

Agenda

**Village of Lansing
Board of Trustees Meeting
In Person and Online via
Zoom Videoconferencing/Teleconferencing*
2405 N. Triphammer Rd.
Ithaca, NY 14850
July 15, 2024 @ 7:30pm**

7:30 Call to Order

Public Comment Period

Approve Minutes from July 1, 2024

Consider Setting a Public Hearing for Proposed Local Law A (2024)-
Amendment to Village of Lansing Code/Zoning Law to Add a Section on
Solar Energy Systems

Consider Setting a Public Hearing for Proposed Local Law C (2024)-
Amendment to Village of Lansing Code-Chapter 80 Illicit Discharge,
Activities and Connections to Separate Storm Sewer System Law

Mayor's Comments

General Discussion

Adjournment

*If you are interested in attending the videoconference/teleconference meeting contact the Village Clerk to get the meeting link - clerk@vlansing.org.

PROPOSED LOCAL LAW A (2024)

AMENDMENT OF THE VILLAGE OF LANSING CODE/ZONING LAW TO ADD A SECTION ON SOLAR ENERGY SYSTEMS

Be it enacted by the Board of Trustees of the Village of Lansing as follows:

SECTION I. PURPOSE AND INTENT.

It is the purpose and intent of this local law to amend the Village of Lansing Code/Zoning Law to advance and protect the public health, safety, and welfare of the Village community by creating regulations for the development, installation, and operation of renewable energy systems and equipment based on sunlight. It is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life in accordance with the Village Comprehensive Plan.

SECTION II. AMENDMENTS.

Chapter 145 (entitled “Zoning”) of the Village of Lansing Code is hereby amended to add the following definitions to Section 145-3:

Building-Integrated Solar Energy System-- A combination of solar panels and solar energy equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

Ground-mounted Solar Energy System-- A solar energy system which is secured to the ground via a pole, ballast system, or other mounting system; is detached from any other structure; and which generates electricity for onsite or offsite consumption.

On-farm Solar Energy System-- A solar energy system located on a farm which is a “farm operation” (as defined by Article 25-AA of the Agriculture and Markets Law, which may include one or multiple contiguous or non-contiguous parcels, and in accordance with Agriculture & Markets Law § 301[11]) in an agricultural district, which is designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated do not exceed more than 110% of the anticipated annual total electrical energy consumed by the farm operation.

Roof-mounted Solar Energy System-- A solar energy system located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

Tier 1 Solar Energy Systems-- Residential roof-mounted solar energy systems, residential building-integrated Solar energy systems, and on-farm Solar energy systems.

Tier 2 Solar Energy Systems-- Residential ground-mounted solar energy system with a total panel surface area less than or equal to 1325 square feet. Commercial ground-mounted solar energy

systems and commercial roof-mounted solar energy systems, with a nameplate capacity of up to 0.25 MW AC and which generate no more than 110% of the electricity consumed on the site over the previous 12 months.

Tier 3 Solar Energy Systems-- Solar energy systems that are not Tier 1 or Tier 2.

And; Chapter 145 (entitled “Zoning”) of the Village of Lansing Code is hereby amended to add Section 145-19 entitled “Solar Energy Systems” as follows:

145-19 Solar Energy Systems.

- A. Purpose. The purpose of this section is to advance and protect the public health, safety, and welfare of the Village community by creating regulations for the development, installation, and operation of renewable energy systems and equipment based on sunlight. It is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life in accordance with the Village Comprehensive Plan.
- B. Objectives. Solar energy systems are appropriate in all zoning districts, including Planned Development Areas (PDAs), when measures are taken, as provided in this section, to minimize adverse impacts on neighboring properties and to protect the public health, safety, and welfare of the Village community with the following objectives:
 - (1) Take advantage of a safe, abundant, renewable, and non-polluting energy resource;
 - (2) Mitigate adverse aesthetic impacts of solar energy systems on neighboring properties and on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources; and
 - (3) Further the Village Comprehensive Plan including land management, mitigation of tree loss, maintenance of setbacks, and maintenance of the character of existing neighborhoods.
- C. Applicability.
 - (1) The requirements of this Section shall apply to all solar energy systems permitted, installed, or modified in the Village after the effective date of this section, excluding general maintenance and repair.
 - (2) Solar energy systems constructed or installed prior to the effective date of this section shall not be required to meet the requirements of this section.
 - (3) Modifications to an existing solar energy system that increase the facility area shall be subject to this Section.
- D. General Requirements.
 - (1) The Village of Lansing Solar Application shall be required for installation of all Tier 1, Tier 2, and Tier 3 Solar Energy Systems, with the exception of dedicated solar thermal installations.

