

**Resolution No. 2007-209**

**EXTRACTION OF MINUTES OF MEETING OF TOWN BOARD ADOPTING A  
RESOLUTION ADOPTING LOCAL LAW NO. 9 OF 2007 AMENDING CHAPTER 196  
OF THE IRONDEQUOIT TOWN CODE WITH RESPECT TO STORMWATER  
MANAGEMENT FOR ILLICIT DISCHARGE CONNECTIONS**

At a regular meeting of the Town Board of the Town of Irondequoit, Monroe County, New York held at the Town Hall, 1280 Titus Avenue in said Town of Irondequoit on the 18th day of December, 2007 at 7:00 p.m. local time; there were

PRESENT:

Mary Ellen Heyman  
Gail Bello  
Lydia V. Dzus  
Debbie Evans  
James C. Turner

Town Supervisor  
Town Board Member  
Town Board Member  
Town Board Member  
Town Board Member

Woods Oviatt Gilman LLP

Attorneys to the Town

Town Board member Turner offered the following resolution and moved its adoption:

**WHEREAS**, it is determined that the regulation of stormwater runoff discharges from land development projects and other construction 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 prevent threats to public health and safety; and

**WHEREAS**, the Town has complied with the requirements of the New York State Environmental Quality Review Act, and the applicable regulations promulgated thereunder (“SEQRA”).

**NOW, THEREFORE, BE IT RESOLVED** that Chapter 196 of the Code be amended pursuant to the provisions of the following Local Law:

**LOCAL LAW No. 9 of 2007**

**TOWN OF IRONDEQUOIT, NEW YORK**

**FOR**

**AMENDMENT TO CHAPTER 196 OF THE IRONDEQUOIT TOWN CODE WITH RESPECT TO STORMWATER MANAGEMENT FOR ILLICIT DISCHARGE CONNECTIONS**

**BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF IRONDEQUOIT, COUNTY OF MONROE, STATE OF NEW YORK AS FOLLOWS:**

1. **SEQRA.** The Town hereby determines that the proposed amendments to Chapter 196 of the Irondequoit Town Code, as hereinafter set forth, constitute an Unlisted Action under SEQRA. Based on its review of the Environmental Assessment Form, the Town determines that such proposed amendments do not present potential significant adverse environmental impacts. In light of these findings, the Town hereby issues a Negative Declaration under SEQRA for the proposed action.

2. **AMENDMENT TO CHAPTER 196.** Chapter 196 of the Code is hereby amended by adding thereto Article III to read as follows:

**Chapter 196**

**STORMWATER MANAGEMENT**

**Article III.**

**Illicit Discharge Connections**

**Section 196-34. Purpose/Intent**

The purpose and intent of this article III is to ensure the health, safety and general welfare of citizens, and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. §1251 et seq.) by (i) reducing Pollutants in storm water discharges to the maximum extent practicable; (ii) prohibiting non-storm water discharges to the storm drain system.; and (iii) prohibiting stormwater discharges to Sanitary Sewers.

## **Section 196-35. Definitions**

For the purpose of this article, the following shall mean:

**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.

**Construction Activity** – Activities subject to SPDES Construction Permits. Currently these include construction projects resulting in land disturbance of 1 acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

**Discharger** - Any individual, association, organization, partnership, firm, corporation or other entity discharging stormwater to the municipal storm sewer.

**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 storm drain system, except as exempted in Section 196-41 and any stormwater discharges to the Sanitary Sewer except as permitted by the Town of Irondequoit.

**Illicit Connections** – An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an Illegal Discharge to enter the storm drain system including, but not limited to, any conveyances which allow any Non-Stormwater Discharge including sewage, process wastewater and wash water to enter the storm drain system and any connection 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 a government agency; or
2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by the Town of Irondequoit.
3. Any stormwater discharge to a Sanitary Sewer unless approved by the Town of Irondequoit.

**Industrial Activity** – Activities subject to SPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

**Industrial Wastes** - any liquid, gaseous or solid substance or a combination thereof which is an undesired by-product waste resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources, except garbage.

**Non-Stormwater Discharge** – Any discharge to the storm drain system that is not composed entirely of stormwater.

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

**Pollutant** – Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordinances and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

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

**Private Sewage Disposal 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 of the State of New York.

**Sanitary Sewer** - A sewer, which transports sewage and to which storm, surface and ground waters are not intentionally admitted.

