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- ☐ County
- ☐ City of BRIARCLIFF MANOR
- ☐ Town
- ■ Village

Local Law No. 9 **of the year 20** 07

A local law TO ENACT A NEW CHAPTER 184, STORMWATER, DRAINAGE, EROSION
(Insert Title)
AND WATER POLLUTION CONTROL

Be it enacted by the BOARD OF TRUSTEES **of the**
(Name of Legislative Body)

- ☐ County
- ☐ City of BRIARCLIFF MANOR **as follows:**
- ☐ Town
- ■ Village

SEE ATTACHED

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

A LOCAL LAW TO ENACT
A NEW CHAPTER 184
OF THE CODE OF THE VILLAGE
OF BRIARCLIFF MANOR
IN RELATION TO STORMWATER,
DRAINAGE, EROSION AND
WATER POLLUTION CONTROL

Local Law – 9 of 2007

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

Section 1. The Code of the Village of Briarcliff Manor is hereby amended to add a new Chapter 184 entitled "Stormwater, Drainage, Erosion and Water Pollution Control" to read as follows:

"Chapter 184

Stormwater, Drainage, Erosion and Water Pollution Control

Article I

Stormwater Management and Erosion and Sediment Control

§184-1. Findings of Fact.

It is hereby determined that:

A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;

B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;

C. Improper clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;

D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;

E. Impervious surfaces do not allow water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow and increasing surface runoff;

F. Substantial economic losses can result from these adverse impacts on the waters of the Village;

G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;

H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.

I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from land disturbance.

§184-2. Purpose and Objectives.

The purpose of this article is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public and to address the findings of fact in Section 184-1 hereof. This article seeks to meet those purposes by achieving the following objectives:

A. Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no. GP-02-02 or as amended or revised;

B. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised;

C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;

D. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;

E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following disturbance from land development activities to the maximum extent practicable; and

F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these

management practices are properly maintained and eliminate threats to public safety.

§184-3. Applicability.

A. All land development activities, including but not limited to land development activities subject to review and approval by the appropriate approving authority of the Village under subdivision, site plan, special permit, steep slope, natural resources, wetland, tree removal permit and/or other land use or environmental permit regulations, shall be reviewed subject to the standards contained in this article. Activities which require a building permit or excavation permit, but which do not meet the defined size threshold in Section 184-5 for a land development activity, shall be reviewed under the provisions of Section 184-7 of this article.

B. It shall be unlawful for any person to engage in a land development activity other than an exempt activity as defined in Section 184-4, in the absence of a Stormwater Pollution Prevention Plan (SWPPP) approved by the Stormwater Management Officer or other approving authority as specified in Section 184-3C.

C. The Stormwater Management Officer shall accept, review and be the approving authority for all Stormwater Pollution Prevention Plans, except as follows:

(1) ~~The Planning Board shall be the approving authority for any application involving property~~ that is also the subject of a pending site plan or subdivision application before that Board in accordance with the zoning requirements of the Village or steep slopes, natural resources, wetlands, tree removal or other environmental permit before that Board in accordance with Village Code.

(2) The Village Board of Trustees shall be the approving authority for any application involving property that is also the subject of a pending special permit or other land use or environmental application before that Board in accordance with the zoning requirements of the Village.

D. The approving authority may (1) review the plans, (2) upon approval by the Village Board of Trustees, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or (3) accept the certification of a licensed professional that the plans conform to the requirements of this article.

§184-4. Exemptions.

The following activities shall be exempt from review under this article.

A. Agricultural activity as defined in this article.

B. Silvicultural activity except that landing areas and log haul roads are subject to this article.

C. Repairs and routine property maintenance activities.

D. Repairs and routine maintenance to any stormwater management practice required by the Stormwater Management Officer.

E. Land development activities for which a building permit has been approved on or before the effective date of this article.

F. Cemetery graves.

G. Installation of a fence, sign, telephone and electric poles and other kinds of posts or poles.

H. Emergency activity immediately necessary to protect life, property or natural resources.

I. Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.

J. Landscaping and horticultural activities that disturb less than 10% of the area of a lot or less than 1,000 square feet on a slope of 25% or greater in connection with an existing non-commercial structure.

