I: Purpose and intent.
- Section II: Definitions.
- Section III: Applicability.
- Section IV: Responsibility for administration.
- Section V: Ultimate responsibility.
- Section VI: Powers and authority of inspectors.
- Section VII: Discharge prohibitions.
- Section VIII: Suspension of MS4 access.
- Section IX: Industrial or construction activity discharges.
- Section X: Monitoring of discharges.
- Section XI: Prevention, control and reduction of stormwater pollutants by use of best management practices.
- Section XII: Watercourse protection.
- Section XIII: Notification of spills.

Section XIV: Enforcement; penalties for offenses.

Section XV: Appeal of notice of violations.

Section XVI: Enforcement measures after appeal.

Section XVII: Cost of abatement of violation.

Section XVIII: Injunctive relief.

Section XIX: Compensatory action.

Section XX: Violations deemed a public nuisance.

Section XXI: Criminal prosecution.

Section XXII: Remedies not exclusive.

Section XXIII: Conflict with existing codes.

Section XXIV: Severability.

Section XXV: Repealer.

Section XXVI: Effective Date.

Section I: Purpose and intent.

The purpose and intent of this article is to ensure the health, safety and general welfare of citizens and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. § 1251 et seq.) by

- A. Reducing pollutants in stormwater discharges to the maximum extent practicable;
- B. Prohibiting nonstormwater discharges to the storm drain system; and
- C. Prohibiting stormwater discharges to sanitary sewers.

Section II: Definitions.

For the purpose of this local law, the following shall mean:

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 of Environmental Conservation as required by Section 303(d) of the Clean Water Act. Section 303(d)-listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

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.

CLEAN WATER ACT - The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY - Activities subject to SPDES construction permits. Currently these include construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

DISCHARGER - Any individual, association, organization, partnership, firm, corporation or other entity discharging stormwater to the municipal storm sewer.

HAZARDOUS MATERIALS - Any material, including any substance, waste or combination thereof which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

ILLEGAL DISCHARGE - Any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in Section VII of this local law and any stormwater discharges to the sanitary sewer except as permitted by the Town of Clarkson.

ILLICIT CONNECTION - An illicit connection is defined as either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including, but not limited to, any conveyances which allow any nonstormwater discharge including sewage, process wastewater and wash water to enter the storm drain system and any connection 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 a

government agency; or

- B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by the Town of Clarkson.
- C. Any stormwater discharge to a sanitary sewer unless approved by the Town of Clarkson.

INDUSTRIAL ACTIVITY - Activities subject to SPDES industrial permits as defined in 40 CFR 122.26(b)(14).

INDUSTRIAL WASTES - Any liquid, gaseous or solid substance or a combination thereof which is an undesired by-product waste resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources, except garbage.

NONSTORMWATER DISCHARGE - Any discharge to the storm drain system that is not composed entirely of stormwater.

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

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

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

PRIVATE SEWAGE DISPOSAL 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 New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

SANITARY SEWER - A sewer which transports sewage and to which storm, surface and ground waters are not intentionally admitted.

SEWAGE - A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such groundwater, surface water and stormwater as may be inadvertently present. The admixture of sewage with industrial wastes, as defined above, or other wastes shall also be considered "sewage" within the meaning of this definition.

SPECIAL CONDITIONS -

- A. Discharge compliance with water quality standards: the condition that applies where a municipality has been notified that the discharge of stormwater authorized under its municipal separate storm sewer system (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 of Clarkson must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
- B. Section 303 (d)-listed waters: the condition in the Town of Clarkson's MS4 permit that applies where the Town of Clarkson 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 of Clarkson's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by the EPA for a water body or watershed into which the Town of Odgen discharges. If the discharge from the Town of Clarkson did not meet the TMDL stormwater allocation prior to September 10, 2003, the Town of Clarkson was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- D. The condition in the Town of Clarkson's MS4 permit that applies if a TMDL is approved in the future by the EPA for any water body or watershed into which the Town of Clarkson discharges. Under this condition the Town of Clarkson must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If the Town of Clarkson is not meeting the TMDL stormwater allocations, the Town of Clarkson must, within six 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.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES)

STORMWATER DISCHARGE PERMIT - A permit issued by NYSDEC [under authority delegated pursuant to 33 U.S.C. § 1342(b)] that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual or general areawide basis.

STORM DRAINAGE SYSTEM - Publicly owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels (i.e., ditches), reservoirs and other drainage structures.

STORMWATER - Any surface flow, runoff or drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

STORMWATER POLLUTION PREVENTION PLAN - A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems and/or receiving waters to the maximum extent practicable.

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

WASTEWATER - Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WATERCOURSE - Waters of the United States as defined at 40 CFR 122.2.

WATERS OF THE UNITED STATES - Surface watercourses and water bodies as defined at 40 CFR 122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.

