



DEPARTMENT OF ENVIRONMENT AND PLANNING

RULES AND REGULATIONS

FOR ERIE COUNTY SEWER DISTRICT NO. 6

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

Authorized pursuant to Article 5-A of the County Law

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INTRODUCTION

Erie County Sewer District No. 6 was created under authorization of Chapter 110 of the Laws of the State of New York of 1983 to operate and maintain the existing sanitary and Storm Sewer Systems in the City of Lackawanna. These regulations are promulgated under Section 264 of Article 5-A of the County Law for the MS4.

As provided in the SPDES General Permit for Stormwater Runoff from Construction Activity GP-02-01, Surface Runoff from Land Development Activities must be minimized. In order to achieve this, measures to reduce flooding or environmental degradation, including the detention or treatment of Stormwater, may be necessary. Ideally, the quantity of Surface Runoff that reaches the MS4 during and after a Land Development Activity should not be altered from pre-Development conditions unless additional Storm Sewer capacity is provided. A variety of structural and non-structural measures may be required to control and alleviate the adverse impacts of increased Surface Runoff.

As provided in the SPDES General Permit for Stormwater Discharges from MS4s GP-02-02, non-stormwater discharges to the MS4 must be minimized and stormwater discharges should not cause or contribute to a violation of a water quality standard.

These Rules and Regulations are for the purpose of securing optimum performance from the Storm Sewer System and to ensure compliance with all applicable Federal, State and Local Laws.

ARTICLE I

DEFINITIONS

As used in these Rules and Regulations, the following terms shall have the meanings set forth below:

Section 1.01 “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 NYSDEC 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.

Section 1.02 “THE CLEAN WATER ACT” shall mean the Federal Water Pollution Control Act 33 U.S.C. § 1251 et seq.), and any amendments thereto.

Section 1.03 “APPLICANT” shall mean any Person who has filed an application for a Permit from the District to connect to, construct, alter, enlarge or modify the MS4.

Section 1.04 “BEST MANAGEMENT PRACTICES (BMPs) shall mean schedules of activities, prohibitions of practices, good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent 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.

Section 1.05 “BOARD” shall mean the Board of Managers of Erie County District No. 6.

Section 1.06 “CONSTRUCTION PLANS” shall mean the sanitary sewer plans and storm sewer plans for a Development, which are approved by the District prior to the start of construction.

Section 1.07 “DESIGN MANUAL” shall mean the *New York State Stormwater Management*

Design Manual, most recent version including applicable updates, which serves as the official guide for stormwater management principles, methods and practices.

Section 1.08 “DETENTION POND” shall mean a basin, tank, pipe or any other structure designed to temporarily store Stormwater.

Section 1.09 “DEVELOPER” shall mean any Person who undertakes a Development.

Section 1.10 “DEVELOPMENT” shall mean any man-made change to improved or Unimproved Premises, such as, but not limited to, Subdivision, Open Development, mobile home park, industrial park, building or other structure, paving, or the excavation, filling, sloping, grading or mounding of earth, installing clay or other impervious surfaces, vegetation removal or covering of the ground surface.

Section 1.11 “DISTRICT” shall mean Erie County Sewer District No. 6 and its employees.

Section 1.12 “ENCRPB DESIGN MANUAL” shall mean the *Storm Drainage Design Manual* originally published by the Erie and Niagara Counties Regional Planning Board (ENCRPB) in July 1972, as amended October 1, 1981, and available from the Erie County Department of Environment and Planning.

Section 1.13 “EPA” shall mean the United States Environmental Protection Agency.

Section 1.14 “EROSION CONTROL MANUAL” shall mean the most recent version of the *New York Standards and Specifications for Erosion and Sediment Control* manual, commonly known as the *Blue Book*.

Section 1.15 “GROUNDWATER” shall mean all subsurface water, including but not limited to the vadose zone.

Section 1.16 “ILLICIT CONNECTION” shall mean any drain or conveyance, whether on The surface or subsurface, which allows an Illicit Discharge to enter the MS4, including but not

limited to:

- A. Any conveyance which allows any Non-Stormwater Discharge, including treated or untreated sewage, process wastewater, and wash water, to enter the MS4 and any connections to the MS4 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.

Section 1.17 "ILLICIT DISCHARGE" shall mean any direct or indirect non-stormwater discharge to the MS4, except as provided in Section 6.01-B of these Rules and Regulations.

Section 1.18 "INDUSTRIAL WASTE" shall mean any liquid, gas, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources, which may cause or might reasonably be expected to cause pollution.

Section 1.19 "LAND DEVELOPMENT ACTIVITY" shall mean all construction activity, including clearing, grading, excavating, soil disturbance or placement of fill, that results in land disturbance equal to or greater than one acre, or construction activity disturbing less than one acre of total land area that is part of a larger common plan of development or sale disturbing one acre or more in the aggregate, even though multiple separate and distinct land development activities may take place at different times on different schedules.

Section 1.20 "MS4" shall mean Municipal Separate Storm Sewer System.

Section 1.21 "MUNICIPAL SEPARATE STORM SEWER SYSTEM" shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) which is:

- a. Owned or operated by the District;

- b. Designed or used for collecting or conveying stormwater;
- c. Not a combined sewer; and
- d. Not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

Section 1.22 "NOI, NOT" shall mean NYSDEC's Notice of Intent and Notice of Termination.

Section 1.23 "NYSDEC" shall mean the New York State Department of Environmental Conservation.

Section 1.24 "OPEN DEVELOPMENT" shall mean any Development wherein the property is subdivided for sale, but which is not a Subdivision.

Section 1.25 "OTHER WASTES" shall mean garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, manure, tar, dyestuffs, acids, chemicals, and
all
other discarded matter not Sewage or Industrial Waste which may cause or might reasonably
be
expected to cause pollution.

Section 1.26 "PEAK FLOW" shall mean the maximum instantaneous rate of flow of water.

Section 1.27 "PERMIT" shall mean a permit issued by the District to connect to, construct, alter, enlarge, or modify any Public Storm Sewer.

Section 1.28 "PERSON(S)" shall mean any individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, organization, partnership, firm, trust, estate, or any other legal entity whatsoever recognized by law, including the District.

Section 1.29 "POLLUTANT" shall mean Other Wastes, treated or untreated Sewage, Industrial Waste, dredged spoil, filter backwash, solid waste, incinerator residue, sewage
sludge,
munitions, chemical wastes, biological materials, radioactive materials, heat wrecked or

discarded equipment, rock, sand and municipal or agricultural waste and ballast discharged into water, any of which may cause or might reasonably be expected to cause pollution of Surface Waters of the State in contravention of water quality standards.