Section 184-5. Definitions.

Whenever used in this article the following terms shall have the meanings as set forth in this section.

AGRICULTURAL ACTIVITY - The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

APPLICANT - An individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof, filing an application for a land development activity or other activity subject to the provisions of this article.

BUILDING – The term "building" as defined in §220-2 of the Village Code now or as hereafter amended.

CHANNEL - A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING - Any activity that removes the vegetative surface cover.

DEDICATION - The deliberate appropriation of property by its owner for general public use.

DEPARTMENT OR NYSDEC - The New York State Department of Environmental Conservation.

DESIGN MANUAL - The New York State Stormwater Management Design Manual, most recent version including applicable updates that serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER - A person who undertakes land development activities.

EROSION CONTROL MANUAL - The most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book".

GRADING - Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS COVER - Those surfaces, improvements and structures that cannot infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

INDUSTRIAL STORMWATER PERMIT - A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

~~INFILTRATION - The process of percolating stormwater into the subsoil.~~

LAND DEVELOPMENT ACTIVITY - Any construction activity including clearing, grubbing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre.

LANDOWNER - The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT - A legally recorded document that constitutes a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION - POLLUTION from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

PERSON – Any individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

PHASING - Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN - Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a

cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT - Land development activity or activity that requires a building or excavation permit.

RECHARGE - The replenishment of underground water reserves.

SEDIMENT CONTROL - Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS - Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

~~STABILIZATION - The use of practices that protect exposed soil from eroding.~~

STOP WORK ORDER - An order issued which requires that all land development activity and/or other construction activity on a site be stopped.

STORMWATER - Rainwater, surface runoff, snowmelt and drainage

STORMWATER MANAGEMENT - The use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY - One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER (SMO) – The Village Engineer and his or her designees, the Code Enforcement Officer and such other Village officers or employees as designated by the Village Manager.

STORMWATER MANAGEMENT PRACTICES (SMPS) - Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) - A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF - Flow on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK - Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

VILLAGE – The Village of Briarcliff Manor, New York.

VILLAGE ENGINEER – The person employed or hired as a Village Engineer of the Village of Briarcliff Manor, or his or her designee.

WATERCOURSE – A stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY - A channel that directs surface runoff to a watercourse or to the public storm drain.

WETLAND – The term "wetland" shall mean "freshwater wetland" as defined in §131-4 of the Village Code, now or as hereafter amended.

§184-6. Stormwater Pollution Prevention Plans.

A. No application for approval of a land development activity shall be reviewed until the appropriate approving authority has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this article.

B. All SWPPPs shall provide the following background information, erosion and sediment controls and stormwater management measures relating to stormwater quantity:

(1) Background information about the scope of the project, including location, type and size of project.

(2) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should be at a scale no smaller than 1"=50' and should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s)

of the stormwater discharges(s):

(3) Description of the soil(s) present at the site and soil test results, if requested;

(4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP. The Village may opt to reduce the amount of land that may be exposed at any one time.

(5) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;

(6) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill -prevention and response;

(7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;

(8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

(9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;

(10) Temporary practices that will be converted to permanent control measures;

(11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

(12) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;

(13) Name(s) of the receiving water(s);

(14) Delineation of SWPPP implementation responsibilities for each part of the site;

(15) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the

site to the degree attainable; and

(16) Any existing data that describes the stormwater runoff at the site.

(17) An acknowledgement by the landowner granting to the Village of Briarcliff Manor and other agencies having jurisdiction the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.

(18) Description of each post-construction stormwater management practice including, but not limited to, dimensions, material, specifications and installation details for each post-construction stormwater management practice.

(19) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice.

(20) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms, as per the manual specified in §184-8. A(1) herein.

(21) Comparison of post-development stormwater runoff conditions with pre-development conditions.

(22) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.

(23) Maintenance easement(s), where required to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded and shall remain in effect with transfer of title to the property;

(24) Inspection and maintenance agreement recorded and binding on all subsequent landowners served by the on-site stormwater management measures in accordance with §184-9 of this article.

C. The SWPPP shall be prepared by a landscape architect, certified professional in erosion and sedimentation control, professional engineer or other professional(s) deemed qualified by the Department and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this article.

D. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

E. Each contractor and subcontractor identified in the SWPPP, and/or successor or substituted contractor or subcontractor, who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution

Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards." Copies of these statements shall be delivered to the SMO.

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

(2) The certification statement(s) shall become part of the SWPPP for the land development activity.

(3) The certification shall contain proof that each contractor who will be involved in a land development activity has obtained training and/or certification in proper erosion and sedimentation control practices. Such certification shall become part of the SWPPP for the land development activity and shall be retained on-site.

F. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§184-7. Stormwater management and erosion and sediment control for activities that require a building permit or excavation permit.

A. All activities which require a building permit or any permit required under Chapter 115, Excavations but which do not meet the defined size threshold in §184-5, Definitions, for a land development activity, are subject to the review and approval of the Stormwater Management Officer. In reviewing and approving such activities, the Stormwater Management Officer may require such reasonable stormwater management and erosion control mitigation measures as necessary to protect the public health, safety and welfare.

B. An application for approval of such activities as specified in subsection A above, shall include, except as may be waived by the SMO, the following background information, erosion and sediment controls, and stormwater management practices. Such activity is subject to the performance and design criteria in §184.8(A) herein, and the application shall show that there will be no net increase in the rate of runoff resulting from the project for the 10-year storm event.

(1) Background information about the scope of the project, including location, type and size of the project.

(2) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map shall show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s). The site map shall be at a scale no smaller than 1"=50."

(3) Description of the soil(s) present at the site and soil test results, if requested.

(4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance.

(5) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for the project from initial land clearing and grubbing to project close-out.

(6) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice.

(7) Dimensions, material specifications and installation details for all erosion and sediment control practices.

(8) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice will remain in placer until the site is stabilized.

(9) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice.

(10) Name(s) of the receiving water(s) and NYSDEC classification(s), if applicable.

(11) Any existing data that describes the stormwater runoff at the site.

(12) An acknowledgment by the landowner granting the Village and other agencies having jurisdiction the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.

(13) Description of each post-construction stormwater management practice including, but not limited to, dimensions, material specifications, and installation details for each post-construction stormwater management practice.

(14) Site map/construction drawing(s) showing the specific locations(s) and size(s) of each post-construction stormwater management practice.

(15) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storm.

(16) Comparison of post-development stormwater runoff conditions with pre-development conditions.

§184-8. Performance and Design Criteria for Stormwater Management and Erosion and Sediment

Control.

All land development activities shall be subject to the following performance and design criteria:

A. For the purpose of this article, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this article. Copies of the two manuals are on file in the Office of the Stormwater Management Officer.

(1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most recent version including applicable updates, hereafter referred to as the Design Manual)

(2) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2005, most recent version including applicable updates, hereafter referred to as the Erosion Control Manual).

B. Where stormwater management practices are not in accordance with technical standards, the owner, applicant or developer must demonstrate equivalence to the technical standards as set forth in §184-8 and the SWPPP shall be prepared by a professional engineer or certified professional in erosion and sediment control or in stormwater quality or other professional deemed qualified by the Department.

C. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

§184-9. Maintenance, Inspection and Repair of Stormwater Facilities.

A. The owner, applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the owner, applicant or developer to achieve compliance with the conditions of this article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent, and placed in an acceptable location and properly stabilized.

B. The owner, applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspections shall be conducted and inspection reports shall be completed by a landscape architect, certified professional in erosion and sediment control, professional engineer or other professional(s) deemed qualified by the Department every seven (7) days and within twenty-four (24) hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be maintained in a site log book and transmitted to the SMO within two (2) business days of the date of the inspection.

C. Prior to the issuance of any approval that has a permanent stormwater management facility as one of the requirements, other than one serving an individual single-family residence, the owner, applicant or developer must execute an easement that shall be binding on all subsequent landowners served by the permanent stormwater management facility. The easement shall be in a form acceptable to Village Counsel and shall provide for access to the facility at reasonable times for periodic inspection by the Village of Briarcliff Manor to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article. The easement shall be recorded by the grantor in the Office of the County Clerk after approval by Village Counsel. Proof of such recordings shall be filed with Village Counsel and the Stormwater Management Officer.