- (2) A building permit shall be required for installation of all Tier 1, Tier 2, and Tier 3 Solar Energy Systems.
- (3) A Special Permit shall be required for the installation of all Tier 2 and Tier 3 Solar Energy Systems.
- (4) Solar Energy Systems shall be subject to the setback regulations for accessory or principal buildings, based on size and height, as defined by Village Code Section 145-3, within the underlying zoning district.
- (5) Removal of existing trees necessary for installation of the solar energy system shall comply with Village Code Section 145-27 (B).
- (6) All solar panels shall have anti-glare and anti-reflective coating(s).
- (7) All Roof-Mounted Solar Energy Systems shall comply with the height limitations in the Village Code.
- (8) Ground-Mounted Solar Energy Systems shall comply with the height limitations for “accessory buildings” in the Village Code Section 145.
- (9) Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”).
- (10) Prior to the issuance of the building permit or final approval by the Planning Board, construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer or NYS Registered Architect.
- (11) All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Uniform Code”), the NYS Energy Conservation Code (“Energy Code”), and the Village Code.
- (12) For solar energy systems subject to site plan review, the Village may impose and may update as appropriate, a schedule of fees to recover expenses associated with engineering, environmental, or legal services determined to be necessary in the processing of an application under this law.
- (13) Special Permit applicants are subject to the rules and requirements of Village Code Section 145-59.

E. **Ownership Changes.** If the owner or operator of the solar energy system changes or the owner of the property changes, the original permitting requirements, and conditions shall remain in effect, including any decommissioning plan or operations and maintenance plan, provided that the successor owner or operator assumes in writing all of the obligations of said plan(s). Upon the issuance of a building or/and special permit for a solar energy system which contains such additional requirements or conditions, the owner or operator of the solar energy system shall file a Notice of Solar Permit, provided by the Village Code and Zoning Officer, in the Tompkins County Clerk’s Office in Miscellaneous Records and indexed to the property’s source deed. A new owner or operator of the solar energy system shall notify the Village Code and Zoning Officer of such change in ownership or operator within 30 days of the ownership change and acknowledge, in writing, that they agree to take on the rights and obligations under the original permit.

F. **Permitting Requirements.**

(1) Tier 1 Solar Energy Systems. All Tier 1 Solar Energy Systems shall be permitted in all Residential and Agricultural Zoning Districts, including Planned Development Areas, with the issuance of a building permit. In addition to the General Requirements in Section 145-19(D) above, Tier 1 Solar Energy Systems shall be subject to the following requirement:

(a) Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

(2) Tier 2 Solar Energy Systems. All Tier 2 Solar Energy Systems shall be permitted in all zoning districts, including Planned Development Areas, with Special Permit approval and the issuance of a Building Permit. In addition to the General Requirements in Section 145-19(D) above, Tier 2 Solar Energy Systems shall be subject to the following requirements:

(a) Application & Site Plan Review Requirements. Applications for Tier 2 Solar Energy Systems, including materials for site plan review, shall include, but are not limited to the following:

(i) Special Permit applications and required information shall be provided as per Village Code Section 145-59. Additional information may be requested by the Village Code and Zoning Officer and/or Planning Board as part of the review process.

(ii) Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, screening vegetation or structures, and buffering plan.

(iii) A preliminary equipment specification sheet that documents all proposed solar panels, system components, mounting systems, racking system details, and inverters that are to be installed.

(b) Standards. Tier 2 Solar Energy Systems shall adhere to the following standards:

(i) Screening/Visibility. Tier 2 Solar Energy Systems shall have views buffered from adjacent properties using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and must be continually maintained. The buffering plan is subject to Planning Board approval.

(ii) Tier 2 Commercial Solar Energy Systems may require, at the discretion of the Planning Board, a Property Operation and Maintenance Plan that describes continuing site maintenance,

anticipated dual-use, and property upkeep, such as mowing and trimming, may be required.

(iii) Screening and Visibility. Tier 2 Solar Energy Systems over 600 square feet shall be required to:

a) Conduct a visual assessment of the visual impacts of the solar energy system on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required by the Planning Board to be submitted by the applicant.

b) Submit a screening & landscaping plan, subject to Planning Board approval, showing adequate measures to screen through landscaping, grading, or other means so that views of solar energy system shall be minimized from public roadways and adjacent properties to the extent feasible.

i. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Village.

ii. The Planning Board may waive this requirement based on an applicant's demonstration of non-impact or impact mitigation on adjacent parcels.