Section 1.30 "PREMISES" shall mean a real estate lot, plot or parcel of land, including any building or structures thereon and any adjacent sidewalks or parking strips.

Section 1.31 "PUBLIC STORM SEWER" shall mean a Storm Sewer owned by the District.

Section 1.32 "RETENTION POND" shall mean a basin, tank, pipe or any other structure designed to store Stormwater without release with the exception of infiltration or evaporation.

Section 1.33 "RULES AND REGULATIONS" shall mean these Rules and Regulations for Erie County Sewer District No. 6 Municipal Separate Storm Sewer System.

Section 1.34 "SEWAGE" shall mean the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such Groundwater infiltration and Surface Water as may be present. Wastewater or the admixture with Sewage of Industrial Wastes or Other Wastes as herein defined, shall also be considered "Sewage".

Section 1.35 "SPDES" shall mean the New York State Pollution Discharge Elimination System.

Section 1.36 "SPDES GENERAL PERMIT FOR STORMWATER RUNOFF FROM CONSTRUCTION ACTIVITY GP-02-01" shall mean a permit under the New York State Pollutant Discharge Elimination System issued to Developers of construction activities to regulate disturbance of one or more acres of land.

Section 1.37 "SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS (MS4S) GP-02-02" shall mean 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.

Section 1.38 "SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY" shall mean a permit under the New York State Pollutant Discharge Elimination System (SPDES) 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.

Section 1.39 "SPDES STORMWATER PERMIT" shall mean a permit issued by NYSDEC that authorizes the discharge of pollutants to Surface Waters of the State.

Section 1.40 "SPECIAL CONDITIONS"

- A. Discharge Compliance with Water Quality Standards. The condition that applies where the District has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition, the District 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 District'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 District'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 District was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- D. Future Total Maximum Daily Load (TMDL) Strategy. The condition in the District'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 District 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 District 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.

Section 1.41 "STORM" shall mean an atmospheric disturbance accompanied by precipitation.

Section 1.42 "STORM DURATION" shall mean the length of time over which a Storm occurs.

Section 1.43 "STORM FREQUENCY" shall mean the average frequency of occurrence of Storms having a given volume and duration, normally expressed in years.

Section 1.44 "STORM SEWER" shall mean a closed conduit designed to convey Stormwater.

Section 1.45 "STORM SEWER CONSTRUCTION SPECIFICATIONS FOR ERIE COUNTY SEWER DISTRICTS" shall mean the standard list of materials, specifications and details of construction as approved by the Erie County Sewer Agency.

Section 1.46 "STORM SEWER SYSTEM" shall mean the Storm Sewers, public and private, which drain or are intended to drain Stormwater.

Section 1.47 "STORMWATER" shall mean rainwater, Surface Runoff, snowmelt, drainage, and Uncontaminated Groundwater.

Section 1.48 "STORMWATER FACILITY" shall mean one or a series of SMPs installed, stabilized and operating for the purpose of controlling Stormwater Runoff.

Section 1.49 "STORMWATER MANAGEMENT" shall mean 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.

Section 1.50 "STORMWATER MANAGEMENT PRACTICES (SMPS)" shall mean 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.

Section 1.51 “STORMWATER POLLUTION PREVENTION PLAN (SWPPP)” shall mean a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

Section 1.52 “SUBDIVISION” shall have the same meaning as such term is defined in Section 17-1501 of the Environmental Conservation Law.

Section 1.53 “SURFACE RUNOFF” shall mean flow on the surface of the ground which results when the rate of precipitation, including snowmelt, exceeds the rate at which water infiltrates into the earth's surface.

Section 1.54 “SURFACE WATERS OF THE STATE” shall mean 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.

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

Section 1.55 “UNCONTAMINATED GROUNDWATER” shall mean Groundwater not containing sewage, Industrial Wastes or Other wastes.

Section 1.56 “USE” shall mean the connection to the MS4, either directly or indirectly, of any Storm Sewer or other Stormwater discharge.

Section 1.57 "USER" shall mean an owner of property in the District or any other Person who contributes, causes or allows the contribution of water or Stormwater into the MS4, either directly or indirectly, or who causes or allows the introduction of any substance into the MS4.

Section 1.58 "WASTEWATER" shall mean water that is not stormwater, is contaminated with Pollutants and is or will be discarded.

ARTICLE II

Storm Drainage Requirements
and Stormwater Runoff Pollution Prevention

Section 2.01 - Obstruction Prohibited

It is a violation of these Rules and Regulations to restrict in any way or manner the flow of Stormwater in a Public Storm Sewer except as permitted or approved pursuant to these Rules and Regulations or as the District determines necessary for Peak Flow control, sediment control, or to contain pollution spills or the accidental discharge of Pollutants.

Section 2.02 - Use of District Storm Sewers

Where a Public Storm Sewer is accessible to a Premises, such Premises upon being Developed shall, at the time of Development, connect Storm Sewers or other drainage therefrom to the MS4. The District may specify the manner and point of connection and Peak Flow restrictions on such Storm Sewer or other drainage connections.

A Public Storm Sewer is accessible to the Premises if the Public Storm Sewer is located at an elevation relative to the Premises so as to allow all or part of the Stormwater from the Premises to flow by gravity at the point of connection and such Public Storm Sewer either abuts the Premises or is located in an accessible right of way, within one hundred (100') feet for any one or two family dwelling Premises being developed or improved, or within five hundred (500') feet for any other Premises being developed or improved.

Premises connecting to the MS4 shall conform to these Rules and Regulations.

Section 2.03 - Warning and Disclaimer of Liability

The Storm drainage requirements of these Rules and Regulations are based on reasonable scientific and engineering considerations. Storms of less frequency and greater severity than the design Storm required in these Rules and Regulations can and will occur from time to time, resulting in Surface Runoff exceeding the design capacity of the MS4. Storm Sewers pre-existing the District's formation may have been designed for less severe Storms having greater frequency and less duration than required by these Rules and Regulations, and for a variety of reasons, existing Storm Sewers may not be capable of conveying their design

Peak Flows. These Rules and Regulations do not imply that Premises or land within the District will be free from flooding or flood damage. These Rules and Regulations shall not create liability on the part of the District for any flood damage that results from reliance on its provisions or any administrative decision lawfully made thereunder.

Section 2.04 - Drainage Facilities

Users at their own expense shall provide adequate drainage facilities and Stormwater Facilities, in conformance with these Rules and Regulations, the SPDES General Permit for Stormwater Discharge from Construction Activity GP-02-01, the Design Manual, and the Erosion Control Manual for property being Developed within the District, or as otherwise required by these Rules and Regulations or as ordered by the District as a result of an enforcement hearing.

