

**VILLAGE OF SOLVAY  
RESOLUTION VILLAGE BOARD MEETING  
November 27, 2007**

The following resolution was offered by Trustee Fall, who moved its adoption, seconded by Trustee Marinelli, to wit:

**WHEREAS**, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law entitled Local Law No. L of 2007, "A Local Law to Prohibit Illicit Connections, Activities and Discharges to the Municipal Separate Storm Sewer System in the Village of Solvay", was presented and introduced at a regular meeting of the Village Board of the Village of Solvay held on October 23, 2007

**WHEREAS**, a public hearing was held on such proposed Local Law on the 27th day of November, 2007 by the Village Board of the Village of Solvay and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed Local Law having been heard, and said proposed Local Law having been in the possession of the members of the Village Board of the Village of Solvay in its final form in the manner required by Section 20 of the Municipal Home Rule of the State of New York; and

**WHEREAS**, at its October 23, 2007 meeting this Board determined that the enactment of Proposed Local Law No. L of 2007 is an unlisted action that there are no other involved agencies, that this Board will act as lead agency for this application; and

**WHEREAS**, it is in the public interest to enact said Proposed Local Law No. L of 2007.

**NOW, THEREFORE**, it is

**RESOLVED AND DETERMINED**, that having reviewed the EAF submitted in connection with this application and the criteria set forth in 6 NYCRR Section 617, this Board as lead agency determines that there is unlikely to be any adverse environmental impact from this action and therefore renders a negative declaration for purposes of SEQR; and it is further

**RESOLVED AND DETERMINED**, that proposed Local Law L-2007 is hereby enacted as Local Law 12-2007, as follows:

**VILLAGE OF SOLVAY**

**Local Law No. 12 of the Year 2007**

**A Local Law to Prohibit Illicit Connections, Activities and Discharges to the Municipal Separate Storm Sewer System in the Village of Solvay**

BE IT ENACTED by the Village Board of the Village of Solvay, effective January 1, 2008, as follows:

**Section 1.**

The Code of the Village of Solvay is hereby amended to include a new Chapter 105 entitled “Illicit Connections and Discharges” as follows:

**“Chapter 105**

**ILLICIT CONNECTIONS, ACTIVITIES AND DISCHARGES**

**Article I  
General Provisions**

**§105-1. PURPOSE/INTENT.**

The purpose of this local law is to provide for the health, safety, and general welfare of the citizens of the Village of Solvay 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 New York State law. This local 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 local 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 local 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.

#### **§105-2. DEFINITIONS.**

Whenever used in this local law, unless a different meaning is stated in a definition applicable to only a portion of this law, the following terms shall have 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. These activities include construction projects resulting in land disturbance of one or more

acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DEPARTMENT. The New York State Department of Environmental Conservation.

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.

ILLCIT CONNECTIONS. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including by not limited to:

- (a) Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (b) Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

INDUSTRIAL ACTIVITY. Activities requiring the SPDES permits for discharges from industrial activities except construction, GP-98-03, as amended or revised.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). A conveyance or system of conveyances (including roads and drainage systems, municipal streets, catch basins, curbs, gutters, man-made channels, or storm drains):

- 1. Owned or operated by the Village of Solvay;
- 2. Designed or used for collecting or conveying stormwater;
- 3. Which is not a combined sewer; and
- 4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2

MUNICIPALITY. The Village of Solvay.

**NON-STORM WATER DISCHARGE.** Any discharge to the storm drain system that is not composed entirely of storm water.

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

**POLLUTANT.** Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water which may cause or might reasonable be expected to cause pollution of the waters of the state in contravention of the standards.

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

#### **SPECIAL CONDITIONS.**

1. **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 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.
2. **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.
3. **Total Maximum Daily Load (TMDL) Strategy.**
  - a. 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 program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

- b. The condition in the municipality's MS4 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.

**STORM WATER.** Rainwater, surface runoff, snowmelt and drainage.

**STORMWATER MANAGEMENT OFFICER.** An employee, the Village engineer or other public official(s) designates by the Village of Solvay to enforce this local law. The SMO may also be designated by the Village of Solvay to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board, inspect stormwater management practices and designate certain responsibilities pursuant to this local law to other employees or agents of the Village of Solvay.

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

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

**WASTEWATER.** Water that is not stormwater, is contaminated with pollutants and it or will be discarded..

### **§105-3. APPLICABILITY.**

This local law shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

### **§105-4. RESPONSIBILITY FOR ADMINISTRATION.**

The Stormwater Management Officer(s) (SMO(s)) shall administer, implement, and enforce the provisions of this law. 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 Village of Solvay.

