

AMENDMENT IN THE NATURE OF SUBSTITUTION TO CLERK ITEM 284-07

ORDINANCE NO.128- 2007

TO REGULATE THE USE OF THE NASSAU COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4), THE DIRECT OR INDIRECT CONNECTION TO THE NASSAU COUNTY MS4, THE DISCHARGE OF WATER AND POLLUTANTS INTO THE COUNTY MS4, AND INTO THE MS4s OF OTHER MUNICIPALITIES TRIBUTARY THERETO, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AND MAKING CERTAIN DETERMINATIONS PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT.

William J. Brown
County Council Member

Passed by Nassau County Legislature
on **JUL 30 2007**
votes for **19** : votes against **6** : Abstained **0** : Recused : **0**
Became an ordinance on **AUG 03 2007**
With the approval of the Deputy County Executive acting for the County Executive

WHEREAS, the County of Nassau is obligated under the United States Environmental Protection Agency Phase II Storm Water Regulation to pass legislation regulating connections to Nassau County's separate storm sewer system ; and

WHEREAS, the County of Nassau desires to protect the health and general welfare of its citizens by controlling to the maximum extent practicable the introduction of pollutants into the County separate storm sewer system; and

WHEREAS, this ordinance establishes methods by which the County can regulate connections and discharges to the County separate storm sewer system and enforce compliance with such rules;

WHEREAS, the Nassau County Department of Public Works submitted to the Nassau County Planning Commission an Environmental Assessment Form for this Ordinance; and

WHEREAS, in accordance with Section 1611 of the Nassau County Charter and acting in an advisory capacity to the Nassau County Legislature, the Nassau County Planning Commission has reviewed the proposed ordinance, and found that it is an "Unlisted Action" pursuant to the New York

State Environmental Quality Review Act ("SEQRA"), and has further reviewed the Environmental Assessment Form ("EAF") for the proposed ordinance and recommends that the Legislature upon its review of the ("EAF") and any supporting documentation determine that the evidence before it requires the adoption of a negative declaration and does not require further environmental review; and

WHEREAS, the Nassau County Planning Commission, acting in an advisory capacity to the Nassau County Legislature, passed a resolution regarding the proposed action recommending that the Legislature conclude that the proposed ordinance will not have a significant adverse impact, and that no further environmental review or action is required on such proposed action; NOW, THEREFORE,

BE IT ORDAINED by the County Legislature of the County of Nassau as follows:

SECTION 1. PURPOSE/INTENT.

The purpose of this law is to provide for the health, safety and general welfare of the citizens of the County of Nassau through the regulation of connections to the County municipal separate storm sewer system (MS4) and the regulation of non-stormwater discharges to the (MS4) to the maximum extent practicable as required by federal and state law. This law establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The objectives of this law are:

- 1.1 To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit No. GP-02-02 or as amended or revised;
- 1.2 To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- 1.3 To prohibit unauthorized and illicit connections, activities and discharges to the MS4;
- 1.4 To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this law; and
- 1.5 To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

SECTION 2. DEFINITIONS.

Whenever used in this law, unless a different meaning is stated in a definition applicable to only a portion of this law, the following terms will have meanings set forth below:

12

- 2.1 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.
- 2.2 Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- 2.3 Commissioner. The Commissioner of Public Works of Nassau County or person serving in that capacity.
- 2.4 Construction Activity. Activities requiring authorization under a NYSDEC SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised, or activities covered by Erosion and Sediment Control or Pollution Prevention Plan laws, ordinances or regulations of the County, or Towns, Cities and Villages within the County. These activities include construction projects resulting in land disturbance equal to or greater than the area stipulated in statutes or regulations of the State, County or Towns, Cities and Villages within the County. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- 2.5 County. The County of Nassau.
- 2.6 Department. The Nassau County Department of Public Works.
- 2.7 Design professional. New York State licensed professional engineer or licensed architect.
- 2.8 General Permit. An authorization for the connection as well as the discharge of stormwater or authorized non-stormwater (per Section 6.1.1 of this Law), from properties occupied by private dwellings.
- 2.9 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.
- 2.10 Illicit Activity. Any action or condition, active or passive, that results in non-stormwater entering the County's MS4.
- 2.11 Illicit Connection.
 - 1. Any drain or conveyances whether on the surface or subsurface, which allows a non-stormwater discharge (except those discharges exempted in Section 6 of this Law) to