Section 2.05 - SWPPP Requirement

1. No Construction Plans for a Land Development Activity shall be approved by the District nor any Permit issued for a Land Development Activity unless a SWPPP prepared in accordance with the specifications in this Article is submitted to the District and is approved by the District.

2. Except as provided in Part I of the SPDES General Permit for Stormwater Discharges from Construction Activity GP-02-01, for any Land Development Activity undertaken by the District, the District shall prepare a SWPPP that complies with the requirements of this Article.

Section 2.06 - Procedure for Review of SWPPPs

- A. The District may:
1. Review the SWPPPs;
 2. Engage the services of a registered professional engineer to review the SWPPPs, specifications and related documents at a cost not to exceed a fee schedule established by the Board; or
 3. Accept the certification of a licensed professional that the SWPPPs conform to the requirements of this Article.
- B. The Applicant or Developer shall be required to submit a SWPPP that complies

with the requirements of this Article to the District prior to approval of the Construction Plans or the issuance of a Permit for any Land Development Activity. Within forty-five (45) days of receipt of a SWPPP, the District shall approve, approve with modifications, or disapprove the SWPPP. Approval shall only be given if the SWPPP complies with the requirements of this Article. In approving with modifications or disapproving the SWPPP, the District shall state the reasons for the decision in writing. In order to be approved, an Applicant shall revise a SWPPP that has been approved with modifications or disapproved in accordance with the recommendations of the District and shall submit the revised SWPPP to the District for review.

C. For any Land Development Activity undertaken by the District, the District shall prepare a SWPPP that complies with the requirements of this Article prior to the start of construction.

Section 2.07 - Contents of SWPPPs

- A. All SWPPPs shall provide the following background information and erosion and sediment controls:
1. Background information about the scope of the project, including the location, type and size of the project;
 2. Site map/construction drawing(s) for the project, including a general location map. The site map should be at a scale of no smaller than one inch to 100 feet. At a minimum, the site map 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 Land Development 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;
 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 Erosion Control Manual, not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP;

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.

B. Land Development Activities meeting Condition A, B or C below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in § 2.07C of this Article as applicable:

1. Condition A - Stormwater runoff from a Land Development Activity discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

2. Condition B - Stormwater runoff from a Land Development Activity disturbing five (5) or more acres.

3. Condition C - Stormwater runoff from a Land Development Activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

C. SWPPP Requirements for Condition A, B or C (post-construction stormwater runoff controls):

1. All information in § 2.07A of this Article;
2. Description of each post-construction stormwater management practice;
3. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
4. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
5. Comparison of post-development stormwater runoff conditions with pre-development conditions;
6. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
7. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice; and
8. Maintenance easements to ensure access to all SMPs at the site for the purpose of inspection and repair, if required by the District. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.

D. The SWPPP shall be prepared by a licensed professional engineer, licensed landscape architect, licensed land surveyor holding the "N" exemption, or other licensed

professional approved by the District, and must be signed by such professional, who shall certify that the design of all SMPs meets the requirements in this Article.

E. Contractor Certification

1. Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or SMP 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 SWPPP. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
2. 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.
3. The certification statement(s) shall be included with and become part of the SWPPP for the Land Development Activity.

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.

Section 2.08 - Other Environmental Permits

The Applicant or Developer 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.

Section 2.09 - 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. Technical Standards. For the purposes of these Rules and Regulations, the following documents shall serve as the official guides and specifications for stormwater

management. SMPs that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by these Rules and Regulations:

1. The Design Manual; and
2. The Erosion Control Manual.

B. Equivalence to Technical Standards. Where SMPs are not in accordance with technical standards, the Applicant or Developer must demonstrate equivalence to the technical standards set forth in § 2.09A of this Article.

C. Water Quality Standards. Any Stormwater Discharged from Land Development Activities shall not cause or contribute to a violation of water quality standards, including, but not limited to:

1. There shall be no increase in turbidity that will result in a substantial visible contrast to natural conditions in surface waters of the state of New York;
2. There shall be no increase in suspended, colloidal and settleable solids that will cause deposition or impair the waters for their best usages; and
3. There shall be no residue from oil and floating substances, nor visible oil film, nor globules of grease.

ARTICLE III

PERMITS

Section 3.01 - SPDES Stormwater Permits

It shall be a violation of these Rules and Regulations for the District, any Person acting on behalf of the District, or any Applicant to fail to comply with any of the requirements of the SPDES General Permit for Stormwater Discharges from Construction Activity GP-02-01 and the SPDES General Permit for Stormwater Discharges from MS4s GP-02-02.

A. SPDES General Permit for Stormwater Discharges from Construction Activity GP-02-01:

1. No Construction Plans for a Land Development Activity shall be approved by the District nor any Permit issued for a Land Development Activity unless the Applicant has demonstrated compliance with the requirements of the SPDES General Permit for Stormwater Discharges from Construction Activity GP-02-01.

2. In accordance with the SPDES General Permit for Stormwater Discharges from Construction Activity GP-02-01, an NOI shall be submitted to NYSDEC prior to the start of a Land Development Activity to authorize the discharge of stormwater from the Development and an NOT shall be submitted to

NYSDEC upon completion of the Land Development Activity and final stabilization of the Premises. The NOI and NOT New York State forms are available at

<http://www.dec.ny.gov/>. No Construction Plans for a Land Development Activity shall be approved by the District no any Permit issued for a Land Development Activity unless the Applicant or Developer has submitted to the District a copy of any NOI submitted to NYSDEC pursuant to this section.

3. No Construction Plans for a Land Development Activity shall be approved by the District nor any Permit issued for a Land Development Activity unless the Applicant has submitted a SWPPP to the District where required under Article 2 of these Rules and Regulations.

B. SPDES General Permit for Stormwater Discharge to MS4 GP-02-02:

The District shall not issue a Permit to connect to the MS4 unless the Applicant

has demonstrated compliance with Article VI of these Rules and Regulations and stipulated in writing that it will not commit an Illicit Discharge. The District shall include in any Permit to connect to the MS4 a restriction prohibiting the Applicant from committing any Illicit Discharge, as defined in Article 1 of these Rules and Regulations.

C. SPDES Permit for Stormwater Discharges Associated with Industrial Activity.

Any Person subject to a SPDES General Permit for Stormwater Discharges Associated with Industrial Activities shall comply with the provisions of such permit. Proof of compliance may be required in a form acceptable to the District prior to allowing any discharges into the MS4.