**Sewage** - A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm water as may be inadvertently present. The admixture of sewage with industrial wastes as defined above or other wastes also shall be considered “Sewage” within the meaning of this definition.

**Special Conditions** –

1. Discharge Compliance with Water Quality Standards. The condition that applies where a municipality has been notified that the discharge of stormwater authorized under their Municipal Separate Storm Sewer (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 Town of Irondequoit must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

2. 303(d) Listed Waters. The condition in the Town of Irondequoit's MS4 Permit that applies where the Town of Irondequoit discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed Pollutant of concern to the 303(d) listed water.
3. Total Maximum Daily Load (TMDL) Strategy. The condition in the Town of Irondequoit 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 Town of Irondequoit discharges. If the discharge from the Town of Irondequoit did not meet the TMDL stormwater allocation prior to September 10, 2003, the Town of Irondequoit was required to modify its stormwater management program to ensure that reduction of the Pollutant of concern specified in the TMDL is achieved.
4. The condition in the Town of Irondequoit's MS4 Permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which the Town of Irondequoit discharges. Under this condition the Town of Irondequoit must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If the Town of Irondequoit is not meeting the TMDL stormwater allocations, the Town of Irondequoit 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 NYSDEC (under authority delegated pursuant to 33 U.S.C. § 1342 (b)) that authorizes the discharge of Pollutants to waters of the United States, whether the permit is applicable on an individual or general area-wide basis.

**Storm Drainage System** – Publicly-owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels (i.e. ditches), reservoirs and other drainage structures.

**Stormwater** – Any surface flow, runoff or drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

**Stormwater Pollution Prevention Plan (SWPPP)**– A document which describes the Best Management Practices and activities to be implemented by a Person to identify sources of pollution or contamination at a site and the actions to eliminate or reduce Pollutant discharges to Stormwater, Stormwater Conveyance Systems and/or receiving Waters to the Maximum Extent Practicable.

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

**Total Maximum Daily Load (TMDL)** – The maximum amount of a Pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that Pollutant.

**Town of Irondequoit** – Employees or designees of the director of the municipal agency designated to enforce this article.

**Wastewater** – Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

**Waters of the United States** – Surface watercourse and water bodies as defined at 40 CFR § 122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.

**Watercourse** - Waters of the United States as defined at 40 CFR § 122.2.

**Section 196-36. Applicability**

This article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Town of Irondequoit. This article also applies to stormwater entering the Sanitary Sewers.

**Section 196-37. Responsibility for Administration**

The Town of Irondequoit shall administer, implement and enforce the provisions of this article. Any powers granted or duties imposed upon the Town of Irondequoit may be delegated in writing by the Supervisor of the Town of Irondequoit to persons or entities acting in the beneficial interest of or in the employ of the agency.

**Section 196-38. Severability**

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

**Section 196-39. Ultimate Responsibility**

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore, this article does not intend or imply that compliance by any Person will ensure that there will not be contamination, pollution nor unauthorized discharge of Pollutants.

**Section 196-40. Powers and Authority of Inspectors**

A. The Town of Irondequoit bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, records examination and copying, observation, measurements, sampling, and testing pertinent to discharge or potential to discharge, and for repair and maintenance to the municipal separate storm sewer system.

B. (1) Information and data on a non-domestic source obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction, unless the non-domestic source specifically requests and is able to demonstrate to the satisfaction of the Town of Irondequoit that the release of such information would divulge information, processes or methods of production entitled to protection as confidential information according to the criteria set forth in 40 CFR 2.208 and 2.302, as may be amended from time to time.

(2) When requested by the Person furnishing a report, the portions of a report which might disclose confidential information shall not be made available for inspection by the public. Storm water constituents and characteristics will not be recognized as confidential information.

(3) Information accepted by the Town of Irondequoit as confidential shall be made available upon request to any agency meeting the requirements of Section 308 of the Clean Water Act, including officers, employees or authorized representatives of the United States concerned with carrying out the Clean Water Act, bound by the confidentiality rules in 40 CFR Part 2, as may be amended from time to time.

C. While performing the necessary work on private properties referred to in Section 196-40(A), the Town of Irondequoit shall observe all safety rules applicable to the Premises established by the Person, and the Person shall be held harmless for injury or death to the authorized representative(s), and the Town of Irondequoit shall indemnify the Person against loss or damage to its property by Town of Irondequoit employees and against liability claims and demands for personal injury or property damage asserted against the Person by Town of Irondequoit employees and growing out of the inspection and sampling operation, except as such may be caused by negligence or failure of the Person to maintain safe conditions.