- enter the MS4, including a connection to another municipal system tributary to the County's MS4, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
2. Any building or structure floor drain or trench drain;
 3. 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 the Commissioner.
 4. Any unauthorized connection as defined elsewhere in this section.
- 2.12 Illicit Discharge. Any discharge through an unauthorized connection, and any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 6 of this law.
- 2.13 Industrial Activity. Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.
- 2.14 MS4. Municipal Separate Storm Sewer System.
- 2.15 Municipal Separate Storm Sewer System. A conveyance or system of conveyances and retention and infiltration facilities; (including roads with drainage systems, curbs and gutters on municipal streets, manholes, catch basins, ditches, man-made channels, or storm drains, stormwater basins, drainage reserve areas, drywells or any other component of the County storm water system) that is:
1. Owned or operated by the County of Nassau;
 2. Designed or used for collecting or conveying or storing or infiltrating or managing stormwater;
 3. Which is not a combined sewer; and
 4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40CFR 122.2.
- 2.16 Municipality. Any Town, Village, or City within the County.
- 2.17 Non-Stormwater Discharge. Any discharge to the MS4 that is not composed entirely of stormwater.
- 2.18 NYSDEC. The New York State Department of Environmental Conservation
- 2.19 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.
- 2.20 Pollutant. Anything, which causes or contributes to pollution. Pollutants may include, but are not limited to: dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, hazardous materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards. Also, paints, varnishes, and solvents; oil and other automotive

fluids; hazardous or non-hazardous liquid and solid wastes, yard wastes including branches, grass clippings and leaves; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations so that same may cause or contribute to pollution; and discharges of soaps, detergents, or floatables; pesticides, herbicides, and fertilizers; sewage, fecal coliforms and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building, structure or site improvements; cement, gravel, sand, silt, mud, other soils, and noxious or offensive matter of any kind.

- 2.21 Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- 2.22 Section 6.1.4 Permit. An authorization for connection as well as discharge authorized under Section 6.1.4 of this Law, for a discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the NYSDEC. This permit is subject to special terms and conditions by the Commissioner. The permit will expire on or before the expiration of the NYSDEC SPDES permit, waiver or order or upon change of ownership or use of the property.
- 2.23 Special Conditions.
1. Discharge Compliance with Water Quality Standards. The condition that applies where the County has been notified that the discharge of stormwater authorized under their MS4 SPDES 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 County 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 County's MS4 SPDES permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
 3. Total Maximum Daily Load (TMDL) Strategy. The condition in the County's MS4 SPDES 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 County 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 County'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 County 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 County must, within six (6) months of the TMDLs approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

- 2.24 Special Permit. An authorization for the connection as well as the discharge of stormwater or authorized non-stormwater (per Section 6.1.1 of this Law), from all properties occupied by other than private dwellings.
- 2.25 State. State of New York.
- 2.26 State Pollutant Discharge Elimination System (SPDES) Stormwater Discharge Permit. A permit issued by the NYSDEC that authorizes the discharge of pollutants to waters of the State.
- 2.27 Stormwater. Rainwater, surface runoff, and snowmelt.
- 2.28 Stormwater Management Officer (SMO). The Commissioner of Public Works of Nassau County (or the person serving in the capacity of the Commissioner) or his/her authorized deputies, agents or representatives, including employees of other County Departments: Planning, Health, Consumer Affairs, and Police as appropriate. The SMO is to enforce this law, review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.
- 2.29 303(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 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.
- 2.30 TMDL. Total Maximum Daily Load.
- 2.31 Total Maximum Daily Load (TMDL). The maximum amount of a pollutant allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.
- 2.32 Unauthorized Connection: A permanent or temporary unapproved direct or indirect conveyance to the County's MS4. Any connection, pipe, hose, or other conveyance that is not documented on plans, maps, or equivalent records signed by the Commissioner or that is not approved by a permit issued by the Commissioner, is considered unauthorized regardless of whether the discharge is otherwise allowed by this local law.
- 2.33 Uncontaminated: Means "free of pollutants" (see definition of Pollutant).
- 2.34 Wastewater. Water that is not stormwater is contaminated with pollutants and is or will be discarded.