Section 3.02 - Permit Required to Connect to MS4

No Person shall uncover, make any connection to, opening into, or Use, alter, relocate, create a blockage or restriction therein, cover any inlet structure, or disturb any Public Storm Sewer or any appurtenance thereto, without a valid Permit issued by the District. Any connection to, or other work on, a Public Storm Sewer shall only be made under District inspection with a valid written Permit issued by the District.

Section 3.03 - Approval of Storm Sewer Extensions

Construction, installation or modification of Storm Sewers intended to be or actually connected to the MS4, whether or not ownership is intended to be dedicated to the District, requires prior approval of the District and a valid Permit issued by the District.

Section 3.04 - Permit Application Procedure

The property owner of a Premises or his agent shall make application for a Permit on the form provided by the District at the District office. Additional information required by these Rules and Regulations shall also be supplied with the application. If application is made by a property owner's agent, such agent must present written authorization from the property owner.

Section 3.05 - Information Required for a Permit

A. Permits - Connection to MS4

1. For a new connection to, or relocation, alteration, Storm Water inlet installation or two or any other change to a Public Storm Sewer from or for a single one family Premises, the Permit application shall include, along with the

application form, a description and location map, drainage calculations and a detailed plan and profile of the connecting pipe or change. Such information provided shall be adequate and acceptable to the District.

2. For connection to the MS4 from or for any Premises other than a single one or two family Premises, the Permit application shall include, along with the application, three (3) sets each of an engineer's report with a description, and Surface Runoff calculations pursuant to the ENCRPB Design Manual or other calculation method as approved by the District, and engineering plans including a location map and showing topographic features on the plan and profile(s). The engineer's report and engineering plans shall be signed and sealed by a New York State Licensed Professional Engineer, an Architect registered in New York State or a Licensed Land Surveyor holding the "N" exemption. The engineer's report shall include a downstream capacity analysis describing the manner in which capacity for the proposed connection(s) is or will be provided in the downstream Storm Sewer System. Such information provided shall be adequate and acceptable to the District.
3. Any application for a Permit shall include the Applicant's written stipulation, pursuant to § 3.01B of these Rules and Regulations, that the Applicant will not commit an Illicit Discharge.

4. Any application for a Permit shall include a SWPPP, if required under Article II of these Rules and Regulations and a copy of the NOI submitted to NYSDEC, if required under the General Permit for Stormwater Discharges from Construction Activities GP-02-01.

B. Permits - Subdivisions

For Subdivisions, Open Developments, mobile home parks, industrial parks and any Development where property is subdivided or intended to be subdivided for sale, the Applicant shall submit to the District for prior approval:

1. Three (3) sets of a completed application form;
2. An engineer's report with a description and Surface Water Runoff calculations pursuant to the ENCRPB Design Manual or other calculation method as approved by the District;

3. Engineering plans, including a location map and showing topographical features on a plan and profiles of the proposed Storm Sewers, sanitary sewers, water lines and pavements; a topographical map of existing and proposed elevations;
4. A Premises drainage and grading plan;
5. A SWPPP, if required under Article II of these Rules and Regulations; and
6. A copy of the NOI submitted to NYSDEC, if required under the General Permit for Stormwater Discharge from Construction Activity GP-02-01.

The engineer's report shall include a downstream Storm Sewer capacity analysis describing the manner in which capacity for the proposed connection(s) is or will be provided in the downstream Storm Sewer System. The plans and engineer's report shall be signed and sealed by a New York State licensed professional engineer, a New York State registered architect or a licensed land surveyor holding the "N" exemption. A proposed map cover, if the plan is to be platted, is also required. Such information provided shall be adequate and acceptable to the District.

C. Permits – Other

Persons may apply to the District to allow the extension of Public Storm Sewers where such extension is not part of a new Subdivision plan. The design, easement and title, construction, inspection, and acceptance requirements shall be as provided in Sections 4.02 and 4.03 of these Rules and Regulations.

The Applicant shall provide an engineer's report, including drainage calculations, and three sets of construction plans showing the proposed Storm Sewer and related facilities. The Applicant shall also provide a SWPPP, if required under Article II of these Rules and Regulations, and a copy of the NOI submitted to NYSDEC, if required under the General Permit for Stormwater Discharges from Construction Activities GP-02-01. Provided, however, the Board may for good cause, on a case by case basis, waive the requirement for an Engineer's Report and drainage calculation; also provided, however, that if a SWPPP is required under Article II of these Rules and Regulations, such requirement may not be waived by the Board. The Board shall in each case of a waiver indicate the reason thereof.

The Board upon finding that the proposal is feasible, and finding that the requirements of these Rules and Regulations have been met, may authorize the Public Storm

Sewer extension to be installed and specify the size and location thereof.

Section 3.06 - Permit Issuance

A Permit is issued for a single Premises and is valid when signed by an authorized District representative. Permits are valid for six months from the date issued but may be renewed upon application by the Permit holder subject to specific approval of the District, for each successive six month period.

A Permit shall be subject to the availability of Peak Flow capacity in the MS4. Permits may contain Peak Flow limits, conditions and specific performance requirements as determined by the District when issued or renewed. Issuance of a Permit may be withheld on any Premises in nonconformance with these Rules and Regulations, in arrears on property taxes or if in violation of any Federal, State or District requirements.

Section 3.07 - Permit Modifications

Permits may be modified by the District for cause subsequent to the date of issue. The modification shall become effective on the date ordered by the District. When modified, the User may petition for a hearing on the modification. The petition may include a request to forestall the effective date of the Permit modification pending the outcome of the hearing. Such hearing shall follow the procedures of Article IX of these Rules and Regulations as related to notice, representation and conduct.

Cause for Permit modification shall include, but not be limited to the following conditions:

- A. If EPA or NYSDEC adds or amends Stormwater discharge regulations;
- B. If EPA or NYSDEC require specific performance;
- C. If the Board determines it is necessary to correct a violation of these Rules and Regulations;
- D. If the use of the Premises changes;
- E. If the original design calculations significantly fail to reflect the actual percentages of pervious and impervious surfaces, slopes or other drainage characteristics of the premises;
- F. If the District determines that mitigation measures are necessary where the permitted activity or condition has caused flooding, pollution or damage to the Storm Sewer System;
- G. If the District determines that the installation of the permitted Storm Sewer or its connection to the MS4 is other than as was approved by the District; and

H. If the District determines that imminent endangerment to Persons, property or the environment has or may result from the permitted activity or condition.

Modification of a Permit shall not preclude the District from subsequently initiating action to revoke a Permit pursuant to Section 9.07 of these Rules and Regulations.