D. Unreasonable delays in allowing the Town of Irondequoit access to the Premises or other interference with the activities of the Town of Irondequoit shall be a violation of this article. Access to property and/or records of a non-domestic source may not be refused on the basis that the Town of Irondequoit refuses to sign any waiver, access agreement, or similar document.

E. If the Town of Irondequoit has been refused access to a building, structure or property or any part thereof, and if the Town of Irondequoit has demonstrated probable cause to believe that there may be a violation of this article or that there is a need to inspect as part of a routine inspection program of the Town of Irondequoit to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town of Irondequoit will make an application to a court of competent jurisdiction for a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant application shall specify what, if anything, may be searched and/or seized on the property described. If granted by the court, such warrant shall be served at reasonable hours by the Town of Irondequoit in the company of a uniformed officer of the law enforcement agency with jurisdiction over the property. In the event of an emergency affecting public health and safety, inspections may be made without the issuance of a warrant.

#### **Section 196-41. Discharge Prohibitions**

##### **A. Prohibition of Illegal Discharges**

1. No Person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including, but not limited to, Pollutants or waters containing any Pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. Such activities include failing Private Sewage Disposal Systems as defined in Section 196-35, improper management of animal waste or any other activity that causes or contributes to violations of the Town's Municipal Separate Storm Sewer System (MS4) SPDES permit authorization.
2. Upon notification to a Person that it is engaged in activities that cause or contribute to violations of the Town's MS4 SPDES permit authorization, that Person shall take all reasonable actions to correct such activities such that it no longer causes or contributes to violations of the Town's MS4 SPDES permit authorization.

##### **B. Prohibition Exceptions**

The commencement, conduct or continuance of any Illegal Discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this article: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated and non-sediment laden pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated – typically less than one PPM chlorine), fire fighting activities and any other water source not containing Pollutants. Regardless of exemption, Best Management Practices should be implemented to reduce impacts from the above activities.



2. Discharges specified in writing by the Town of Irondequoit as being necessary to protect public health and safety.
3. Dye testing is an allowable discharge, but requires a verbal notification to the Town of Irondequoit prior to the time of the test.
4. The prohibition shall not apply to any Non-Stormwater Discharge permitted under SPDES permit, waiver or waste discharge order issued to the Discharger and administered under the authority of the New York State Department of Environmental Conservation, 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 storm drain system by the Town of Irondequoit.

C. Prohibition of Illicit Connections

1. The construction, use, maintenance or continued existence of Illicit Connections to the storm drain system 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 pipe or line conveying sewage to the municipal separate storm sewer system (MS4) or allows such a connection to continue.

D. Waste Disposal Prohibitions

No Person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drainage system, or water of the U.S., any refuse, rubbish, yard/lawn waste, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

E. Prohibition Against Failing Private Sewage Disposal Systems

No Person shall construct or maintain any cesspool, sewage disposal system, pipe or drain so as to expose or discharge the sewage contents or other deleterious liquids or matter therefrom to the atmosphere or on the ground surface or into any storm sewer or drain or as to endanger any watercourse or body of water unless a permit for such discharge shall have been issued by the Monroe County Department of Public Health or by the State Department of Health or the State Department of Environmental Conservation and such discharge shall be made in accordance with the requirements thereof. Owners or operators of Private Sewage Disposal Systems shall

operate, maintain and inspect such systems in accordance with the Monroe County Sanitary Code.

F. Prohibition of Stormwater Discharge to Sanitary Sewer

Stormwater shall not be discharged into the Sanitary Sewer without written permission to do so from the Town of Irondequoit.

**Section 196-42. Suspension of MS4 Access**

A. Suspension Due to Illicit Discharges in Emergency Situations

The Town of Irondequoit may, without prior notice, suspend discharge access into the MS4 to a Person when such a 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; to the storm drainage system including but not limited to pipes, manholes, outfall structures and storm laterals; or the Waters of the United States. If the violator fails to comply with a suspension order, the Town of Irondequoit may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States or to minimize danger to persons.

B. Suspension Due to the Detection of Illicit Discharge

Any Person discharging to the MS4 in violation of this article may have their MS4 access suspended or terminated if such action would abate or reduce an illicit discharge. The Town of Irondequoit will notify a violator of the proposed suspension or termination of its MS4 access. The violator may petition the Commissioner of Public Works of the Town or his or her designee to reconsider the suspension or termination of MS4 access by requesting a hearing.