D. The owner or operator of permanent stormwater management practices installed in accordance with this article shall operate and maintain the stormwater management practices to achieve the goals of this article. Proper operation and maintenance also includes as a minimum, the following:

(1) A preventive/corrective maintenance program for all facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article.

(2) Written procedures for operation and maintenance and training new maintenance personnel.

(3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Section 184-8(3).

(4) If required by the SMO, an annual maintenance report shall be submitted to the Stormwater Management Officer within thirty (30) calendar days of the end of the calendar year.

E. Prior to the issuance of any final plan approval, the owner, applicant or developer must execute a formal maintenance agreement for permanent stormwater management facilities, other than those serving an individual single-family residence, binding on all subsequent landowners. The maintenance agreement shall be in a form acceptable to Village Counsel and shall be recorded in the office of the County Clerk as a deed restriction on the property. The Village of Briarcliff Manor, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future permanent stormwater management facility, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§184-10. Administration and Enforcement.

A. The Stormwater Management Officer may require such inspections as necessary to determine compliance with this article and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this article and the stormwater pollution prevention plan (SWPPP) as approved. To

obtain inspections, the applicant shall notify Village enforcement officials at least 48 hours before any of the following as required by the Stormwater Management Officer:

(1) Start of construction

(2) Installation of sediment and erosion control measures

(3) Completion of site clearing

(4) Installation of constructed stormwater improvements

(5) Completion of rough grading

(6) Completion of final grading

(7) Close of the construction season

(8) Completion of final landscaping

(9) Successful establishment of landscaping in public areas.

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

B. It shall be the primary responsibility of the property owner(s) and the successor property owner(s) to perform all necessary inspections, maintenance, reporting, adjustments, repair, replacement and reconstruction of the stormwater management facilities. Required inspections shall be conducted and reports prepared by a certified professional in erosion and sediment control, a professional engineer or other professional(s) deemed acceptable by NYSDEC. If, at any time, the Stormwater Management Officer determines that necessary inspections, reports, maintenance, repairs, adjustments, replacement or reconstruction have not been properly performed, notice of such determination shall be given to the property owner(s) of the property or properties upon which the stormwater facility or facilities are situated and shall provide a reasonable period under the circumstances to cure such improper performance. If the property owner(s) fails to timely correct any and all deficiencies as provided in the notice, the Village may undertake to perform any such work or work that it finds, in its sole judgment, is necessary to preserve the stormwater management functions or stormwater management practices (SMPs), at the cost and expense of the property owner(s) and the successor property owner(s). Copies of all bills, statements and invoices substantiating such costs, including costs of consultants, shall be included with written notice of same. In the event that all such costs and expenses are not paid within thirty (30) days of issuance of statements for this work, the total cost of such work shall constitute a lien against the property or properties upon which the stormwater management facilities are situated, which shall be levied and collected in the same manner as Village real estate taxes or in such manner otherwise provided by law. The property owner(s) and the successor lot property owner(s) shall be personally liable

for the payment of all such costs, including costs of collection and reasonable attorney's fees. Where multiple lots are involved, each lot shall individually and separately bare its equal share of such costs.

C. Except for activities regulated under §184-7, all applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a New York State licensed land surveyor or professional engineer.

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

E. The Stormwater Management Officer may require monitoring and reporting from entities subject to this article as are necessary to determine compliance with this article.

F. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Village and other agencies having jurisdiction the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.

§184-11. Performance Guarantee.

A. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Village in its approval of the Stormwater Pollution Prevention Plan, the Village may require the owner, applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village as the beneficiary. The security shall be in an amount to be determined by the Village based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Village, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Village. Per annum interest on cash

escrow deposits shall be reinvested in the account until the surety is released from liability.

B. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Village of Briarcliff Manor with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction based upon the advice of the SMO. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Village may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

C. Entities subject to this article shall maintain records demonstrating compliance with this article.

§184-12. Enforcement and Penalties.