Section 3.08 - Flow Measurement and Sampling

When requested by the District or when required pursuant to law, regulations, or a SPDES Stormwater Permit, the real property owner of the Premises shall provide reasonable measurements of flows and sampling for pollutants at no cost to the District, and submit the results to the District.

ARTICLE IV

STORM SEWER STANDARDS

Section 4.01 - Conflict

Where any of the standards or requirements outlined in this Article conflict with the standards imposed by a SPDES Stormwater Permit, the Design Manual, or the Erosion Control Manual, the standards which are more restrictive and impose higher standards or requirements shall govern.

Section 4.02 - Drainage Facilities Requirements and Mitigation

In addition to complying with any SWPPP submitted pursuant to these Rules and Regulations, the following standards shall apply:

A. All new Development, Storm Sewers, modifications to existing Storm Sewers, Detention Ponds, Retention Ponds and related facilities and appurtenances shall conform to the *Construction Specifications for Erie County Sewer District No. 6*.

B. For new Development, Storm Sewers, modifications to existing Storm Sewers, Detention Ponds, Retention Ponds, Stormwater Facilities, and related facilities and appurtenances proposed to be installed or connected to the MS4 or requiring a Permit under these Rules and Regulations, the application, plans or sketches, engineer's report, and any SWPPP required to be submitted shall provide sufficient information to demonstrate that adequate site and downstream Storm Sewer System capacity exists for such Storm Frequency required by the Design Manual or the Erosion Control Manual, but in no case shall such Storm Frequency be more frequent than ten (10) years, for all Storm Durations corresponding to the drainage basin characteristics. The applicable Storm Frequency and basin characteristics shall be determined in conformance with the ENCRPB Design Manual, the Design Manual, and the Erosion Control Manual.

C. Where adequate downstream capacity, as measured by the applicable Storm Frequency and Storm Duration standard, cannot be demonstrated to the satisfaction of the District, mitigation measures shall be proposed. The mitigation measures shall provide, either singularly or in combination, an increase in downstream Storm Sewer capacity equal to the

design Storm Peak Flow or the design shall limit the Storm Peak Flow to conditions pre-existing the proposed Development. Where a needed increase in downstream Storm Sewer capacity is not provided, as determined by the District, the design Peak Flow of Stormwater exiting the Premises shall be limited to the calculated Stormwater Peak Flow for pre-existing conditions.

Any proposed structural measure to limit the design Peak Flow of Stormwater to the pre-existing calculated Peak Flow of Stormwater, such as but not limited to a Detention Pond or a Retention Pond, shall remain privately owned by the owner of the Premises and shall not become part of the MS4.

Excess capacity for any upstream Premises including future Developments shall be provided for in sizing Storm Sewers.

D. Storm Sewers or Stormwater shall not discharge over or onto sidewalks, walkways, driving surfaces or in any manner that causes or can be reasonably expected to cause a hazard to pedestrians or vehicular traffic.

E. Erosion, sediment control and pollution prevention requirements shall be addressed in the Permit application process or the engineer's report. Erosion, sediment control and pollution prevention measures proposed shall be shown on detailed sketches, engineering plans where engineering plans are required, or any SWPPP where required under these Rules and Regulations.

Where Storm Sewers are intended or required to be dedicated to the District, a permanent easement and title form, in a form acceptable to the District, shall be provided prior to Permit issuance.

Section 4.03 - Storm Sewers Associated With Subdivisions

In addition to the requirements in the preceding subsection, all proposed subdivisions shall be drained by Storm Sewers designed and installed in or at the proposed right-of-way. These installed Storm Sewers shall become a part of the MS4 upon complete installation to District standards and acceptance by the District.

Storm Sewers in proposed subdivisions shall be designed to provide accessibility and Storm Sewer capacity for upstream properties.

An easement and title form, furnished by the Division of Sewerage Management, conveying to the County of Erie the required easements and titles for the planned Public Storm Sewers shall be completed and submitted to the Division of Sewerage Management before final approval of plans.

Section 4.04 - Financial Assistance

The Person making application under Section 3.05C, may also petition the Board in writing for financial assistance in extending the Public Storm Sewers. The petition shall demonstrate to the Board that the Public Storm Sewer extension will benefit other Premises within the District.

The District may, in consideration of the benefit to the District as a whole, supply a portion of the Public Storm Sewer at the District's expense in an amount not to exceed the budgetary amount available and determined in the following manner:

A. The District may provide pipe, drainage inlets and manhole materials for the proposed Public Storm Sewer, or may pay up to the cost of the pipe required to be installed to allow for future extension.

B. If the Board grants the petition, the Applicant shall, before proceeding with construction, provide financial security in a form suitable to the District such as, but not limited to, a certified check payable to Erie County in an amount equal to the cost of materials supplied by the District. In the event the materials supplied by the District are lost or rendered unusable by reason of the Applicant's action or inaction, the security supplied by the Applicant shall be forfeited. Reimbursement by the District will be made only upon satisfactory completion of the Storm Sewer installation.

C. Insurance, naming the County as insured, shall be supplied in a form acceptable to the County Attorney's Office prior to commencement of any work on any proposed Storm Sewers installation for which the District supplies materials.

Section 4.05 - Posting of Maintenance Bonds

Any Person installing an extension to the MS4 or a Storm Sewer system within or as part of a Subdivision, shall post a maintenance bond with the County of Erie, guaranteeing the system for a period of two (2) years from the time of acceptance by the Division of Sewerage Management. During this period, any defects in the system shall be corrected at the expense of said Person. The maintenance bond shall be in an amount equal to 25% of the cost of construction of the system.

Public Storm Sewer extensions installed under Section 3.05C shall post a maintenance bond for that portion supplied by the District when specifically required by the Board.

ARTICLE V

CONSTRUCTION SPECIFICATIONS

Section 5.01 - Construction Specifications for Erie County Sewer Districts

Storm Sewers and related facilities and appurtenances shall be constructed in accordance with the standard list of materials, specifications and standard details of construction as set forth in the *Construction Specifications for Erie County Sewer Districts* prepared by and available from the Erie County Department of Environment and Planning, Division of Sewerage Management, and as they may be revised. Notwithstanding the foregoing, all Stormwater Facilities and SMPs shall be constructed in accordance with any SWPPP submitted pursuant to these Rules and Regulations.

Section 5.03 - Post-Construction Stormwater Management -

All permanent structural and/or non-structural SMPs or Stormwater Facilities shall be designed and constructed in such a manner that will reduce the discharge of pollutants to the maximum extent practicable.