Section III: Applicability.

This local law shall apply to all water entering the storm drain system generated on any developed and undeveloped lands, unless explicitly exempted by the Town of Clarkson. The local law also applies to stormwater entering the sanitary sewers.

Section IV: Responsibility for administration.

The Town of Clarkson shall administer, implement and enforce the provisions of this local law. Any powers granted or duties imposed upon the Town of Clarkson may be delegated in writing by the Supervisor of the Town of Clarkson to persons or entities acting in the beneficial interest of or in the employ of the Town.

Section V: Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this local law are minimum standards; therefore, this local law does not intend or imply that compliance by any person will ensure that there will not be contamination, pollution nor unauthorized discharge of pollutants.

Section VI: Powers and authority of inspectors.

- A. Authorized representatives of the Town of Clarkson, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, records examination and copying, observation, measurements, sampling, and testing pertinent to discharge, or potential to discharge, and for repair and maintenance to the municipal separate storm sewer system.
- B. Information and data, on a nondomestic source, obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction, unless the nondomestic source specifically requests and is able to demonstrate to the satisfaction of the Town of Clarkson that the release of such information would divulge information, processes or methods of production entitled to protection as confidential information according to the criteria set forth in 40 CFR 2.208 and 2.302, as may be amended from time to time.
 - (1) When requested by the person furnishing a report, the portions of a report which might disclose confidential information shall not be made available for inspection by the public. Stormwater constituents and characteristics will not be recognized as confidential information.
 - (2) Information accepted by the Town of Clarkson as confidential shall be made available upon request to any agency meeting the requirements of Section 308 of the Clean Water Act, including officers, employees or authorized representatives of the United States concerned with carrying out the Clean Water Act, bound by the confidentiality rules in 40 CFR Part 2, as may be amended from time to time.
- C. While performing the necessary work on private properties referred to in Section VI A, the Town of Clarkson shall observe all safety rules applicable to the premises established by the owner of the private property, and the owner shall be held harmless for injury or death to the authorized representative(s), and the Town of Clarkson shall indemnify the owner against loss or damage to its property by the Town of Clarkson employees and against liability claims and demands for personal injury or property damage asserted against the owner by the Town of Clarkson employees and growing out of the inspection and sampling operation, except as such may be caused by negligence or failure of the owner to maintain safe conditions.

- D. Unreasonable delays in allowing the Town of Clarkson access to the premises or other interference with the activities of the Town of Clarkson shall be a violation of this local law. Access to property and/or records of a nondomestic source may not be refused on the basis that the Town of Clarkson refuses to sign any waiver, access agreement, or similar document.

- E. If the Town of Clarkson has been refused access to a building, structure or property or any part thereof, and if the Town of Clarkson has demonstrated probable cause to believe that there may be a violation of this local law or that there is a need to inspect, as part of a routine inspection program of the Town of Clarkson, to verify compliance with this local law, or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town of Clarkson is empowered to make an application to a court of competent jurisdiction for a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant application shall specify what, if anything, may be searched and/or seized on the property described. If granted by the court, such warrant shall be served at reasonable hours by the Town of Clarkson, in the company of a uniformed officer of the law enforcement agency with jurisdiction over the property. In the event of an emergency affecting public health and safety, inspections may be made without the issuance of a warrant.

Section VII: Discharge prohibitions.

- A. Prohibition of illegal discharges.
 - (1) No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. Such activities include failing private sewage disposal systems as defined in Section II, improper management of animal waste or any other activity that causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

 - (2) Upon receiving notification from the Town of Clarkson, any person engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization shall take all reasonable actions to correct such activities, such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

- B. Prohibition exceptions. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited, except as described as follows:
 - (1) The following discharges are exempt from discharge prohibitions established by

this local law: flushing water line or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated and non-sediment-laden pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air-conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than one ppm chlorine), fire-fighting activities, and any other water source not containing pollutants. Regardless of exemption, best management practices should be implemented to reduce impacts from the above activities.

- (2) Discharges specified in writing by the Town of Clarkson as being necessary to protect public health and safety.
- (3) Dye testing, provided that verbal notification is given to the Town of Clarkson prior to the time of the test.
- (4) Any nonstormwater discharge permitted under an SPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the New York State Department of Environmental Conservation, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system by the Town of Clarkson.

C. Prohibition of illicit connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this local law if the person connects a pipe or line conveying sewage to the municipal separate storm sewer system (MS4) or allows such a connection to continue.