(iv) Environmental Resources:

a) Trees. Tier 2 Solar Energy Systems shall be subject to the minimum tree density requirements, per Village Code Section 145-27(C).

b) Tier 2 Solar Energy System owners shall utilize and maintain native perennial vegetation to provide foraging habitat for pollinators in all appropriate areas within the facility area.

(3) Tier 3 Solar Energy Systems. All Tier 3 Solar Energy Systems shall be permitted in all non-residential zoning districts with Special Permit approval and the issuance of a Building Permit. In addition to the General Requirements

in Section 145-19(D) above, Tier 3 Solar Energy Systems shall be subject to the following requirements:

(a) Application & Site Plan Review Requirements. Applications for Tier 3 Solar Energy Systems, including materials for site plan review, shall include the following:

(i) A Property Operation and Maintenance Plan that describes continuing site maintenance, buffering maintenance, anticipated dual-use, and property upkeep, such as mowing and trimming.

(ii) A Decommissioning Plan signed by the owner and/or operator of the solar energy system shall be submitted by the applicant. The applicant shall provide a decommissioning security which shall adhere to the following requirements:

a) The deposit, execution, or filing with the Village Clerk of cash, bond, or other form of security acceptable to the Village attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal, with the Village of Lansing as the assignee, in an amount approved by the Village of Lansing.

b) The amount of the bond or security shall be 115% of the cost of removal and site restoration for the Tier 3 Solar Energy System and shall be revisited every five years and updated as needed to reflect any changes. The decommissioning amount shall be reduced by the amount of the estimated salvage value of the solar energy system.

c) If the owner and/or operator fails to comply with decommissioning upon any notice and order under Village Code Section 145-19 (G), the Village may, at its discretion, utilize any bond and/or security for the removal of the solar energy system and restoration of the site in accordance with the filed decommissioning plan and Section 145-19 (H).

(b) Special Permit Standards. The Planning Board may issue a Special Permit for a Tier 3 Solar Energy System only after it has found that all the following standards and conditions have been satisfied, as well as Village Code Section 145-59:

(i) Underground Requirements. All utility lines located outside of the

facility area shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

- (ii) Vehicular Paths. Vehicular paths within the facility area shall be designed in compliance with Uniform Code requirements to ensure emergency access while minimizing the extent of impervious materials and soil compaction.
- (iii) Signage.
 - a) No signage or graphic content shall be displayed on the solar energy system except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than eight square feet.
 - b) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- (iv) Lighting. Lighting of the Solar energy systems shall meet all requirements set forth in Village Code Section 145-20.2.
- (v) Fencing Requirements. As required by NEC, all mechanical equipment, including any structure for Battery Energy Storage System components, shall be enclosed by a seven-foot-high fence, with a self-locking gate to prevent unauthorized access. To the extent permissible under NEC guidelines, fencing shall be designed and constructed to be wildlife-friendly.
- (vi) Screening and Visibility. Tier 3 Solar energy systems shall be required to conduct a visual assessment of the visual impacts of the solar energy system on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required by the Planning Board to be submitted by the applicant.
- (vii) Submit a screening & landscaping plan, subject to Planning Board approval to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels

and Solar Energy Equipment shall be minimized from public roadways and adjacent properties to the extent feasible.

- a) The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Village.
- b) The Planning Board may waive this requirement based on an applicant's demonstration of non-impact or impact mitigation on adjacent parcels.

(viii) Environmental Resources

- a) Trees. Tier 3 solar energy systems shall be subject to the minimum tree density requirements, per Village Code Section 145-27(C).
- b) Integrated Pest Management. Integrated pest management practices shall be used to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance. Details regarding these practices must be included in any Property Operation and Maintenance Plan.

G. Validity, Abandonment and Cause for Decommissioning.

- (1) The Building Permit for a solar energy system shall be valid for 12 months. In the event construction is not timely completed in accordance with the final site plan – the applicant may request to extend the time to complete construction. Following an extension request, the Planning Board shall hold a public hearing and determine whether to extend the time limit for the building permit for a period not exceeding an additional 12 months from its original expiration date. If the owner and/or operator fails to complete construction and installation within 24 months from the date the building permit was issued, the approval shall expire.
- (2) If the owner and/or operator fails to complete construction and installation within the period of the valid building permit, the Village may notify in writing the owner and/or operator to decommission the solar energy system according to the approved and filed decommissioning plan, including within the time frame established, or in the absence of a filed decommissioning plan, within six months of the date of said notification.
- (3) Upon cessation of electricity generation of a solar energy system on a continuous basis for 12 months, the Village may notify in writing the owner and/or operator of the solar energy system that the system has been deemed abandoned and order the owner and/or operator to decommission the solar

energy system according to the approved and filed decommissioning plan, including within the time frame established, or in the absence of a filed decommissioning plan, within six months of the date of said notification.