ARTICLE VI

POLLUTION CONTROL

Section 6.01 - Prohibition of Illicit Discharges

A. Neither the District nor any User shall discharge or cause to be discharged into the MS4 any materials other than Stormwater except as provided below in Section 6.01B. The commencement, conduct or continuance of any Illicit Discharge to the MS4 is prohibited except as described as follows.

B. Exemptions

a. The following discharges shall be exempt from the discharge prohibitions established by this Article, unless they are determined by NYSDEC or the District to be substantial contributors of pollutants:

1. Water line flushing or other potable water sources;
2. Landscape irrigation or lawn watering;
3. Existing diverted stream flows;
4. Rising groundwater;
5. Uncontaminated groundwater infiltration to storm drains;
6. Uncontaminated pumped groundwater;
7. Foundation or footing drains, crawl space or basement sump pumps;
8. Air conditioning condensate;
9. Irrigation water;
10. Springs;
11. Water from individual residential car washing;
12. Natural riparian habitat or wetland flows;
13. Dechlorinated swimming pool discharges;
14. Residential street wash water;
15. Water from fire fighting activities; and
16. Any other water source not containing Pollutants.

b. Discharges approved in writing by the District to protect life or property from imminent harm or damage shall be exempt from the discharge prohibitions established by this Article, provided that such approval shall not be construed to constitute compliance with other applicable laws and requirements, and

time
and

further provided that such discharges may be permitted for a specified period and under such conditions as the District may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this Article.

exempt

c. Dye testing in compliance with applicable state and local laws shall be exempt from the discharge prohibitions established by this Article, but requires a written notification to the District prior to the time of the test.

d. The prohibition against Illicit Discharges shall not apply to any discharge permitted under a SPDES Stormwater Permit, waiver, or waste discharge order issued to the discharger and administered under the authority of NYSDEC, 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.

Section 6.02 - Additional Specific Prohibitions

In addition to the discharges prohibited under § 6.01 of these Rules and Regulations, the substances prohibited from discharge into the MS4 shall include, but are not limited to the following:

A. Ignitable or flammable substance(s) which by reason of their nature or quantity are, or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the Storm Sewer System. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides and any other substance which is a fire hazard or a hazard to the Storm Sewer System;

B. Any toxic waste, pollutant or poisonous solid, liquid, or gas either singly or which by interaction with other substances, constitutes a hazard to humans, animals, the environment, causes a public nuisance, or causes any hazardous or toxic effects;

C. Any noxious or malodorous liquid, gas, or solid which either singly or by interaction with other substances is sufficient to create a public nuisance, cause acute or chronic health or safety problems or prevents entry into the Storm Sewer System for maintenance and repair;

D. Sanitary Sewage or Industrial Wastes;

E. Solids and solid substances, or viscous substances, which cause or may be expected to cause obstruction to the flow in the Storm Sewer System, such as, but not limited to: soil, silt, yard wastes, ashes, cinders, sand, cement, concrete stone, mud, metals, glass, plastics, wood, shavings, construction debris, rags, waste paper, grass clippings, wood, brush, straw, hair, hides or fleshings, feathers, entrails, animal remains, bones, tar, asphalt residues, food wastes or garbage;

F. Fuel, lubricating oils or antifreeze;

G. Oil, grease or any substance which may precipitate, solidify, congeal, or become viscous;

H. Discolorations, such as, but not limited to, dye water and vegetable tanning solution;

I. Cleaning materials, surfactants, soaps, detergents or foaming substances;

J. Livestock or other animal wastes;

K. Water or wastes having a pH lower than 6.5 or higher than 8.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment or maintenance personnel of the Storm Sewer System;

L. All discharges at temperatures that exceed 104 degrees Fahrenheit (40 degrees Celsius);

M. Any radioactive pollutant(s) or substance(s), or any radioactive isotope of half-life or concentration exceeding limits established by state or federal laws or regulations; or

N. Any trucked or hauled liquid or solid.

Section 6.03 - Prohibition of Illicit Connections

A. The construction, use, maintenance or continued existence of Illicit Connections to the MS4 is prohibited.

B. 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.

C. A Person is considered to be in violation of these Rules and Regulations if the Person connects a line conveying sewage to the MS4 or allows such a connection to continue.

Section 6.04 - 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 District's SPDES General Permit for Stormwater Discharges from MS4s GP-02-02; or
2. Cause or contribute to the District being subject to one or more of the Special Conditions.
3. Such activities include improper management of pet waste or any other activity that causes or contributes to violations of the District's SPDES General Permit for Stormwater Discharges from MS4s GP-02-02 authorization.

B. Upon notification to a Person that such Person is engaged in activities that cause or contribute to violations of the District's SPDES General Permit for Stormwater Discharges from MS4s GP-02-02 authorization, that Person shall take all reasonable actions to correct such activities such that such Person no longer causes or contributes to violations of the permit authorization.

Section 6.05 - Best Management Practices

Where the District has identified an Illicit Discharge or an activity contaminating stormwater, as defined in § 6.04A of this Article, the District may require implementation of BMPs to control those Illicit Discharges and activities.

A. 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 storm sewer through the use of structural and/or non-structural BMPs.

B. Any Person responsible for a property or Premises, which is, or may be, the source of an Illicit Discharge or an activity contaminating stormwater, as defined in § 6.04A of this Article, may be required to implement, at said person's expense, additional structural and non-structural BMPs to eliminate the source of Pollutant(s) to the MS4.

C. Compliance with all conditions of a valid SPDES permit authorizing the discharge of Stormwater associated with an industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this Article.

Section 6.06 - Condition of Permit

Any Permit issued pursuant to these Rules and Regulations shall only be valid if the Applicant complies with the Illicit Discharge prohibitions contained in this Article. In accordance with Section 3.01B of these Rules and Regulations, the District shall include in any Permit a restriction prohibiting the Applicant from committing any Illicit Discharge.

Section 6.07 - Industrial Dischargers

Any Person subject to an industrial 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 District prior to the allowing of discharges to the MS4.

ARTICLE VII

UNPERMITTED OR ACCIDENTAL SPILLS

Section 7.01 - Notification Procedures

A. Notification of District. In the case of any Illicit Discharge to the MS4, it is the responsibility of the User or other Person causing or allowing such Illicit Discharge to immediately notify the District. The notification shall include the location, type, concentration and estimated amount of material discharged, and corrective actions planned and taken.

B. Immediate Containment and Cleanup. Notwithstanding any 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 Illicit 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 that such a release contains 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 District 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 District 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.