D. Waste disposal prohibitions. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drainage system, or water of the United States, any refuse, rubbish, yard/lawn waste, garbage, litter, or other discarded or abandoned objects, local laws, and accumulations, so that the

same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

- E. Prohibition against failing private sewage disposal systems. No person shall construct or maintain any cesspool, sewage disposal system, pipe or drain so as to expose or discharge the sewage contents or other deleterious liquids or matter therefrom to the atmosphere or on the ground surface or into any storm sewer or drain or as to endanger any watercourse or body of water unless a permit for such discharge shall have been issued therefor by the Monroe County Department of Health or by the State Department of Health or the State Department of Environmental Conservation, and such discharge shall be made in accordance with the requirements thereof. Owners or operators of private sewage disposal systems shall operate, maintain and inspect such systems in accordance with the Monroe County Sanitary Code.
- F. Prohibition of stormwater discharge to sanitary sewer. Stormwater shall not be discharged into the sanitary sewer without written permission to do so from the Town of Clarkson.

Section VIII: Suspension of MS4 access.

- A. Suspension due to illicit discharges in emergency situations. The Town of Clarkson may, without prior notice, issue a suspension notice to any person, suspending discharge access into an MS4 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; to the storm drainage system, including, but not limited to, pipes, manholes, outfall structures and storm laterals; or the waters of the United States. If the violator fails to comply with a suspension order, the Town of Clarkson may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States or to minimize danger to persons.
- B. Suspension due to detection of illicit discharge. Any person discharging to an MS4 in violation of this local law may have its MS4 access suspended or terminated if such action would abate or reduce an illicit discharge. The Town of Clarkson will notify a violator of the proposed suspension or termination of its MS4 access. The violator may petition the Town of Clarkson to reconsider the suspension or termination of MS4 access by requesting a hearing. Such hearing, and any decision thereon, shall be heard by a committee composed of the Town Engineer, Town Superintendent of Highways and Town Building Inspector.
- C. It shall be unlawful for any person to reinstate MS4 access to premises suspended or terminated pursuant to this section without the prior approval of the Town of Clarkson.

Section IX: 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 acceptable to the Town of Clarkson prior to discharge, or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

Section X: Monitoring of discharges.

- A. Applicability. This section applies to all facilities that the Town of Clarkson is required to inspect to enforce any provision of this local law or whenever the Town of Clarkson has cause to believe that there exists, or potentially exists, in or upon any premises, any condition which constitutes a violation of this local law.

- B. Access to facilities.
 - (1) The Town of Clarkson shall be permitted to enter and inspect, at any time, facilities subject to regulation under this local law as often as may be necessary to determine compliance with this local law. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Town of Clarkson.

 - (2) Facility operators shall allow the Town of Clarkson ready access to all parts of the premises for the purpose of inspection, sampling and examination of the private storm drainage system. Persons or facility operators must supply copies, if requested by the Town of Clarkson, of all records kept under the conditions of any SPDES stormwater discharge permit. Persons or facility operators must also furnish to the Town of Clarkson all records required to be maintained relating to the performance of any additional duties as required by state and federal law.

 - (3) The Town of Clarkson shall have the right to place or position on any permitted facility such devices as are necessary, in the opinion of the Town of Clarkson, to conduct monitoring and/or sampling of the facility's discharge to the storm sewer system.

 - (4) The Town of Clarkson is empowered to require the discharger to install monitoring equipment, as necessary. The facility's sampling and monitoring equipment shall be maintained by the discharger at all times in a safe and proper operating condition and at its own expense. All devices used to measure stormwater flow and quality shall be calibrated, as necessary and recommended by the manufacturer, to ensure their continued accuracy.

- (5) Any temporary or permanent obstruction to the facility which allows for unsafe access or difficulty in monitoring, inspecting or sampling of the storm drainage system shall be promptly removed by the discharger at the written or verbal request of the Town of Clarkson and shall not be replaced. All costs associated with clearing such access restrictions shall be borne by the discharger in full.
- (6) Unreasonable delays, as determined by the Town of Clarkson, in allowing the Town of Clarkson access to a facility operating under a permit issued by the New York State Department of Environmental Conservation SPDES Program, for the purposes of conducting any activity authorized or required by the permit, is considered a violation of said program and of this local law.
- (7) If the Town of Clarkson has been refused access to any part of the premises from which a discharge or conveyance to the storm sewer system exists and the Town of Clarkson 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 further inspect and/or sample the private stormwater system to verify compliance with this local law or any order issued hereunder or to protect the overall public health, safety and welfare of the community, then the Town of Clarkson may seek issuance of a search warrant from any court of competent jurisdiction.

Section XI: Prevention, control and reduction of stormwater pollutants by use of best management practices.