- (4) In addition to the reasons listed above, the Village may order the decommission of the solar energy system for the following reasons: the lack of a current permit; failure to maintain any required decommissioning bond or other security; a violation of any site plan conditions or permit conditions that continues more than 30 days after the Village provides written notice of such violation (or, if the violation is not reasonably capable of cure within 30 days, if the owner or operator fails to commence to cure such violation within such thirty-day period and thereafter diligently and with continuity prosecute such cure to completion in a period not to exceed 90 days after the Village's notice); any other event occurs that requires decommissioning as stated in the decommissioning plan.
- (5) Any notice and order issued pursuant to this subsection shall be issued by the Village Code Enforcement Officer to the owner or person, company or other entity having control of the system, and to the owner of the lot on which such system is located. The notice and order shall set forth a deadline by which such removal and/or decommissioning plan must be completed. This notice and order shall also state that in the event that the recipient of such order fails to perform such action by such stated date and time, the Village may perform such action, and the cost of such action by the Village shall be charged to the owner of the subject property. Such notice shall be served either personally or by registered or certified mail.

H. Remedies.

- (1) Upon receipt of a notice and order issued pursuant to Subsection F above, the owner of the subject property shall be obligated to perform the work indicated within the time set forth in the order. If the owner fails to do so, the Code Enforcement Officer shall notify the Village Board of Trustees. The Village Board of Trustees shall thereupon schedule a hearing at which the owner shall have an opportunity to present to the Board the reasons for such failure. Such hearing shall occur within sixty (60) days of the Board's receipt of notice of the failure, and the Board shall cause the owner to be notified of the hearing at least ten (10) days in advance of the same. Following such hearing, the Board may determine that decommissioning or removal is necessary in order to maintain compliance with the terms of this zoning chapter and may order that such work be performed by the Village. Upon making such a determination, the Board may resolve to have the Village Superintendent of Public Works perform such work using Village employees and equipment or contracting for such services in the name of the Village.
- (2) In the event that the Village has performed or caused to be performed such work, the Superintendent of Public Works shall file with the Village Treasurer

a sworn statement of all costs, expenses and fees incurred by the Village in connection with the performance of such work. Likewise, the Village Clerk shall file with the Village Treasurer a sworn statement of all costs, expenses and fees incurred by the Village in connection with the owner's failure to perform such work, including but not limited to cost of service of the order, legal fees and additional insurance or bond costs. In the absence of adequate financial surety (because none is required for Tier 1 or Tier 2 solar energy systems, or if the Village does not recover its costs and expenses from financial security required for Tier 3 solar energy systems), a copy of both such sworn statements, together with an invoice for the total of the same, shall be mailed to the owner of the subject property by registered or certified mail. The owner shall be responsible for the payment of all costs, expenses and fees of the Village in connection with the owner's failure to perform the required work, including but not limited to all costs of labor, materials, service of the order, legal fees, surveying fees, engineering fees and additional insurance or bond costs incurred or expended by the Village in connection with the performance of such work. Whenever used in this section, the term "owner" shall be deemed to refer to the record owner of the subject property as set forth on the current tax rolls prepared by the Tompkins County Assessment Office, as such rolls have been supplied to the Village.

(3) If the owner fails to pay the amount set forth on such invoice within thirty (30) days of the date of mailing of such invoice, the Village Treasurer shall enter the two (2) sworn statements in the records of the Village Treasurer as a lien against the property upon which the work has been performed and shall add the same to the next assessment roll of general Village taxes, and the Village Treasurer shall collect and enforce this assessment in the same manner, by the same proceedings, at the same time and with the same penalties as the Village tax and as part thereof, except that in addition to the penalties otherwise provided for herein, interest shall run from the date of the filing of the sworn statements to the date of the Village Tax Bill at the maximum rate currently permitted under applicable law. Notwithstanding the foregoing, the Village, at its option, may also institute suit against the owner for such costs, expenses and fees. The provisions set forth in this § 145-19 (H) are not to be deemed exclusive remedies and shall not prevent or limit the Village from enforcing the provisions of this chapter in any other manner authorized in accordance with this chapter or any other law, rule or regulation of the Village or of the State of New York.

