

ULSTER TOWN BOARD WORKSHOP
APRIL 2, 2009 AT 7:00 PM

CALLED TO ORDER BY SUPERVISOR WOERNER, CHAIRMAN at 7:10 PM

SALUTE TO THE FLAG

A moment of silence was observed for Marjorie M. Woerner, Supervisor Woerner's Grandmother, who passed away March 23, 2009

ROLL CALL BY CLERK

TOWN COUNCILMAN DAVID BRINK
TOWN COUNCILMAN JOEL B. BRINK
TOWN COUNCILMAN ERIC KITCHEN – absent
TOWN COUNCILMAN ROCCO SECRETO
SUPERVISOR NICKY B. WOERNER

7:15PM - 2009 Community Development Block Grant Program Application.

Supervisor Woerner opened the public hearing at 7:15 PM

Mr. Mark Blauer, the town grant writer, stated that this HUD Hearing is to solicit suggestions on public projects. These ideas are then reviewed by the Town Board and a decision is made on what to pursue. He suggested that monies that were left over from the East Kingston Water District Lateral Connection Grant be turned into a housing rehabilitation program, for low to moderate income qualified families, in the East Kingston hamlet. Further, he recommended that the Town Board resubmit an application to install a water tank in the Glenerie Water District. It was applied for in the past; it was a good application but there was not enough grant money to fund all the projects submitted in the state. Residents can submit ideas for proposals to the Town Supervisor until the next scheduled hearing.

There was no public comment.

Councilman Secreto motioned to close the public hearing at 7:21 PM
2nd by Councilman Joel B. Brink
4 Ayes – Councilman Kitchen was absent

Councilman Joel B. Brink motioned to authorize the Town Supervisor to sign and submit all necessary paperwork to shift the East Kingston lateral grant money over to the home rehabilitation program as suggested by the Town Grant Writer.
2nd by Councilman Secreto
4 Ayes – Councilman Kitchen was absent

Tech City Scoping Session

Supervisor Woerner opened the Tech City Scoping Session at 7:22 PM

There was no public comment.

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Councilman Secreto motioned to close the scoping session at 7:24 PM
2nd by Councilman Joel B. Brink
4 Ayes – Councilman Kitchen was absent

Alan J. Sorensen, AICP, the Town Planner, requested that the Town hold off on adopting the final scoping document until the DEC comments are incorporated. Town Attorney Zweben concurred. This will not cause any delays in the proposed timeline.

Regarding request for a waiver of road length requirements for the Fink Subdivision.

This matter was tabled until April 16, 2009 as Councilman Kitchen had requested that it be placed on the agenda and he was not able to attend to discuss it. The professionals, Town Attorney and Planner, will prepare a letter to the Town Board addressing issues of opinion.

Tech City – Traffic Study

Councilman David Brink motioned to authorize the Town Supervisor to hire Creighton Manning Engineering, LLP as the Town's traffic study specialist to review the Tech City Traffic Study for a fee of \$34,000.00, which will be paid by the applicant through an escrow account.
2nd by Councilman Joel B. Brink
4 Ayes – Councilman Kitchen was absent

Setting a public hearing regarding an application for Empire State Development Corporation for a Round 3 Restore NY Communities Initiative Municipal Grant Program for TechCity.

Councilman Secreto motioned to approve the following resolution:

WHEREAS, the Town Board, after due consideration, has determined that it is desirable and in the public interest to submit an application to Empire State Development Corporation for a Round 3 Restore NY Communities Initiative Municipal Grant Program; and

WHEREAS, the proposed project is in accordance with Town and Regional Planning objectives; and

WHEREAS, the proposed financing is appropriate for the specific project; and

WHEREAS, the proposed project facilitates effective and efficient use of existing and future public resources so as to promote both economic development and preservation of community resources; and

WHEREAS, and where applicable, the project develops and enhances infrastructure and/or other facilities in a manner that will attract, create, and sustain employment opportunities; and

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WHEREAS, the Town Board hereby authorizes and directs the Supervisor to submit an application for financial assistance under Round 3 Restore NY Communities Initiative Municipal Grant Program; and

WHEREAS, it is desirable to conduct and hold a public hearing pursuant to the project; now

THEREFORE, BE IT RESOLVED, that Members of the Town Board of the Town of Ulster do find that the proposed project is consistent with the Town's Master Plan, that the proposed financing is appropriate for the project; that the project facilitates effective and efficient use of existing and future public resources so as to promote both economic development and preservation of community resources; and the project develops and enhances infrastructure and other facilities in a manner that will attract, create and sustain employment opportunities.