SECTION 3. APPLICABILITY.

This law shall apply to connections to the County MS4, activities resulting in discharge, seepage or deposition into the County's MS4, and all water entering the MS4 generated on any developed and

undeveloped lands unless explicitly exempted by an authorized enforcement agency and allowed by a connection permit or other document approved by the Commissioner. This law shall also apply to waters entering another municipal system that is tributary to the County MS4.

SECTION 4. RESPONSIBILITY FOR ADMINISTRATION.

The Nassau County Commissioner of Public Works, as the Stormwater Management Officer (SMO) for the County, or duly authorized deputies, agents or representatives, including employees of other County Departments including but not limited to Planning, Health, Consumer Affairs, Police, shall administer, implement, and enforce the provisions of this law.

SECTION 5. SEVERABILITY.

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

SECTION 6. DISCHARGE PROHIBITIONS.

6.1 Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the County's MS4 any materials other than stormwater except as provided in Section 6.1.1. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

6.1.1 The following discharges are exempt from discharge prohibitions established by this local law, unless they are subsequently determined to be substantial contributors of pollutants: water line flushing or other potable water sources, uncontaminated landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, uncontaminated crawl space or basement sump pump discharges, air conditioning condensate, uncontaminated irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

6.1.2 Discharges approved in writing by the Commissioner to protect life or property from imminent harm or damage, provided that such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the Commissioner may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this local law.

6.1.3 Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.

- 6.1.4 The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the 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 by the Commissioner.

SECTION 7. PROHIBITION OF UNAUTHORIZED CONNECTIONS.

- 7.1 Connections to the County's MS4 without a permit are prohibited.
- 7.1.1 Any connection to the County's MS4 is considered to be an unauthorized connection unless it has been approved by a permit issued by the Commissioner or documented on a plan, or map that has been approved by the Commissioner. This constraint applies to all connections, permanent or temporary, regardless of whether the discharge is otherwise permitted by this law.
- 7.1.2 The construction, use, maintenance or continued existence of unauthorized connections to the County's MS4 is prohibited.
- 7.1.3 This prohibition expressly includes, without limitation, connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- 7.1.4 A person is considered to be in violation of this local law if the person connects a line conveying sewage or other pollutants to the County's MS4, or allows such a connection to continue.
- 7.1.5 The connection of interior floor drains and trench drains at the entrances to buildings or other structures is prohibited.
- 7.2.1 Remedy Unauthorized Connections.

Where the Commissioner has identified an unauthorized connection as defined in Section 2, the Commissioner may require that a proper permit be obtained or that the connection be removed at the property owner's expense.

SECTION 8. PROHIBITION AGAINST ACTIVITIES CONTAMINATING STORMWATER OR MAINTAINING OR USING AN UNAUTHORIZED CONNECTION TO THE MUNICIPAL SYSTEM.

- 8.1 Activities that are subject to the requirements of this section are those types of activities that:
- 8.1.1 Cause or contribute to a violation of the County's MS4 SPDES permit.

- 8.1.2 Cause or contribute to the County being subject to the Special Conditions as defined in Section 2 (Definitions) of this local law.
 - 8.1.3 Cause or contribute to the County's MS4 receiving pollutants as defined in Section 2 (Definitions) of this local law.
 - 8.1.4 Cause or contribute to the County's MS4 receiving discharges from an undocumented or unauthorized connection (whether permanent or temporary).
- 8.2 Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the County's MS4 SPDES permit authorization or cause or contributes to pollutants being discharged to the County's MS4, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the County's MS4 SPDES permit authorization, or causes or contributes to pollutants to be discharged or deposited into the County's MS4.

SECTION 9. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

- 9.1 Best Management Practices. Where the Commissioner has identified illicit discharges as defined in Section 2 or activities contaminating stormwater as defined in Section 8, the Commissioner may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.
- 9.1.1 The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials, pollutants or other wastes into the MS4 through the use of structural and non-structural BMPs.
 - 9.1.2 Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in Section 2 or an activity contaminating stormwater as defined in Section 8, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
 - 9.1.3 Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section.