A. When the SMO determines that a land development activity is not being carried out in accordance with any requirement of this article, or that any provision of this article is not being complied with, the SMO may issue a written notice of violation to the property owner(s), applicant, contractor, and/or developer. The notice of violation shall contain:

(1) the name and address of the property owner(s), contractor, developer or applicant;

(2) the address when available or a description of the building, structure or land upon which the violation is occurring;

(3) a statement specifying the nature of the violation;

(4) a description of the remedial measures necessary to cure the violation and a time schedule for the completion of such remedial action;

(5) a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

B. If the notice of violation is not complied with within the time provided in the notice, the SMO may request Village Counsel to institute the appropriate proceedings at law or in equity to prosecute, restrain, correct or abate such violation and for other attendant remedial measures.

C. The SMO may issue a stop work order for violations of this article. Persons receiving a stop work order shall be required to halt all land development activities and other construction activities on the site, except those activities approved by the SMO that address the violations leading to the stop work order. The stop work order shall be in effect until the SMO confirms that the violation has been satisfactorily addressed. Failure

to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article.

D. Issuance of a stop-work order by the SMO shall be as provided in §90-6 of the Village Code.

E. Any violation of this article may be restrained by injunction or otherwise abated in a manner provided by law.

F. Any person who violates the provisions of this article shall be guilty of an offense punishable by a fine not exceeding five hundred dollars ($500) 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 five dollars ($500) nor more than one thousand dollars ($1,000) 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 one thousand dollars ($1,000) nor more than twenty-five hundred dollars ($2,500) 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 article 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.

G. In addition to any penalty provided herein or by law, any person in violation of this article may be required to restore land to its undisturbed condition and/or mitigate on-site and off-site damage from stormwater runoff, sediment or pollution, resulting from the violator's activity. In the event that restoration is not undertaken within a reasonable time after notice, the SMO may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

H. Under exigent circumstances, if any building or land development activity or permanent stormwater management facility is installed, conducted, or operated in violation of this article, the Stormwater Management Officer may prevent the occupancy of said building or land, including the withholding of a certificate of occupancy. It shall be the obligation of the landowner to remediate the violation at which time the Stormwater Management Officer shall further consider allowing occupancy of the building or land.

§184-13. Fees for Services.

An application fee and inspection fee established by Resolution of the Village Board of Trustees and set forth in the Master Fee Schedule, which may be amended, shall be submitted with the application. In addition, in accordance with the provisions of Chapter 122 of the Village Code, any person undertaking land development activities regulated by this article shall reimburse the Village for the cost of professional services incurred by the Village for the review of SWPPPs and for the performance of inspections and/or maintenance activities as provided in this article. The Village may establish escrow accounts for these purposes as provided in Chapter 122 of the Village Code.

Article II

Illegal Discharges and Illicit Connections To Separate Storm Sewer System

§184-14. Purpose and objectives.

A. The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the Village of Briarcliff Manor 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 article establishes methods for controlling the introduction of pollutants or excess flow into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems.

B. The objectives of this article are:

(1) To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;

(2) To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;

(3) To prohibit Illegal Discharges and Illicit Connections to the MS4;

(4) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article; and

(5) To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

§184-15. Definitions.

Whenever used in this article, the following terms will have meanings set forth below:

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

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

DEC - The New York State Department of Environmental Conservation.

DESIGN PROFESSIONAL - New York State licensed professional engineer or licensed architect.

EPA – United States Environmental Protection Agency.

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

ILLEGAL DISCHARGE - Any direct or indirect non-stormwater discharge to the MS4, except as exempted in §184-18(A) of this article.

ILLICIT CONNECTIONS - Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:

A. Any conveyances which allow any non-stormwater discharge including, but not limited to, 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.

INDIVIDUAL SEWAGE TREATMENT SYSTEM - A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwaters of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

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 Briarcliff Manor;

B. Designed or used for collecting or conveying stormwater;

C. Which is not a combined sewer; and

D. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2

NON-STORMWATER DISCHARGE - Any discharge to the MS4 that is not composed entirely of stormwater.

PERSON - Any individual or individuals, firm, partnership, association, corporation, company, organization, or other legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

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

POLLUTANT OF CONCERN – Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity.