THEREFORE, BE IT FURTHER RESOLVED that the Town Clerk is hereby authorized to publish a Notice of a Public Hearing to be held on April 16, 2009 at 7:30 P.M. at the Town Hall to provide an opportunity for the Town of Ulster to provide comment on the properties listed on the Property Assessment List that are in need of demolition, deconstruction, rehabilitation or reconstruction.

2nd by Councilman David Brink
4 Ayes – Councilman Kitchen was absent

Adoption of Town of Ulster Storm Water Regulations

Councilman Joel B. Brink motioned to approve the following:

A LOCAL LAW PROVIDING THE ADOPTION OF A NEW CHAPTER 89

LOCAL LAW NO. 3 OF THE YEAR 2009

A Local Law providing the adoption of a new Chapter 89 of the Code of the Town of Ulster entitled “Municipal Separate Stormwater Sewer System Management and Control.”

WHEREAS, the Town has certain responsibilities in relation to stormwater management as a result of the enactment of the Municipal Separate Storm Sewer System (MS4) Phase II stormwater management requirements of the National Pollutant Discharge Elimination System (NPDES);

WHEREAS, the Town Board has made determined that certain activities pose a risk to the general health, safety and welfare of the residents of the Town of Ulster and the integrity of the Municipal Separate Stormwater System; and

WHEREAS, the Town Board has determined that it is desirable to enact provisions of law to establish certain measures for the protection of the groundwater and integrity of the Town’s Municipal Separate Stormwater System to protect and safeguard the general health, safety and

welfare of the residents of the Town of Ulster and to insure the Town's compliance with state and federal law in relation thereto;

NOW THEREFORE be it enacted by the Town Board of the Town of Ulster, Ulster County, New York, as follows:

A new Chapter 89 of the Town Code of the Town of Ulster is hereby adopted as follows:

Town of Ulster

Chapter 89

MUNICIPAL SEPARATE STORMWATER SEWER SYSTEM CONTROL

ARTICLE I. General Provisions

§ 89-1. Purpose and intent.

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the Town of Ulster through the regulation of discharges of water (other than stormwater) into the Municipal Separate Storm Sewer System (MS4) to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the Town of Ulster MS4 in order to comply with requirements of the SPDES General Permit for MS4s. The objectives of this chapter are:

- A. To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;
- B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- C. To prohibit Illicit Connections, Activities and Discharges to the MS4;
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter; and
- E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

§ 89-2. Definitions.

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

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AGRICULTURAL STORMWATER RUNOFF – Any stormwater runoff from farm operations, and other non-point source agriculture and agricultural uses, but not including discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24.

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

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

CONSTRUCTION ACTIVITY - Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DEPARTMENT - New York State Department of Environmental Conservation.

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

FARM OPERATION - The land and on-farm buildings, equipment, manure processing and handling facilities, and practices that contribute to the production, preparation and marketing of crops, livestock products as a commercial enterprise. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other [See Section 301 (11) of the New York Agriculture and Markets Law and the definition herein contained for “Agriculture”].

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.

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

- (1) Any conveyances that allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved

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- by an authorized enforcement agency; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the MS4 that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLCIT DISCHARGE - Any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 89-6 of this chapter.

INDIVIDUAL SEWAGE TREATMENT SYSTEM - A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwaters of New York State, not including those facilities for which a permit is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

INDUSTRIAL ACTIVITY - Activities requiring the SPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activities (GP-0-06-002) as amended or revised.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) – The system of conveyances (including but not limited to, sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains), owned or operated by the Town of Ulster; designed or used for collecting or conveying stormwater; which is not a combined sewer; and which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

MUNICIPALITY - The Town of Ulster, Ulster County, New York.