SECTION 10. SUSPENSION OF ACCESS TO MS4.

- 10.1 The Commissioner may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The Commissioner shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to

comply with a suspension order issued in an emergency, the Commissioner may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

- 10.2 Suspension due to the detection of illicit discharge or unauthorized connection. Any person discharging to the County's MS4 in violation of this law may have their MS4 access terminated if such termination would abate or reduce an illicit discharge or result in the remedy of an unauthorized connection. The Commissioner will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefore. The violator may petition the Commissioner for a reconsideration and hearing. Access may be granted by the Commissioner if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence, or that the discharger has obtained proper permission for the connection. Access may be denied if the Commissioner determines in writing that the illicit discharge has not ceased or is likely to recur or the unauthorized connection has not been remedied. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Commissioner.

SECTION 11. 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 Commissioner prior to the allowing of discharges to the MS4.

SECTION 12. CONNECTION PERMITS.

- 12.1 General. Any connection to the County's MS4 requires a permit issued by the Commissioner. Applications for permits shall be made on forms provided by the Department of Public Works. Permit applications shall be supplemented by any plans, specifications, analyses, calculations or other information considered pertinent by the Commissioner. The County considers connection to its MS4 as a last resort to solve flooding problems. Before approving a connection, the County will require applicants to use on-site best management practices to handle stormwater and other authorized non-stormwater discharges to the maximum extent practicable. The Department of Public Works will use the latest versions of its *Drainage Requirements associated with Section 239F* and the *Drainage Requirements associated with Subdivisions* to assess the adequacy of the applicant's on-site stormwater disposal management practices.

12.2 Permit Types.

12.2.1 General Permit. An authorization for the connection as well as the discharge of stormwater or authorized non-stormwater (per Section 6.1.1 of this Law), from properties occupied by private dwellings.

12.2.2 Section 6.1.4 Permit. An authorization for connection as well as discharge authorized under Section 6.1.4 of this Law, for a discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the NYSDEC. This permit is subject to special terms and conditions by the Commissioner. The

- 12.8 Other Permits Required. A connection permit issued pursuant to this Law does not relieve the applicant from any and all other permits, permissions, or compliance with rules and regulations that may be required by Federal, State, County, Town, City, Village Government Agencies or other public or private parties. This permit does not supersede any of the above.
- 12.9 Permit Rules and Regulations. The Commissioner may promulgate rules and regulations for the permitting process within the constraints of this Law.

SECTION 13. ACCESS AND MONITORING OF DISCHARGES.

- 13.1 Applicability. This section applies to all facilities that the Commissioner must inspect to enforce any provision of this Law, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition that constitutes a violation of this Law.
- 13.2 Access to Facilities.
- 13.2.1 The SMO shall be permitted to enter and inspect facilities public and private subject to regulation under this law as often as may be necessary to determine compliance with this Law. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
- 13.2.2 Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this law.
- 13.2.3 The SMO shall have the right to set up on any facility subject to this law such devices as are necessary in the opinion of the Commissioner to conduct monitoring and/or sampling of the facility's stormwater discharge.
- 13.2.4 The Commissioner has the right to require the facilities subject to this law to install monitoring equipment as is reasonably necessary to determine compliance with this law. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy. The Results of sampling and monitoring shall be forwarded to the SMO.
- 13.2.5 Unreasonable delay in allowing the SMO access to a facility subject to this law is a violation of this law. A person who is the operator of a facility subject to this law commits an offense if the person denies the SMO reasonable access to the facility for the purpose of conducting any activity authorized or required by this law.
- 13.2.6 If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this law, or that there is a need to inspect and/or sample as part

22

of a routine inspection and sampling program designed to verify compliance with this law or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 14. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Commissioner 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 Commissioner 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, testing performed, and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 15. ENFORCEMENT.