- A. Best management practices. The Town of Clarkson shall adopt and establish requirements identifying best management practices (BMPs) for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system or waters of the United States. The owner or operator of all commercial or industrial establishments shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses, through the use of structural and nonstructural BMPs. Further, any person responsible for a property or premises which is, or may be, the source of an illicit discharge may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the maximum extent practicable, shall be deemed compliance with the provisions of this section. Appropriately designed structural/nonstructural BMPs shall be included as part of a stormwater pollution prevention plan (SWPPP), as necessary, for compliance with requirements of the SPDES permit.
- B. Private sewage disposal systems. Where individual sewage treatment systems are

contributing to the Town of Clarkson being subject to the special conditions, as defined in Section II of this local law, the owner or operator of such individual sewage treatment system shall be required to maintain and operate the system as follows:

- (1) Private sewage disposal systems should be operated, maintained and inspected in accordance with the Monroe County Sanitary Code.
- (2) Septic tank additives shall not be used.
- (3) Repair or replace private sewage disposal systems as follows:
 - (a) In accordance with Monroe County sewage system design standards.
 - (b) No person shall alter, repair or extend a private sewage disposal system unless a permit is obtained from the Monroe County Health Director or his authorized representative.

Section XII: Watercourse protection.

- A. No person shall alter a stormwater practice on private or publicly owned land such that it alters the stormwater practice from its intended use.
- B. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property in a manner which prevents illicit discharges and keeps the watercourse free of trash, debris, yard/lawn waste, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

Section XIII: 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 the illegal discharges of pollutants into stormwater, the public or private storm drain system or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of any such release. In the event a release of hazardous materials occurs, said person shall immediately notify the NYSDEC Region 8 Spill Response Team and/or call the New York State Spill Hotline at 1-800-457-7362 within the time frame established by law as well as notify the Town of Clarkson of the occurrence. In the event of a release of nonhazardous materials, said person shall notify the Town of Clarkson in person or by phone or facsimile no later than the

next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town of Clarkson at 3710 Lake Rd N, Clarkson, NY 14430, postmarked within three business days of the date of the in-person or phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least five years.

Section XIV: Enforcement; penalties for offenses.

A. Notice of violation.

(1) Whenever the Town of Clarkson finds that a person has violated a prohibition of this local law or failed to meet a requirement of this local law, the Town of Clarkson may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:

- (a) The performance of monitoring, analyses and reporting.
- (b) The elimination of illicit connection or discharges.
- (c) That violating discharges, practices or operations shall cease and desist.
- (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property.
- (e) Payment of a fine to cover administrative and remediation costs.
- (f) The implementation of source control or treatment BMPs.

(2) 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. Said notice shall further advise that should the violator fail to remediate or restore within the established deadline, the work will be done by the Town of Clarkson or its designated contractor and the expense thereof shall be charged to the violator.

B. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both;

and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

Section XV: Appeal of notice of violations.

Any person receiving a notice of violation may appeal the determination of the Town of Clarkson. The notice of appeal must be received within five days from the date of the notice of violation. A hearing on the appeal before the Town Board or its designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the Town Board or its designee shall be final.

Section XVI: Enforcement measures after appeal.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation or, in the event of an appeal, within two days of the decision of the Town Board upholding the decision of the Town of Clarkson, its representatives and/or employees may enter upon the subject private property with the consent of the owner or with a valid search and/or seizure warrant and are authorized to take any and all measures necessary to abate the violation and/or restore the property.

Section XVII: Cost of abatement of violation.

Within 15 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protection claim, objecting to the amount of the assessment, within five days. If the amount due is not paid within a timely manner, as determined by the decision of the Town Board or by the expiration of the time within which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this local law shall become liable to the Town of Clarkson by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 18% per annum shall be assessed on the balance beginning on the first day following final determination of the special assessment.

Section XVIII: 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 Town of Clarkson may petition for a preliminary or permanent injunction,

restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Section XIX: Compensatory action.

In lieu of or in addition to enforcement proceedings, penalties and/or remedies authorized by this local law, the Town of Clarkson may impose alternative compensatory actions upon a violator, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, or other alternative compensatory activities.

Section XX: Violations deemed a public nuisance.

Additionally, any condition caused or permitted to exist in violation of any of the provisions of this local law is a threat to public health, safety and welfare and is declared and deemed a nuisance and may be summarily abated or restored at the violator's expense and/or in a civil action commenced by the Town of Clarkson to abate, enjoin, or otherwise compel the cessation of such nuisance.

Section XXI: Criminal prosecution.

- A. Any person who has violated or continues to violate this local law shall be subject to criminal prosecution to the fullest extent of the law. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of the local law shall be subject to a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- B. The Town of Clarkson may recover all attorney fees, court costs and other expenses associated with enforcement of this local law, including sampling and monitoring expenses.

Section XXII: 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 Town of Clarkson to

seek cumulative remedies.

Section XXIII: Conflict with existing codes.

To the extent that this local law is in conflict with any existing codes of the Town of Clarkson, the terms and provisions of this local law shall control.

Section XXIV: Severability.

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

Section XXV: Repealer.

Local Law No. 9-2007 is hereby repealed.

Section XXVI: Effective date.

This local law shall be effective immediately upon filing with the Secretary of State.