C. Report to District. The responsible User or other Person shall within five (5) days of the unpermitted discharge or other prohibited discharge, submit to the District a detailed written report describing the cause of the discharge and measures taken or to be taken to prevent future occurrences. Compliance with this section shall not relieve the User or other Person of any notifications required by State or Federal laws, or regulations, or from any fines, civil penalties, or other liability which may be imposed by these Rules and Regulations or other applicable laws.

ARTICLE VIII

POWERS AND AUTHORITY

Section 8.01 - Inspection, Monitoring, and Access

A. Routine Inspection. Authorized representatives of the District, bearing proper identification, shall be permitted to enter upon all Premises in the District and contracting tributary areas which are served by the MS4 for the purpose of inspection, observation, records examination and copying, measurement, sampling and testing and the performance of any additional duties relative to the Use or connection to the MS4 or to the construction or extension of Storm Sewers, in accordance with these Rules and Regulations. Such access shall be provided during normal business hours Monday through Friday excluding holidays upon reasonable notification to the owner, User, their employees, security personnel or representative. Unreasonable delays or denial in allowing access to the User's Premises shall be a violation of these Rules and Regulations.

B. Inspection Upon Suspected Violation. In the event the District has reasonable cause to suspect that a violation of these Rules and Regulations exists, the District personnel shall be granted access upon so informing the owner, User, their employees, security personnel or representative that there is a suspected violation. Inspections may include, but are not limited to inspection; observation; records examination and copying; measurement; sampling and testing; reviewing maintenance and repair records; evaluating the condition of drainage control facilities and other SMPs; and the performance of any additional duties relative to the Use or connection to the MS4 or in connection with the construction or extension of Storm Sewers. In the event access is denied, or otherwise prevented, the District may seek a warrant from a court of competent jurisdiction to enter such Premises. Pursuing a warrant to enter a Premises shall not limit the application of other remedies under these Rules and Regulations.

C. Construction Inspections.

1. The District may require such inspections as necessary to determine that all Land Development Activities for which a Permit has been issued comply with these Rules and Regulations and any approved SWPPP. The District may either approve that portion of the work completed or notify the Applicant wherein the work fails to comply with the requirements of these Rules and Regulations or the approved SWPPP. To obtain inspections, the Applicant

shall notify the District at least forty-eight (48) hours before any of the following, as required by the District:

- a. Start of construction;
- b. Installation of sediment and erosion control measures;
- c. Completion of site clearing;
- d. Completion of rough grading;
- e. Completion of final grading;
- f. Close of the construction season;
- g. Completion of final landscaping; or
- h. Successful establishment of landscaping in public areas.

2. If any violations are found, the 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 District.

3. Stormwater Management Practice Inspections. The District is responsible for conducting inspections of SMPs. All Applicants are required to submit “as-built” plans for any SMPs 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 professional engineer.

4. Inspection of Stormwater Facilities After Project Completion. Inspection programs shall 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 SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws.

5. Submission of Reports. The District may require monitoring and reporting from entities subject to these Rules and Regulations as are necessary to

determine compliance with these Rules and Regulations.

ARTICLE IX

ENFORCEMENT

Section 9.01 - Notice of Violation

When the District finds or has reasonable information and belief that a User or other Person has violated or is violating any provision of these Rules and Regulations or an order issued hereunder, or any other requirement of these Rules and Regulations, the District may serve upon that User or other Person a written Notice of Violation.

A. Such Notice of Violation may require without limitation:

1. The elimination of Illicit Connections or Illicit Discharges;
2. Remedial measures necessary to bring a Land Development Activity into compliance with these Rules and Regulations;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
5. The performance of monitoring, analyses, and reporting;
6. Payment of a fine; and
7. The implementation of source control or treatment BMPs.

B. The Notice of Violation shall include:

1. The name and address of the landowner, 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 any remedial measures required by the District as set forth in Section 9.01A of these Rules and Regulations;
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; and
6. A statement that the determination of violation may be appealed to the

District Notice by filing a written notice of appeal within twenty (20) days of service of Notice of Violation.

C. 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 prior to 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.

Within twenty (20) days of the receipt of such Notice of Violation, the User or other responsible Person shall submit to the District a written explanation of the cause of the violation, and a plan listing the steps taken or planned to be taken for the correction and prevention thereof, in accordance with the deadline established in the Notice of Violation. Such plan is subject to approval by the District. Submission of this explanation and plan in no way relieves the User or other Person of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the District to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

Section 9.02 - Consent Stipulation

The Board may enter into a Consent Stipulation whereby a User agrees to voluntary compliance in lieu of further enforcement for noncompliance. Such Consent Stipulation shall include specific actions to be taken by the User to correct the noncompliance within time periods specified. Such Consent Stipulation shall have the same force and effect as a Compliance Order issued pursuant to these Rules and Regulations and shall be judicially enforceable.

Section 9.03 - Enforcement Hearing

Whenever it shall appear that there has been a violation of any provision of these Rules and Regulations, the Board may cause a hearing to be held. If a User or other Person is not the Premises owner, the Board may bring an enforcement action against either or both parties. The alleged violator(s) shall be served a Notice of Hearing at least twenty (20) days prior to the day specified for the hearing. The notice shall state the time and place designated for the holding of the hearing and particulars of the violation(s) charged.

Section 9.04 - Hearing Procedures

At the time of holding the hearing the alleged violator may be represented by legal

counsel. All parties may present evidence, offer testimony, examine and cross examine witnesses and submit arguments and briefs. Failure to appear or to produce evidence or information relative to the alleged violation may be presumed an admission of the alleged violation.

The Board may, in lieu of conducting the hearing itself, appoint a hearing officer to conduct the hearing.

The Board shall determine if violation(s) have occurred based upon its own investigation as well as the evidence, statements and information presented at the hearing, and upon the hearing officer's report and recommendation where a hearing officer has been appointed.

Section 9.05 - Hearing Findings

Upon finding that a violation occurred, the Board may levy a premium assessment for such violation. Where the Board finds that violations are continuing, or can be reasonably expected to continue, the Board may in addition to or in lieu of a premium assessment, issue a Compliance Order to the User or other Person requiring that the User or other Person come into compliance within a specified time frame, with milestones dates; or the Board may issue a Cease and Desist Order to the User or other Person directing the User or other Person to take such appropriate remedial or preventive action as may be needed to halt or prevent continuing or threatened violations.

The Board may enforce these Rules and Regulations by stipulation, agreed settlement, consent order or other conciliation agreements. A Compliance Order or Cease and Desist Order does not relieve the User or other Person of liability for any violation, including any continuing violation. The levy of a premium assessment or issuance of a Compliance Order or Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the User or other Person.