It shall be unlawful for any Person to reinstate MS4 access to Premises suspended or terminated pursuant to this Section, without the prior approval of the Town of Irondequoit.

**Section 196-43. 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 Town of Irondequoit prior to discharge or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

## **Section 196-44.**

## **Monitoring of Discharges**

### **A. Applicability**

This Section 196-44 applies to all facilities that the Town of Irondequoit must inspect to enforce any provision of this chapter, or whenever the Town of Irondequoit has cause to believe that there exists, or potentially exists, in or upon any Premises any condition which constitutes a violation of this chapter.

### **B. Access to Facilities**

1. The Town of Irondequoit shall be permitted to enter and inspect, at any time, 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 representatives of the Town of Irondequoit.
2. Facility operators shall allow the Town of Irondequoit ready access to all parts of the Premises for the purpose of inspection, sampling and examination of the private storm drainage system. Persons or facility operators must supply copies, if requested by Town of Irondequoit of all records kept under the conditions of the SPDES stormwater discharge permit. Persons or facility operators must also identify the performance of any additional duties as defined by state and federal law.
3. The Town of Irondequoit shall have the right to place or position on any permitted facility such devices as are necessary in the opinion of the Town of Irondequoit to conduct monitoring and/or sampling of the facility's discharge to the storm sewer system.
4. The Town of Irondequoit has the right to require the Discharger to install monitoring equipment as necessary. 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 as necessary and recommended by the manufacturer to ensure their accuracy.
5. Any temporary or permanent obstruction to the facility which allows for unsafe access or difficulty in monitoring, inspecting or sampling of the storm drainage system shall be promptly removed by the Discharger at the written or verbal request of the Town of Irondequoit and shall not be replaced. All costs associated with clearing such access restrictions shall be borne by the Discharger in full.
6. Unreasonable delays, as determined by the Town of Irondequoit, in allowing the Town of Irondequoit access to a facility, which is permitted under the New York State Department of Environmental Conservation SPDES Program, for the purposes of

conducting any activity authorized or required by the permit is considered a violation of said Program and of this article.

7. If the Town of Irondequoit has been refused access to any part of the Premises from which a discharge or conveyance to the storm sewer system exists, and the Town of Irondequoit is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to further inspect and/or sample the private stormwater system to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town of Irondequoit may seek issuance of a search warrant from any court of competent jurisdiction.

**Section 196-45. Requirements to Prevent, Control and Reduce Stormwater Pollutants by the Use of Best Management Practices**

A. Best Management Practices

Town of Irondequoit will adopt requirements identifying Best Management Practices (BMPs) for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system or Waters of the United States. 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 municipal storm drain system or watercourses through the use of structural and non-structural BMPs. Further, any Person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said Person's expense, additional structural and non-structural BMPs to prevent the further discharge of Pollutants to the municipal Storm Drainage System. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with Industrial Activity, to the maximum extent practicable, shall be deemed compliant with the provisions of this Section 196-45. Appropriately designed structural/non-structural BMPs shall be included as part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the SPDES permit.

B. Private Sewage Disposal Systems

Where Private Sewage Disposal Systems are contributing to the Town of Irondequoit being subject to the Special Conditions as defined in Section 196-35 of this article, the owner or operator of such Private Sewage Disposal System shall be required to maintain and operate the system as follows:

1. Private Sewage Disposal Systems should be operated, maintained and inspected in accordance with the Monroe County Sanitary Code.
2. Septic tank additives shall not be used.
3. Repair or replace Private Sewage Disposal Systems as follows:
  - a. In accordance with Monroe County sewage design standards..

- b. No Person shall alter, repair or extend a Private Sewage Disposal System unless a permit is obtained from the Monroe County Public Health Director or his authorized representative.

**Section 196-46. Watercourse Protection**

- A. No Person shall alter a storm water practice on private or publicly owned land such that it alters the storm water practice from its intended use.
- 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 in a manner which prevents illicit discharges and keeps the watercourse free of trash, debris, yard/lawn waste, 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.