NON-STORMWATER DISCHARGE - Any discharge to the MS4 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.

POINT SOURCE – Any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, fissure, container, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged and as regulated under this chapter and/or the Clean Water Act of the United States of America, 33 U.S.C.A 1251 et. seq..

POLLUTANT - Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, 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. [Spoil - Waste material removed from excavation].

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

RELEASE – Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of illicit discharges into surface water, ground-water, subsurface soils, surface soils and/or by any other direct or indirect discharge that is made to the MS4, the Waters of New York State and/or Waters of the United States.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORMWATER DISCHARGE PERMIT - A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.

STORMWATER - Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO) - An employee or other public official(s) designated by the Town of Ulster to enforce this chapter. The SMO may also be designated by the Town Board to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

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 as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

TOTAL MAXIMUM DAILY LOAD (TMDL) – Is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL specifies the allowable pollutant loading from all contributing sources (e.g., point sources, non-point sources, and natural background) at a level necessary to maintain the applicable water quality standards with seasonal variations and a margin of safety that takes into account any lack of knowledge concerning the relationship between the sources of the pollutant and water quality. In essence, a TMDL defines the assimilative capacity of the waterbody to absorb a pollutant and still meet water quality standards.

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

§ 89-3. Applicability.

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

§ 89-4. Responsibility for administration.

The Stormwater Management Officer (SMO) shall administer, implement, and enforce the provisions of this chapter. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the Town Board.

§ 89-5. Severability.

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

§ 89-6. Discharge prohibitions.

A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in Section 89-6 (A) (1). The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this chapter, unless the Department or the Town has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to stormdrains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.
- (2) Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this chapter. Such approval shall be obtained by making application in the manner provided therefore to the SMO in advance of any such discharge, or, in the case of an emergency or unforeseen discharge, application for approval shall be made no more than hours after the discharge.
- (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.
- (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 Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

B. Prohibition of illicit connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the Town's MS4, or allows such a connection to continue.

§ 89-7. Prohibition against failing individual sewage treatment systems.

No persons shall operate a failing individual sewage treatment system in areas tributary to the Town's MS4. A failing individual sewage treatment system is one that, in the opinion of the SMO has one or more of the following conditions:

- A. The backup of sewage into a structure.
- B. Discharges of treated or untreated sewage onto the ground surface.
- C. A connection or connections to a separate stormwater sewer system.
- D. Liquid level in the septic tank above the outlet invert.
- E. Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.
- F. Contamination of off-site groundwater.

§ 89-8. Prohibition against activities contaminating stormwater.

- A. No person shall conduct activities which:
 - (1) Cause or contribute to a violation of the Town's MS4 SPDES permit.
 - (2) Cause or contribute to the Town being subject to the Special Conditions as set forth in Appendix A attached hereto and made a part hereof.

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- B. Such activities include failing individual sewage treatment systems as defined in Section 89-7, improper management of pet waste or any other activity that causes or contributes to violations of the Town's MS4 SPDES permit authorization.
- C. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the Town's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the Town's MS4 SPDES permit authorization. Failure to take such actions as required by the SMO shall constitute a violation of this chapter and shall be punishable as provided in Section 89-14, below

§ 89-9. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

- A. Where the SMO has identified illicit discharges as defined in Section 89-2 or activities contaminating stormwater as defined in Section 89-8 the Town may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.
 - (1) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.
 - (2) Any person responsible for a property or premise, including, but not limited to an owner, tenant, building manager or otherwise, which is, or may be, the source of an illicit discharge as defined in Section 89-2 or an activity contaminating stormwater as defined in Section 89-8, shall be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
 - (3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.
 - (4) Any person owning, leasing or occupying and/or controlling property with a failing individual septic system will immediately cease using such system, whether or not directed to do so by the SMO, and immediately undertake the restoration or replacement of such system as provided herein or otherwise by law or regulation.
- B. Individual Sewage Treatment Systems - Response to Special Conditions Requiring No Increase of Pollutants or Requiring a Reduction of Pollutants. Where an individual sewage treatment system is contributing to the Town's being subject to the Special Conditions as set forth in Appendix A of this chapter, the owner or operator of such individual sewage treatment systems shall be required to:
 - (1) Maintain and operate individual sewage treatment systems as follows:

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- (a) Inspect the septic tank annually to determine scum and sludge accumulation.
 - (b) Pump out septic tanks whenever the bottom of the scum layer is within three inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within ten inches of the bottom of the outlet baffle or sanitary tee.
 - (c) Avoid the use of septic tank additives.
 - (d) Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals into the septic system; and
 - (e) Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items into the septic system;
 - (f) Pump out tanks no less than every two to three years. However, pumping may be required more or less frequent depending on use. Inspection of the tank for cracks, leaks and blockages should be done by the septage hauler at the time of pumping of the tank contents.
- (2) Repair or replace individual sewage treatment systems as follows:
- (a) In accordance with 10 NYCRR Appendix 75A to the maximum extent practicable.
 - (b) A design professional licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:
 - i. Relocating or extending an absorption area to a location not previously approved for such.
 - ii. Installation of a new subsurface treatment system at the same location.
 - iii. Use of alternate system or innovative system design or technology.
 - iv. as required by New York State law or regulation.
 - (c) A written certificate of compliance shall be submitted by the design professional to the Town at the completion of construction of the repair or replacement system.

§ 89-10. Suspension of access to MS4. Illicit discharges in emergency situations.

- A. Imminent danger. The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize

danger to persons. The failure to comply with an order of the SMO issued pursuant to this subparagraph is a violation of this Chapter and shall be punishable as provided in Section 89-14, below.

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

§ 89-11. 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. Plans for compliance with the conditions of said permit shall be submitted to the SMO in advance in a form acceptable to the SMO prior to the allowing of discharges to the Town MS4. Upon such plans being provided, the SMO shall render his/her determination as to acceptability and shall provide the person with written confirmation of such determination.

§ 89-12. Access and monitoring of discharges.

- A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this chapter, or whenever the Stormwater Management Officer has cause to believe that there exists, or potentially exists, any condition that constitutes a violation of this chapter.
- B. Access to facilities.
- (1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. 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.
 - (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 chapter.
 - (3) The Town shall have the right to install on any facility subject to this chapter such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.

- (4) The Town has the right to require the facilities subject to this chapter to install monitoring equipment as is reasonably necessary to determine compliance with this chapter. 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 at least annually or otherwise as recommended by the manufacturer, to ensure their accuracy.
- (5) Refusal to allow the SMO access to a facility subject to this chapter is a violation of this Chapter punishable as provided in Section 89-14, below. A person who is the operator of a facility subject to this chapter commits a violation if the person denies the SMO reasonable access to the facility for the purpose of conducting any activity authorized or required by this chapter.
- (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 chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, then the SMO may seek issuance of an administrative search warrant from any court of competent jurisdiction.

§ 89-13. Notification of spills and other illicit discharges.

Notwithstanding any other requirements of chapter, 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 Town's 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 Town 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 Town 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 make and 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.

§ 89-14. Enforcement.

A. Notice of violation.

When the SMO finds that a person has violated any provision of this Chapter or committed an act prohibited thereby or failed to meet a requirement of this chapter, he/she may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

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- (1) The elimination of illicit connections or discharges;
- (2) That violating discharges, practices, or operations shall cease and desist;
- (3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (4) The performance of monitoring, analyses, and reporting;
- (5) The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator; and
- (6) An appearance ticket to bring the matter to court. [We need to provide for a lein to be imposed on property if the fine is not paid]

B. Penalties. In addition to or as an alternative to any other penalty provided herein or by chapter, any person who violates the provisions of this chapter shall be guilty of a offense punishable by a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed fifteen days, or both for conviction of a first offense; a second offense committed within a period of five years shall constitute a misdemeanor and upon conviction, shall be punishable by a fine not less than five hundred dollars (\$500.00) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; a third or subsequent offense committed within a period of five (5) years shall constitute a misdemeanor and, upon conviction, be 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 six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of chapter relating to misdemeanors shall apply to such violations. Each day's continued violation shall constitute a separate additional violation and offense.