- I. Enforcement. Any violation of this Solar Energy Law shall be subject to the enforcement provisions, including the civil and criminal penalties, forth in Village Code Section 75-78.
- J. Severability. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of this Section, as declared by the valid judgment of any court of competent jurisdiction, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

And; Appendix I of Section 145 (entitled “Solar Decommissioning Plan”) of Chapter 145 (entitled “Zoning”) of the Village of Lansing Code is hereby added as follows:

Appendix I: Solar Decommissioning Plan

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at: [Solar Project Address]

Prepared and submitted by [Solar Developer Name], the owner of [Solar Farm Name]

As required by the Village of Lansing, [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the “Facility”).

System decommissioning shall be required as a result of any of the following conditions:

1. The land lease – if any – ends, unless the project owner has acquired the land.
2. The solar energy system ceases to generate electricity on a continuous basis for 12 months.
3. The solar energy system is damaged and will not be repaired or replaced by [Solar Developer Owner].

If any of the above conditions are met, and upon notification or instruction by the Village of Lansing, [Solar Developer Name] shall implement this decommissioning plan. System decommissioning and removal, as well as all necessary site restoration or remediation activities, shall be completed within six months.

The owner of the Facility, as provided for in its lease with the landowner, and in accordance with the requirements of the Village of Lansing zoning law, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which shall include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations located less than 36-inches below the soil surface, and/or less than 48-inches below the soil surface in areas consisting of **Mineral Soil Groups (MSG) 1-4 and/or Active Agricultural Lands.**
2. For projects located on areas consisting of **MSG 1-4 and/or Active Agricultural Lands,** removal of all operator owned equipment, concrete, conduits, structures, fencing, and foundations in accordance with the decommissioning requirements contained in the NYS Department of Agriculture and Markets’ “Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands.”
3. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state, and federal waste disposal regulations.
4. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

An appendix is included in this plan to provide a project schedule detailing a breakdown of tasks required for the decommissioning removal of the system, including:

1. Time required to decommission and remove the system and any ancillary structures.
2. Time required to repair any damage caused to the property by the installation and removal of the system.

The cost of system decommissioning and removal, as well as all necessary site remediation and restoration activities, is estimated to be \$[XXX] as of the date and time this application is filed.

A decommissioning security shall be executed in the amount of 115% of the cost of system decommissioning, removal, and site restoration.

This cost estimate and decommissioning surety will be revisited every five years and updated as needed to account for inflation or other cost changes.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility Owner Signature: _____
Date: _____

And; Appendix J of Section 145 (entitled “Solar Permit Matrix”) of Chapter 145 (entitled “Zoning”) of the Village of Lansing Code is hereby added as follows:

Appendix J: Solar Permit Matrix

Required Permits

| | Village Solar Application | Building Permit | Special Permit |
|---------------------|---------------------------|-----------------|----------------|
| Tier 1 Solar System | X | X | |
| Tier 2 Solar System | X | X | X |
| Tier 3 Solar System | X | X | X |

SECTION III. SUPERSEDING EFFECT.

All local laws, resolutions, rules, regulations, and other enactments of the Village of Lansing in conflict with the provisions of this local law are hereby superseded to the extent necessary to give this local law full force and effect.

SECTION IV. VALIDITY.

The invalidity of any provision of this local law shall not affect the validity of any other provision of this local law that can be given effect without such invalid provision.

SECTION V. EFFECTIVE DATE.

This Local Law shall be effective ten (10) days after publication and posting as required by law, except that it shall be effective from the date of service as against a person served with a copy thereof, certified by the Village Clerk, and showing the date of its passage and entry in the Minutes of the Village Board of Trustees.

PROPOSED LOCAL LAW C(2024)

AMENDMENT TO VILLAGE OF LANSING CODE – CHAPTER 80- ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS TO SEPARATE STORM SEWER SYSTEM LAW

Be it enacted by the Board of Trustees of the Village of Lansing as follows:

SECTION I. PURPOSE AND INTENT.

The purpose of this law is to provide for the health, safety, and general welfare of the citizens of the Village of Lansing 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 law establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The objectives of this law are:

- A. To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;
- B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- C. To prohibit Illicit Connections, Activities and Discharges to the MS4;
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this law; and
- E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

SECTION II. AMENDMENT TO THE VILLAGE OF LANSING CODE.