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 the Village has been notified by DEC 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 Village 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 Village'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 Village'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 Village was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

D. THE CONDITION IN THE VILLAGE'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 Village 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 Village 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 DEC that authorizes the discharge of pollutants to waters of the state.

STORMWATER - Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO) - The Village Engineer and his or her designees, and/or such other Village Officers or employees as designated by the Village Manager. The Westchester County Department of Health presently is and shall continue to be the enforcement authority for the design, repair, replacement, and operation of individual sewage treatment systems within the MS4.

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

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.

VILLAGE – Village of Briarcliff Manor, New York.

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

§184-16. Applicability.

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

§184-17. Administration and Enforcement.

The Stormwater Management Officer(s) (SMO(s)) shall administer, implement, and enforce the provisions of this article. Such powers granted or duties imposed upon the SMO(s) maybe delegated by the SMO(s) as may be authorized by the Village Manager.

§184-18. Prohibition on Illegal Discharges and Illicit Connections.

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 §184-18(A)(1). 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 article, unless the NYSDEC or the Village Board of Trustees, by resolution and upon recommendation of the SMO, 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.

(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 article.

(3) Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO at least twenty-four (24) hours prior to the time of the test.

(4) The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the DEC, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, 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 article if the person connects a line conveying sewage or any other wastewater discharge to the Village's MS4, or allows such a connection to continue.

§184-19. Prohibition Against Activities Contaminating Stormwater.

A. Activities that are subject to the requirements of this section include:

(1) Activities that cause or contribute to a violation of the Village's MS4 SPDES permit.

(2) Activities that cause or contribute to the Village being subject to the Special Conditions as defined in §184-15 (Definitions) of this article.

B. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the Village'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 Village's MS4 SPDES permit authorization.

§184-20. Use of Best Management Practices Required.

A. Where the SMO has identified illegal discharges as defined in §184-15 or activities contaminating stormwater as defined in §184-19, the Village may require implementation of best management practices (BMPs) to control those illegal 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 illegal discharge as defined in §184-15 or an activity contaminating stormwater as defined in §184-19, 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.

B. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

§184-21. Suspension of Access to MS4.

A. 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 illegal discharge. Any person discharging to the Village's MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illegal 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. Access may be granted by the SMO, with or without conditions, if he/she finds that the illegal 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 illegal 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.

§184-22. 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 Village prior to the allowing of discharges to the MS4. All reports submitted to the NYSDEC as required by the SPDES permit shall also be contemporaneously transmitted to the SMO.

§184-23. Access to Property; Inspection; Monitoring of Discharges.

A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this article, 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 article.

B. Access to Facilities.

(1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. 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 article.

(3) The Village shall have the right to set up on any facility subject to this article such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge or conduct other testing as deemed necessary by the SMO.

(4) The Village has the right to require the facilities subject to this article to install monitoring equipment as is reasonably necessary to determine compliance with this article. 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 Village access to a facility subject to this article is a violation of this article. A person who is the operator of a facility subject to this article commits an offense if the person denies the Village reasonable access to the facility for the purpose of conducting any activity authorized or required by this article.

(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 article, 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 seek issuance of a search warrant from any court of competent jurisdiction.

§184-24. Notification of Spills.

Notwithstanding other requirements of this article, 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. In the event of a release of non-hazardous materials, said person shall notify the Village 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 Village 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. Appropriate State and Federal agencies shall also be notified as per applicable regulations.

§184-25. Enforcement and Penalties.

A. Notice of Violation. When the SMO finds that a person has violated a prohibition or failed to meet a requirement of this article, the SMO may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

(1) The elimination of illicit connections or illegal 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) The implementation of source control or treatment BMPs.

B. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the Village or a contractor designated by the Village and the expense thereof shall be charged to the violator.

C. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, 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.

D. 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 and remains unabated. Upon determination that a violation has occurred and remains unabated, 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.

E. Within thirty (30) days after abatement of the violation by, or under authorization of the SMO, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest with the Village Board of Trustees objecting to the amount of the assessment within ten (10) days of receipt of said notice. If the amount due is not paid within thirty (30) days after the disposition of any protests or the expiration of the time to file an appeal, whichever is earlier, the charges shall become a lien on the property for the amount of the assessment to be collected in the same manner as real estate taxes.

F. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be guilty of an offense punishable by a fine not exceeding five hundred dollars ($500) 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 five hundred dollars ($500) nor more than one thousand dollars ($1,000) 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 one thousand dollars ($1,000) nor more than twenty-five hundred dollars ($2,500) 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 article 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.

§184-26. Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the SMO may request Village Counsel to 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.

§184-27. 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 article 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.

§184-28. Remedies Not Exclusive.

The remedies listed in this article 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.

§184-29. Severability.

If the provisions of this chapter or of any article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter."

Section 2. Section 190-11(B) of the Code of the Village of Briarcliff Manor is hereby amended by adding a new subdivision (6) to read as follows:

"6. A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Chapter 184, Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any preliminary subdivision plat approval that qualifies as or authorizes a land development activity as defined in Chapter 184, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 184, Article I. The approved preliminary subdivision plat shall be consistent with the provisions of Chapter 184, Article I."

Section 3. Section 190-12(b) of the Code of the Village of Briarcliff Manor is hereby amended by adding a new subdivision (10) to read as follows:

"10. A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Chapter 184, Article I, Stormwater Management and Erosion and Sediment Control, and with the terms of preliminary plat approval shall be required for final subdivision plat approval that qualifies as or authorizes a land development activity as defined in Chapter 184, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 184, Article I. The approved final subdivision plat shall be consistent with the provisions of Chapter 184, Article I."

Section 4. Section 220-14(B) of the Code of the Village of Briarcliff Manor is hereby amended by adding a new subdivision (13) to read as follows:

"(13) A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Chapter 184, Article I, Stormwater Management and Erosion and Sediment Control, shall be

required for any site plan approval that qualifies as or authorizes a land development activity as defined in Chapter 184, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 184, Article I. The approved site plan shall be consistent with the provisions of Chapter 184. Article I."

Section 5. Section 220-6(D) of the Code of the Village of Briarcliff Manor is hereby amended by adding a second paragraph to read as follows:

"A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Chapter 184, Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any special permit approval that qualifies or authorizes a land development activity as defined in Chapter 184, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 184, Article I. The approved special permit shall be consistent with the provisions of Chapter 184, Article I."

Section 6. Section 220-15 of the Code of the Village of Briarcliff Manor is hereby amended by adding a new subdivision C to read as follows:

"C. A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Chapter 184, Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any natural resources or steep slope approval that qualifies as or authorizes a land development activity as defined in Chapter 184, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 184 Article I. The approved steep slope or natural resources permit shall be consistent with the provisions of Chapter 184, Article I."

Section 7. Section 202-6 of the Code of the Village of Briarcliff Manor is hereby amended by adding a new subdivision G to read as follows:

"G. A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Chapter 184 Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any tree removal permit approval that qualifies as or authorizes a land development activity as defined in Chapter 184, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 184, Article I. The approved tree removal permit shall be consistent with the provisions of Chapter 184, Article I."

Section 8. Section 131-7(A) of the Code of the Village of Briarcliff Manor is hereby amended by adding a new subdivision (5) to read as follows:

"(5) A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Chapter 184, Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any wetlands permit approval that qualifies as or authorizes a land development activity as defined in Chapter 184, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 184, Article I. The approved wetlands permit shall be consistent with the provisions of Chapter 184, Article I."

Section 9. Effective Date.

This local law shall take effect immediately upon its adoption and filing with the Office of the Secretary of the State of New York in accordance with the provisions of the Municipal Home Rule Law.

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

1. (Final adoption by local legislative body only.)
I hereby certify that the local law annexed hereto, designated as local law No. 9 of 20 07 of the (County)(City)(Town)(Village) of BRIARCLIFF MANOR was duly passed by the BOARD OF TRUSTEES on December 20, 20 07, in accordance with the applicable
(Name of Legislative Body)
provisions of law.

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

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

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

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

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

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

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

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1_____, above.

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

(Seal)

Date: 12-27-07

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Westchester

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Wormser, Kiely, Galef & Jacobs, LLP

Signature

Village Attorney, Wormser, Kiely, Galef and Jacobs
Title

County
City of Briarcliff Manor
Town
Village

Date: 12/26/07