15.1 Notice of Violation.

When the Commissioner finds that a person has violated a prohibition or failed to meet a requirement of this law or a permit issued pursuant to this Law, he/she may order compliance by written notice of violation to the responsible person. Such notice may require without limitation any or all of the actions listed below:

- 15.1.1 The elimination of unauthorized connections or discharges;
- 15.1.2 That violating discharges, practices, operations, activities, or connections shall cease and desist;
- 15.1.3 The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- 15.1.4 The performance of monitoring, analyses, and reporting;
- 15.1.5 Payment of fines or imprisonment as specified in the following subsection 15.2;
- 15.1.6 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.

15.2 Penalties

In addition to any action, remedy and penalty provided for elsewhere in this statute or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding one-thousand dollars (\$1,000) or imprisonment for a period not to exceed two months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than one-thousand dollars (\$1,000) nor more than two-thousand dollars (\$2,000) or imprisonment for a period not to exceed two months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than two-thousand dollars (\$2,000) nor more than five thousand dollars (\$5,000) or imprisonment for a period not to exceed two months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

SECTION 16. APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal within 15 calendar days of its issuance. The Commissioner shall hear the appeal within 30 days after the filing of the appeal, and within five days of making its decision, issue a decision by certified mail to the discharger. The Commissioner may conduct the hearing and take evidence or may designate any officer or employee of the Department to do so.

SECTION 17. CORRECTIVE MEASURES AFTER APPEAL.

- 17.1 If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 business days of the decision of the Commissioner, then the Commissioner shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.
- 17.2 If refused access to the subject private property, the Commissioner may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the Commissioner may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

SECTION 18. INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this law. If a person has violated or continues to violate the provisions of this law, the Commissioner 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 19. VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this law is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

SECTION 20. REMEDIES NOT EXCLUSIVE.

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

SECTION 21. ADOPTION OF LAW.

This law shall be in full force and effect 30 days after its final passage and adoption. All prior laws and parts of law in conflict with this law are hereby repealed.

SECTION 22. SEQRA DETERMINATION

It is hereby determined pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L. Section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the proposed ordinance has been determined to be an "Unlisted Action" pursuant to the New York State Environmental Quality Review Act ("SEQRA") and no further review is required for the reasons set forth in the resolution of the Planning Commission.

State Environmental Quality Review (SEQR)
NEGATIVE DECLARATION
Notice of Determination of Non-Significance

NCPC SEQRA File No # 16-2007

Date: June 21, 2007

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

Nassau County Legislature as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Nassau County Drainage Use Ordinance

SEQRA Status: Type I

Unlisted

Conditioned Negative Declaration: Yes

No

Description of Action:

The proposed action involve the adoption of a Nassau County Drainage Use Ordinance the purpose of which is to provide for the health, safety and well being of the citizens of to County through the regulation of connections to the County Municipal Separate Storm water Sewer System (MS4) and the regulation of non-storm water discharges into the MS4.

Location: County Wide, Nassau County, New York.

Reasons supporting this determination:

Completion of the Environmental Assessment Form Parts I and II have identified no significant adverse environmental impacts.

Determination of Significance

The environmental criteria set forth in §617.7 (c) are considered to be indication of significant adverse environmental impacts. Using these thresholds the Legislature finds the following factors as its basis for the NEGATIVE DECLARATION determination:

1. The proposed Ordinance will not have an impact on existing air quality.
2. The proposed Ordinance will not have an impact on noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems.
3. The proposed Ordinance seeks to improve and enhance the quality of surface and groundwater.
4. The proposed Ordinance will not have an impact on the aesthetic, historic, cultural and natural resources of the community for future generations.
5. The proposed Ordinance will not have an impact on vegetation or fauna, fish, shellfish or wildlife species, significant habitats or threatened or endangered species.
6. The proposed Ordinance will not have an impact on open space and will not reduce the opportunity for active or passive recreational use; and
7. The proposed Ordinance is in conformance with locally adopted plans and goals for the enhancement of air and water quality for public benefit and will not result in a change in use or intensity of use of recreational resources or other natural resources.
8. The proposed Ordinance will not result in any growth or subsequent development within the County
9. The proposed Ordinance will not change two or more elements in the environment, which when considered together could result in a substantial adverse impact on the environment.