Chapter 80 (entitled “Illicit Discharges, Activities & Connections to Separate Storm Sewer System Law”) of the Village of Lansing Code is hereby deleted in its entirety and replaced with the following Chapter:

Chapter 80

**Illicit Discharges, Activities and
Connections to Separate Storm Sewer
System Law**

ARTICLE I

General Provisions

- § 80-1 Title.**
- § 80-2 Purpose and Intent.**
- § 80-3 Definitions.**
- § 80-4 Applicability.**
- § 80-5 Responsibility for Administration.**
- § 80-6 Severability.**

ARTICLE II Illicit Discharge Controls and Prohibitions

- § 80-7 Discharges, Connections, Prohibitions and Exemptions.**
- § 80-8 Prohibition Against Failing Individual Sewage Treatment Systems.**
- § 80-9 Prohibition Against Activities Contaminating Stormwater.**
- § 80-10 Requirement to Prevent, Control and Reduce Stormwater Pollutants by the Use of Best Management Practices.**
- § 80-11 Suspension of Access to MS4; Illicit Discharges in Emergency Situations.**
- § 80-12 Industrial or Construction Activity Discharges.**
- § 80-13 Access and Monitoring of Discharges.**

ARTICLE III Administration and Enforcement

- § 80-14 Notification of Spills.**
- § 80-15 Enforcement.**
- § 80-16 Appeal of Notice of Violation.**
- § 80-17 Corrective Measures After Appeal.**
- § 80-18 Alternative Remedies.**

[HISTORY: Adopted by the Board of Trustees of the Village of Lansing 5-16-2011 as L.L. No. 4-2011 and amended in its entirety by Board of Trustees of the Village of Lansing ___ - ___ - 2024 as L.L. No. ___-2024]

ARTICLE I General Provisions

- § 80-1 Title.**

This chapter may be referred to and cited as the “Village of Lansing Illicit Discharges, Activities and Connections to Separate Storm Sewer System Law.”

- § 80-2 Purpose and Intent.**

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the Village of Lansing through the regulation of non-stormwater discharges to the municipal separate storm sewer system (hereinafter “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 MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The intent of this chapter is:

- A. To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;
- B. To regulate the introduction of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- C. To prohibit Illicit Connections, Activities and Discharges to the MS4 and surface waters;
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter; and
- E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4 and surface waters.

§ 80-3 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 the meanings set forth below:

Best Management Practices (BMPs) – Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act – The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity – Activities requiring authorization under the SPDES Permit for stormwater discharges from construction activity, GP-02-01, as amended or revised, and the Stormwater Management, Erosion and Sediment Control Law, Chapter 124 of the Village of Lansing Code. These activities include, but are not limited to, 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.

Department – The New York State Department of Environmental Conservation.

Design professional – New York State licensed professional engineer or architect.

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.

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. Conveyances which allow any non-stormwater discharge, including treated or untreated sewage, process wastewater, and wash water to enter the MS4 or surface water and any connections to the storm drain system or surface water from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the authority having jurisdiction; or
- B. Drains or conveyances connected from a commercial or industrial land use to the MS4 or surface water which have not been documented in plans, maps, or equivalent records and approved by an authority having jurisdiction.

Illicit Discharge – Any direct or indirect non-stormwater discharge to the MS4 or surface water, except as exempted in § 80-7 of this chapter.

Individual Sewage Treatment System – A facility serving one or more parcels of land or residential households, or private, commercial or industrial facility, that treats sewage or other liquid wastes for discharge into the ground waters of New York State, except those for which a permit for such facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

Industrial Activity – Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

MS4 – Municipal Separate Storm Sewer System.

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 Village of Lansing;
- 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 40CFR 122.2

Municipality – The Village of Lansing.

Non-Stormwater Discharge – Any discharge to the MS4 or surface water that is not composed entirely of stormwater.

Person – Any individual, association, organization, partnership, firm, corporation, limited liability company or other entity recognized by law and acting as either the owner or as the owner’s agent.

Pollutant – Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heated discharges, wrecked or discarded equipment, rock, sand and industrial waste, municipal waste, agricultural waste, ballast discharged into water, and any other substance or materials which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the applicable legal and regulatory standards.

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

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 their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

B. *303(d) Listed Waters* – The condition in the municipality’s MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.

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

D. *Future Maximum Daily Load (TMDL) Strategy* – The condition in the municipality’s MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges. Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within 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.

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

Stormwater – Rainwater, surface runoff, snowmelt and drainage.

Stormwater Management Officer (SMO) – An employee, the municipal engineer or other public official(s) designated by the legislative board of the municipality to enforce this chapter. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices in accordance with Chapter 124 of the Village of Lansing Code.

Surface Waters – Surface Waters of the State of New York.

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, 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.

303(d) List – A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

TMDL – Total Maximum Daily Load.

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.