**§ 105-5. SEVERABILITY.**

The provisions of this local law are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Local law 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 Local law.

**§105-6. DISCHARGE PROHIBITIONS.**

**A. Prohibition of Illegal Discharges.**

1. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except those discharges described as follows:
  - a. The following discharges, 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. These discharges are only exempt provided they are made in accordance with an appropriate plan for reducing pollutants.
  - b. Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this local law.

- c. Dye testing in compliance with applicable state and local laws, provided that a verbal notification is given to the SMO prior to the time of the test.
- d. 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 local law if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

**§105-7. 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 Section 2 (Definitions) of this local law.
- B. Such activities include improper management of pet waste or any other activity that causes or contributes to violations of the municipality's MS4 SPDES permit authorization.
- C. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she



no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

**§105-8. 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 Section 2 or activities contaminating stormwater as defined in Section 7 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, reasonable 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 Section 2 or an activity contaminating stormwater as defined in Section 7, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
  3. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

**§105-9. SUSPENSION OF MS4 ACCESS.**

- A. **Illicit Discharges in Emergency Situations.** The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons
- B. **Suspension Due to the Detection of Illicit Discharge.** Any person discharging to the municipality's MS4 in violation of this law may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify

a violator in writing of the proposed termination 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 pursuant to this Section, without the prior approval of the SMO.

#### **§105-10. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.**

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

#### **§105-11. ACCESS AND MONITORING OF DISCHARGES.**

- A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this Law, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Law

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

- B. Access to Facilities.

1. The SMO shall be permitted to enter and inspect facilities subject to regulation under this law as often as may be necessary to determine compliance with this Law. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to 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 law.
3. The municipality shall have the right to set up on any facility subject to this law such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.

4. The municipality has the right to require the facilities subject to this law to install monitoring equipment as is reasonably necessary to determine compliance with this law. 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.
5. Unreasonable delays in allowing the municipality access to a facility subject to this law are 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. If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this law, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this law or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction..

#### **§105-12. NOTIFICATION OF SPILLS.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services, and then notify the Stormwater Management Officer. In the event of a release of non-hazardous materials, said person shall notify the Stormwater Management Officer in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the 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.

#### **§105-13. ENFORCEMENT.**

- A. Notice of Violation. When the municipality's SMO finds that a person has violated a prohibition or failed to meet a requirement of this law, he/she may order

compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. The elimination of illicit connections or discharges;
2. That violating discharges, practices, or operations shall cease and desist;
3. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
4. The performance of monitoring, analyses, and reporting;
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. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

#### **§105-14. APPEAL OF NOTICE OF VIOLATION.**

Any person receiving a Notice of Violation may appeal the determination of the SMO to the Village Board 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.

**§105-15. 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.

**§105-16. COST OF ABATEMENT OF THE VIOLATION.**

Within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

**§105-17. INJUNCTIVE RELIEF.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this law. If a person has violated or continues to violate the provisions of this law, the SMO may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation..

**§105-18. ALTERNATIVE REMEDIES.**

- A. Where a person has violated a provision of this Law, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Municipal Attorney and concurrence of the Municipal Code Enforcement Officer, where:

1. The violation was unintentional
2. The violator has no history of previous violations of this Law.
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. Storm drain stenciling or storm drain marking
3. River, stream or creek cleanup activities

#### **§105-19. 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.

#### **§105-20. REMEDIES NOT EXCLUSIVE.**

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

#### **Section 2. Effective Date.**

This Local Law shall be effective upon filing with the office of the Secretary of State.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

<b>David Flaherty</b>	<b>Trustee</b>	<b>Voted</b>	<b>Yes</b>
<b>John R. Fall, Sr.</b>	<b>Trustee</b>	<b>Voted</b>	<b>Yes</b>
<b>Kathleen Marinelli</b>	<b>Trustee</b>	<b>Voted</b>	<b>Yes</b>
<b>John McPeak</b>	<b>Trustee</b>	<b>Voted</b>	<b>Excused</b>
<b>Thomas Tarolli</b>	<b>Trustee</b>	<b>Voted</b>	<b>Yes</b>
<b>Patrick O'Neill</b>	<b>Trustee</b>	<b>Voted</b>	<b>Yes</b>
<b>Anthony F. Modafferi</b>	<b>Mayor</b>	<b>Voted</b>	<b>Yes</b>

The foregoing resolution was thereupon declared duly adopted.

**DATED: November 27, 2007**