Therefore, the Nassau County Legislature has determined that, based upon the above findings, the proposed Ordinance will not have a significant adverse impact on the environment, and that no additional environmental review or action


Conditions:

None

SEQR Negative Declaration

Eric Eichenlaub, Legislative Majority Counsel

Name and Title of Responsible Officer in Lead Agency



Signature of Responsible Officer

Joseph Nocella, Legislative Minority Counsel

Name and Title of Responsible Officer in Lead Agency

Signature of Responsible Officer

Donald J. Hohn, Planner III

Name and Title of Preparer



Signature of Preparer

For Further Information:

Contact Person: Eric Eichenlaub, Esq.
Legislative Majority Counsel

Address: Nassau County Legislature
1 West Street
Mineola, New York 11501

Telephone Number: (516) 571-6220

For Unlisted Actions a copy must be filed with the lead agency (Nassau County Legislature)

Applicant: Nassau County Legislature

Other Involved Agencies: NONE

For Type I Actions and Conditioned Negative Declarations, a copy must be sent to:

Environmental Notice Bulletin at: enb@gw.dec.state.ny.us

ENB, NYS Department of Environmental Conservation
50 Wolf Road
Room 538, Albany, NY 12233-1750

County Executive, c/o County Clerk

**NASSAU COUNTY PLANNING COMMISSION
STATE ENVIRONMENTAL QUALITY REVIEW**

NASSAU COUNTY DRAINAGE USE ORDINANCE

NCPC FILE No. 16-2007

WHEREAS, in accordance with §1611 of the County Charter and acting in an advisory capacity to the NASSAU COUNTY LEGISLATURE, the NASSAU COUNTY PLANNING COMMISSION, is required to review certain proposed actions of the LEGISLATURE under SEQRA; and

WHEREAS, the NASSAU COUNTY DEPARTMENT OF PUBLIC WORKS, submitted to the NASSAU COUNTY PLANNING COMMISSION a proposed Ordinance entitled:

NASSAU COUNTY DRAINAGE USE ORDINANCE

WHEREAS, Part I of the SHORT Environmental Assessment Form (EAF) was completed and reviewed by the NASSAU COUNTY PLANNING COMMISSION, and

WHEREAS, after careful consideration the NASSAU COUNTY PLANNING COMMISSION has completed Part II of the SHORT EAF.

NOW THEREFORE BE IT RESOLVED that the NASSAU COUNTY PLANNING COMMISSION hereby recommends that the proposed action be deemed an UNLISTED action pursuant to Part 617 of Title 6 NYCRR ; and be it further

RESOLVED that the NASSAU COUNTY PLANNING COMMISSION hereby recommends that the NASSAU COUNTY LEGISLATURE adopt a NEGATIVE DECLARATION for this Ordinance.

The foregoing resolution was offered
ON MOTION of Commissioner, Cuomo
seconded by Commissioner Gillens-Eromosele

Upon roll call the vote was as follows:

Jeffrey H. Greenfield, Chair	AYE
Michael Bellissimo, First Vice-Chair	EXCUSED
Neal Lewis, Second Vice-Chair	AYE
Leonard Shapiro	EXCUSED
Amy Hagedorn	EXCUSED
Philip Cuomo	AYE
Mary A. McCaffery	AYE
Mona G. Rankin	EXCUSED
Clara Gillens-Eromosele	AYE

The Chair declared the resolution duly adopted.

Resolution of Nassau County Planning Commission
Adopted: June 21, 2007

STATE OF NEW YORK)

ss:

COUNTY OF NASSAU)

I, Patricia Bourne, Executive Commissioner of the Nassau County Planning Commission, do hereby certify, that I have compared the preceding with the original resolution passed by the Planning Commission of Nassau County, New York,

on June 21st, 2007

on file in my office and recorded in the record of proceedings of the Planning Commission of the County of Nassau and do hereby certify the same to be a correct transcript therefrom and of the whole said original.

I further certify that the resolution herein above- mentioned was passed by the concurring affirmative vote of the Planning Commission of the County of Nassau.

IN WITNESS WHEREOF, I have hereunto set my hand,
this 9 day of July
in the year of two thousand and seven.



PATRICIA BOURNE, EXECUTIVE COMMISSIONER
NASSAU COUNTY PLANNING COMMISSION

APPROVED



County Executive

DATE 8/3/07