Wastewater – Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

Wetland – Any area which meets one or more of the following criteria:

- A. Lands and waters that meet the definition provided in New York State Environmental Conservation Law, Article 24, "Freshwater Wetlands Act". The approximate boundaries of such lands and waters are indicated on the official wetlands map promulgated by the Commissioner of New York State Department of Environmental Conservation, or as amended and updated.

B. Areas which meet the definition used by the US Army Corps of Engineers and US Environmental Protection Agency: “Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

§ 80-4 Applicability.

This chapter shall apply to all water entering the MS4 or surface waters generated on any developed and undeveloped lands within the municipality unless explicitly exempted by the authority having jurisdiction.

§ 80-5 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 may be delegated in writing by the SMO as may be authorized by the municipality.

§ 80-6 Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

ARTICLE II Illicit Discharge Controls and Prohibitions

§ 80-7 Discharges, Connections, Prohibitions and Exemptions.

A. Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in subsections 1 through 4 below of this § 80-7. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this chapter, unless the Department or the municipality has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from firefighting activities, and any other water source not containing

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

- (2) Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this chapter.
- (3) Dye testing in compliance with applicable state and local laws is an allowable discharge but requires a verbal notification to the SMO prior to the time of the test.
- (4) The prohibition shall not apply to any discharge permitted under a SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

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 municipality's MS4 or allows such a connection to continue.

§ 80-8 Prohibition Against Failing Individual Sewage Treatment Systems.

A. No persons shall operate a failing individual sewage treatment system in areas tributary to the municipality's MS4. A failing individual sewage treatment system is one which has one or more of the following conditions:

- (1) The backup of sewage into a structure.
- (2) Discharges of treated or untreated sewage onto the ground surface.
- (3) A connection or connections to a separate stormwater sewer system.
- (4) Liquid level in the septic tank above the outlet invert.
- (5) Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.

(6) Contamination of off-site groundwater.

§ 80-9 Prohibition Against Activities Contaminating Stormwater.

- A. Activities that are subject to the requirements of this section are those types of activities that:
- (1) Cause or contribute to a violation of the municipality's MS4 SPDES permit.
 - (2) Cause or contribute to the municipality being subject to the Special Conditions as defined in § 80-3 of this chapter.
- B. Upon notification to a person that they are engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall without delay take all necessary actions to correct such activities such that they no longer cause or contribute to violations of the municipality's MS4 SPDES permit authorization.

§ 80-10 Requirement to Prevent, Control and Reduce Stormwater Pollutants by the Use of Best Management Practices.

- A. Best Management Practices. Where the SMO has identified illicit discharges as defined in § 80-3 of this chapter or activities contaminating stormwater as defined in § 80-9 of this chapter the municipality may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.
- (1) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.
 - (2) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in § 80-3 of this chapter or an activity contaminating stormwater as defined in § 80-9 of this chapter, shall be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
 - (3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity shall be deemed compliance with the provisions of this section.

§ 80-11 Suspension of Access to MS4; Illicit Discharges in Emergency Situations.

- A. The SMO may suspend, without prior notice, MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that 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.

- B. Termination or suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this chapter may have their MS4 access terminated or suspended if such termination or suspension would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination or suspension of its MS4 access and the reasons therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated or suspended pursuant to this section, without the prior approval of the SMO.

§ 80-12 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 municipality prior to the allowing of discharges to the MS4.

§ 80-13 Access and Monitoring of Discharges.

- A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this chapter, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition that constitutes a violation of this chapter.
- B. Access to Facilities.
 - (1) 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 that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
 - (2) Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this chapter.
 - (3) The municipality 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. All expenses in connection with the installation, monitoring and maintenance of such equipment shall be the responsibility of and paid for by the discharger.

- (4) The municipality shall have 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. All expenses in connection with the installation, monitoring and maintenance of such equipment shall be the responsibility of and paid for by the discharger.
- (5) Unreasonable delays in allowing the municipality access to a facility subject to this law is a violation of this law. A person who is the operator of a facility subject to this law commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this law.
- (6) In any case that the SMO is refused timely access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this 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 may terminate or suspend access to the MS4 and/or seek issuance of a search warrant from any court of competent jurisdiction, to enter the property to carry out and/or enforce the provisions of this chapter.

ARTICLE III

Administration and Enforcement

§ 80-14 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 that are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the municipality in person or by telephone, fax or email no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the telephone notice. If the discharge of prohibited materials 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.

§ 80-15 Enforcement.