**Section 196-47. Notification of Spills**

Notwithstanding other requirements of law, as soon as any Person (i) responsible for a facility or operation or (ii) 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 the Illegal Discharge of Pollutants into stormwater, the public or private storm drain system or Waters of the United States, said Person shall take all necessary steps to ensure the discovery, containment and cleanup of any such release. In the event a release of Hazardous Materials occurs, said Person shall immediately notify the NYSDEC Region 8 Spill Response Team and/or call the NYS Spill Hotline within the time frame established by law as well as notify the Town of Irondequoit's Supervisor, Commissioner of Public Works or Town Attorney of the occurrence. In the event of a release of non-Hazardous Materials, said Person shall notify the Town of Irondequoit's Supervisor, Commissioner of Public Works or Town Attorney in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town of Irondequoit, Attention: Supervisor, post-marked within three (3) business days of the date of the in-person or phone 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 five (5) years.

**Section 196-48. Enforcement**

Whenever the Town of Irondequoit finds that a Person has violated a prohibition or failed to meet a requirement of this article, the Town of Irondequoit may order compliance by written Notice of Violation issued by the Town's Commissioner of Public Works to the responsible Person. Such notice may require without limitation:

1. The performance of monitoring, analyses and reporting.
2. The elimination of illicit connection or discharges.
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. Payment of a fine to cover administrative and remediation costs.
6. The implementation of source control or treatment BMPs.

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

#### **Section 196-49. Penalties**

In addition to or as an alternative to any penalty provided herein or by law, any violation of this article III is punishable by a fine not to exceed three hundred fifty dollars (\$350) or imprisonment for a period not to exceed fifteen (15) days, or both for conviction of a first offense; a second violation of this article committed within a period of five (5) years is punishable by a fine not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed thirty (30) days, or both; and a third or subsequent violation of this article within a period of five (5) years is punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed thirty (30) days, or both. Each day's continued violation shall constitute a separate additional violation.

#### **Section 196-50. Appeal of Notice of Violation**

Any Person receiving a Notice of Violation may appeal the determination of the Town's Commissioner of Public Works. The Notice of Appeal must be received by the Town Clerk within ten (10) days from the date of the Notice of Violation. Hearing on the appeal before the Town Board or its designee shall take place within fifteen (15) days from the date of receipt of the Notice of Appeal. The decision of the Town Board or its designee shall be made within fifteen (15) days after such hearing and shall be final.

#### **Section 196-51. Enforcement Measures After Appeal**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within five (5) days of the decision of the Town Board upholding the Notice of Violation, the Town of Irondequoit, its representatives and/or employees

may enter upon the subject private property with the consent of the owner or with a valid search and/or seizure warrant, and are authorized to take any and all measures necessary to abate the violation and/or restore the property.

**Section 196-52. Cost of Abatement of the Violation**

Within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protection claim objecting to the amount of the assessment within ten (10) days after receiving such notice. If the amount due is not paid by the expiration of the time in which to file an appeal or, if an appeal is taken, within thirty (30) days following the date of the final decision of the Town Board on such appeal (or such longer period of time as the Commissioner of Public Works may, in his or her sole discretion, may consent to in writing), the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any Person violating any of the provision of this article shall become liable to the Town of Irondequoit by reason of such violation.

**Section 196-53. 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 Town of Irondequoit may petition for a preliminary or permanent injunction restraining the Person from activities which would create further violations or compelling the Person to perform abatement or remediation of the violation.

**Section 196-54. Compensatory Action**

In lieu of enforcement proceedings, penalties and remedies authorized by this article, the Town of Irondequoit may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

**Section 196-55. 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.

**Section 196-56. Criminal Prosecution**

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. Any Person that has violated or continues to violate this article shall be liable to criminal prosecution to the fullest extent of the

law, and upon conviction, shall be guilty of a violation and subject to a penalty as set forth in Section 196-49.

The Town of Irondequoit may recover all attorney fees, court costs and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

**Section 196-57. 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 Town of Irondequoit to seek cumulative remedies.

**3. EFFECTIVE DATE.** This local law shall be effective upon filing in the office of the Secretary of State of New York and with the Town Clerk of the Town of Irondequoit and otherwise in accordance with and pursuant to the Town Law of the State of New York.

**4. HISTORY.** Adopted: December 18, 2007

This resolution shall take in accordance with the provisions of Section 264 of the Town Law of the State of New York.

Seconded by Town Board member **Bello** and duly put to vote, which resulted as follows:

Town of Supervisor Heyman	voting	Aye
Town Board Member Bello	voting	Aye
Town Board Member Dzus	voting	Aye
Town Board Member Evans	voting	Aye
Town Board Member Turner	voting	Aye