§ 89-15. Appeal of notice of violation.

Any person receiving a Notice of Violation may appeal the determination of the SMO to the Town Board within 15 days of its issuance, which shall hear the appeal within 30 days after the filing of the appeal, and within five days of making its decision, file its decision in the office of the municipal clerk and mail a copy of its decision by certified mail to the discharger. An appeal to the Town Board does not constitute a stay of the order of the SMO to eliminate any illicit discharge or connection, cease and desist from any practice or operations violating this Chapter, abate or remedy ant stormwater pollution or contamination hazard and restore any effected property. In the event of an unsuccessful appeal each day of continued violation shall constitute a separate offense.

§ 89-16. Corrective measures after appeals.

- A. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 business days of the decision of the Town Board upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.
- B. If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.
- C. Notwithstanding any action by the SMO as provided in this section, 89-16, any person violating this Chapter shall be subject to the enforcement proceedings set forth in Section 89-14.

§ 89-17. Injunctive relief.

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

§ 89-18. Alternative remedies.

- A. Where a person has violated a provision of this chapter, he/she may be eligible for alternative remedies in lieu of any other penalty, upon recommendation of the Municipal Attorney and concurrence of the Municipal Code Enforcement Officer, where:
 - (1) The violation was unintentional.
 - (2) The violator has no history of previous violations of this chapter.
 - (3) Environmental damage was minimal.
 - (4) Violator acted quickly to remedy violation.
 - (5) Violator cooperated in investigation and resolution.
- B. Alternative remedies may consist of one or more of the following:
 - (1) Attendance at compliance workshops.

- (2) Storm drain stenciling or storm drain marking.
- (3) River, stream or creek cleanup activities.
- (4) The costs of enforcement Civil Penalty not to exceed \$250.00

§ 89-19. 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 chapter 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.

§ 89-20. Remedies not exclusive.

The remedies listed in this chapter 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.

§ 89-21. Severability and effective date.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter. This chapter shall be effective upon filing with the office of the Secretary of State.

Appendix "A"

SPECIAL CONDITIONS.

- (1) Discharge compliance with water quality standards. The condition that applies where the Town 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 Town 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's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
- (3) Total Maximum Daily Load (TMDL) Strategy. The condition in the Town'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 Town 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'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 Town 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 Town 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.

2nd by Councilman Secreto

A Roll Call Vote was taken - 4 Ayes – Councilman Kitchen was absent

Shirley Felton – Increase in Step

Councilman David Brink moved to increase Shirley Felton from Grade 3, Step 5 to Grade 4, Step 5, an increase of \$.50 an hour effective April 1, 2009

2nd by Councilman Joel B. Brink

4 Ayes – Councilman Kitchen was absent

Contract with Elaine Grimsey for Back-up Animal Control Services

Councilman Secreto motioned to enter into a contract with Elaine Grimsey for back up animal control services at the same per diem rate as the other animal control officer, Sue Trnka

2nd by Councilman Joel B. Brink

4 Ayes – Councilman Kitchen was absent

Stop Signs on Plainfield Street

Chief Watzka reported, after thorough review, that there is no need for any additional stop signs on Plainfield Street. Highway Superintendent Frank Petramale concurred.

A discussion occurred regarding the status of the Senior Center Project. Grant Writer Mark Blauer reported that the bids are being written.

Mrs. Pat Metzger inquired about whether the traffic studies pertaining to Tech City are going to be reviewed.

Supervisor Woerner stated that recent existing traffic studies from the surrounding area will be reviewed as well as parts that have not been reviewed in many years.

James Quigley inquired on the status of the 2007 Town Audit.

ULSTER TOWN BOARD WORKSHOP
APRIL 2, 2009 AT 7:00 PM

Supervisor Woerner stated that the 2007 audit was filed with the State Comptroller last week after the auditors finished their review.

Councilman Secreto motioned to adjourn the meeting at 8:44 PM
2nd by Councilman David Brink
All Ayes

Respectfully Submitted by
Jason Cosenza, RMC FHCO
Ulster Town Clerk