

Chapter 80

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

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**[HISTORY: Adopted by the Board of Trustees of the Village of Lansing 5-16-2011 as
L.L. No. 4-2011. Subsequent amendments noted where applicable.]**

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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-0-08-002 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-0-08-002, 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-0-08-002, as amended or revised.

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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)

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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 fire fighting 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.

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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.

Individual sewage treatment systems shall comply with the codes, rules and regulations of the Tompkins County Health Department.

§ 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 owner of a property or premise, which is 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 owner's expense, BMPs to 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 shall be authorized to 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 72 hours thereafter in writing of the reasons for the suspension.
- 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.

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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. 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:

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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.
- 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 \$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. 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 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 legislative board of the municipality 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.

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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.