A. Compliance Orders. The SMO is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any premises in violation of this chapter. Upon finding that any such condition or activity exists, the SMO shall be authorized to issue an order directing compliance (Compliance Order). The Compliance Order shall (1) be in writing; (2) be dated and signed by the SMO; (3) specify the condition or activity that violates this chapter, or other applicable codes, laws, rules and regulations; (4) specify the provision or provisions of this chapter or other applicable codes, laws, rules and regulations which is/are violated by the specified condition or activity; (5) specify the period of time which the SMO deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time; and (8) advise that, should the violator fail to comply within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator. The SMO shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail, return receipt requested. The SMO shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served personally or by certified mail, return receipt requested, on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order. The Compliance Order 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;
- (5) Payment of a fine; and
- (6) 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. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency, or a contractor and the expense thereof shall be charged to the violator.

B. Appearance Tickets. In the event the owner fails to meet the requirements of the Compliance Order, the legislative board of the municipality may authorize the SMO to issue appearance tickets for any violation of this chapter and other applicable codes, laws, rules and regulations.

- C. Penalties. In addition to those penalties proscribed by State law, any Person who violates any provision of this chapter or other applicable codes, laws, rules and regulations, or any lawful order issued pursuant to this chapter or other applicable codes, laws, rules and regulations, shall be:
- (1) liable to a civil penalty of not more than two hundred fifty dollars (\$250) for each day or part thereof during which such violation continues, which civil penalty shall be recoverable in an action instituted in the name of the municipality; and
 - (2) deemed guilty of an offense upon conviction and is subject to a fine equal to two hundred fifty dollars (\$250) or imprisonment for not more than fifteen (15) days, or both, for each such violation; and
 - (3) each day that any such violation continues to exist shall be deemed to result in a separate and distinct violation, each of which separate violation shall subject the violator to an additional two hundred fifty dollar (\$250) civil penalty and/or fine. Notwithstanding the foregoing, in any case that this chapter expressly provides for a grace period within which the violator is permitted to cure the violation, each day during such grace period shall not be deemed to result in a separate violation that shall subject the violator to such fine. In addition, a violation of this chapter constitutes a violation under the Penal Law of the State of New York.
- D. Injunctive Relief. An action or proceeding may be instituted in the name of the municipality in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this chapter or other applicable codes, laws, rules and regulations, or any lawful order issued pursuant to this chapter or other applicable codes, laws, rules and regulations. In particular, but not by way of limitation, where any connection or discharge to the MS4 or surface water is in violation of any provision of this chapter or other applicable codes, laws, rules and regulations, or any lawful order issued pursuant to this chapter or other applicable codes, laws, rules and regulations, an action or proceeding may be commenced in the name of the municipality, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the legislative board of the municipality.
- E. 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 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 a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
- F. Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this chapter, or in any other applicable codes, laws, rules and regulations. Any remedy or penalty specified

in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section or in any other section of this chapter, or in any other applicable codes, laws, rules and regulations. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in.

§ 80-16 Appeal of Notice of Violation.

Any person receiving a Notice of Violation may appeal the determination of the SMO to the Village Board of Trustees within 15 days of its issuance, which shall hear the appeal within 30 days after the filing of the appeal, and within five days of making its decision, file its decision in the office of the municipal clerk and mail a copy of its decision by certified mail to the discharger.

§80-17 Corrective Measures After Appeal.

- A. 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 5 business days of the decision of the municipal authority upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.
- B. If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

§ 80-18 Alternative Remedies.

- A. Where a person has violated a provision of this chapter, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Attorney for the Village of Lansing and the Village of Lansing Code Enforcement Officer where:
 - (1) The violation was unintentional.
 - (2) The violator has no history of pervious violations of this chapter.
 - (3) Environmental damage was minimal.
 - (4) Violator acted quickly to remedy violation.

(5) Violator cooperated in investigation and resolution.

B. Alternative remedies may consist of one or more of the following:

- (1) Attendance at compliance workshops.
- (2) Cleanup of municipality owned stormwater management practices.
- (3) Stream, creek, drainage way or roadside ditch cleanup activities.

SECTION III. SUPERSEDING EFFECT.

All local laws, resolutions, rules, regulations and other enactments of the Village of Lansing in conflict with the provisions of this local law are hereby superseded to the extent necessary to give this local law full force and effect.

SECTION IV. VALIDITY.

The invalidity of any provision of this local law shall not affect the validity of any other provision of this local law that can be given effect without such invalid provision.

SECTION V. EFFECTIVE DATE.

This Local Law shall be effective upon (i) its filing in the office of the Secretary of State and (ii) ten (10) days after publication and posting as required by law; provided, however that it shall be effective from the date of service as against a person served with a copy thereof, certified by the Village Clerk, and showing the date of its passage and entry in the Minutes of the Village Board of Trustees.