Section 9.06 - Emergency Suspensions

The District may suspend a User's right to discharge whenever the District deems such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of Persons or the environment or the MS4.

The District shall notify the Person of such suspension, including the reasons for the suspension, in writing, within a reasonable time thereafter. Any User notified of a suspension of its discharge shall immediately stop or eliminate the discharge. In the event of a User's failure to immediately comply voluntarily with the suspension notice, the District may take such steps as deemed necessary, including immediate severance of the causative Storm Sewer connection, to prevent or minimize endangerment to any Persons or the environment.

The District may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the District that the period of endangerment has passed, unless the revocation proceedings of these Rules and Regulations are initiated against the User.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this Section.

Section 9.07 - Suspension or Revocation of Permit

A. Suspension Due to an Illicit Discharge.

Any Person discharging to the MS4 in violation of these Rules and Regulations may have their MS4 access terminated if such termination would abate or reduce an Illicit Discharge. The District shall notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the District for a reconsideration and hearing. Access may be granted by the District if it finds that the Illicit Discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the District determines in writing that the Illicit Discharge has not ceased or is likely to reoccur. A Person commits an offense if the Person reinstates MS4 access to the Premises terminated pursuant to these Rules and Regulations, without the prior approval of the District.

B. Revocation of Permit.

The Board may revoke permission to connect to the MS4 after a hearing held pursuant to these Rules and Regulations.

Any User who violates any of the following conditions may be subject to revocation of such User's Permit:

1. Violation of these Rules and Regulations which the Board has determined

warrants revocation;

2. Violation of a Permit where the Board determines that future compliance cannot be expected to occur;
3. Failure to accurately report the characteristics of its discharge;
4. Failure to report significant changes in drainage conditions, Storm Sewer connections or Peak Flow controls;
5. Refusal of reasonable access to the User's Premises for the purpose of inspection, monitoring or sampling;
6. Falsification of data or information required or related to compliance; or
7. Failure to pay sewer charges or premium assessments within ninety (90) days from the District's notice requesting payment of amounts past due.

Any User whose Permit has been revoked shall immediately cease the discharge(s) covered by the Permit revocation order. The Board may order the discharge line(s) that are in violation disconnected or blocked from the MS4 to ensure compliance with the revocation order.

The Board may authorize the issuance of a new Permit for the revoked Permit location upon proof of satisfactory compliance with all requirements of these Rules and Regulations and receipt of a new application and payment of all fees and premium assessments. Costs incurred by the Board in revoking the Permit and disconnecting or blocking the discharge shall also be paid by the Applicant before a new Permit can be issued.

ARTICLE X

PENALTIES

Section 10.01 - Premium Assessment

Violations of these Rules and Regulations will be subject to a premium assessment not to exceed a maximum of one thousand dollars (\$1000) for each violation. In determining the amount of the premium assessments the Board may consider factors such as, but not limited to, the nature of the violation, the magnitude of impact of the violation on human health, property, the environment and/or Storm Sewer System operation, the User's past violation record, and other relevant factors.

Each day a violation exists shall constitute a separate violation. A day shall be a twenty-four hour period beginning at 12:01 AM and ending on the following 12:01 AM.

Section 10.02 - 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 these Rules and Regulations 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.

Section 10.03 - Remedies Not Exclusive-

The remedies listed in these Rules and Regulations 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.

ARTICLE XI

LIABILITY

Section 11.01 - General

Any Person violating any of the provisions of these Rules and Regulations shall become liable to the District for any expense, loss or damage occasioned the District by reason of such violation.

In addition, if NYSDEC and/or EPA fines the District as the result of any Person violating any of the provisions of these Rules and Regulations, the fine shall be passed on to the responsible Person.

Section 11.02 - Excessive Storm Sewer System Maintenance and/or Repair Expense -

Any User or other Person who introduces, permits the introduction of, or causes the introduction of, a prohibited substance into the MS4 which creates a stoppage, plugging, reduction in Storm Sewer capacity or any other damage to the MS4 or which causes pollution or environmental damage shall be liable for any resulting additional maintenance and/or repair expenses in addition to any other penalties and/or remedies contained in these Rules and Regulations.

Any User or other Person who causes breakage, stoppage, plugging, improper connection into, removal or disturbance of covers, reduction in Storm Sewer capacity or any other damage to the MS4 or causes pollution or environmental damage shall be liable for the resulting additional maintenance and/or repair expense in addition to any other penalties and/or remedies contained in these Rules and Regulations. Expenses attributable thereto will be charged to that User or other Person.

Refusal to pay the additional maintenance and/or repair expenses duly determined and levied by the Board shall constitute a violation of these Rules and Regulations.

Section 11.03 - Legal Action

Nothing in this Article shall be construed to limit the right of the Board to enforce, or avail themselves to the benefits of any and all other applicable laws and ordinances, including injunctive relief.

When the Board finds that a User or other Person has violated, or continues to violate, any provision of these Rules and Regulations, an Order issued hereunder, or any other requirement of these Rules and Regulations, the Board may petition to a Court of competent jurisdiction, through the County Attorney's Office for the issuance of a temporary or permanent injunction. The Board may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the responsible User or other Person to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action including but not limited to seeking specific performance or assessing civil penalties against a User or other Person.

ARTICLE XII

SPECIAL STORM SEWER CHARGES

Section 12.01 - Fee for Permit and Inspection Charges

Each Applicant for a Permit shall pay a fee for the Permit and applicable inspection charges. The amount of the fee and inspection charges shall be determined by the Board and will be posted in the District office. The fee and inspection charges shall be paid at the time the Permit is issued.

Section 12.02 - Unpaid Storm Sewer Charges

Payment of Sewer charges is due within thirty (30) days of invoice. Unpaid Sewer charges including premium assessments shall become a lien upon the premises for which, or in connection with which, Sewer services were provided as and from the first day fixed for payment of such charges. Interest shall be due and payable as in the same manner as other County taxes.

ARTICLE XIII

SAVING CLAUSE

Section 13.01 - Validity

The invalidity of any section, clause, sentence or provision of these Rules and Regulations shall not affect the validity of any other part of these Rules and Regulations which can be given effect without such invalid part or parts.

ARTICLE XIV

ADOPTION

Section 14.01 - Rules and Regulations in Force

These Rules and Regulations, as amended by the Erie County Legislature, shall be in full force and effect upon their adoption as provided by law.

Adopted by the Erie County Legislature at the 25th session on December 12, 2002, being Committee Reference 20E-53, as amended by the Erie County Legislature at the 18th session on October 11, 2007, being Committee Reference Comm. 16E-37.

MAS:ss

10/06

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