

City of Utica, NY

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STORMWATER MANAGEMENT PROGRAM (SWMP) PLAN CITY OF UTICA



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ARTICLE I

Illicit Discharges, Activities And Connections To Separate Storm Sewer System Prohibited

Sec. 2-30-1. Purpose/intent.

The purpose of this plan is to provide for the health, safety, and general welfare of the citizens of the City of Utica (“city”, hereafter) through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state ordinance. This plan establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the New York State Department of Environmental Conservation (NYSDEC) State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharge from MS4s, Permit No. GP-0-24-001, as of April 2025. The objectives of this plan are:

- (1) To meet the requirements of the GP-0-24-001 or as amended or revised;
- (2) To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- (3) To prohibit illicit connections, activities and discharges to the MS4;
- (4) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this plan; and
- (5) To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.
- (6) To provide opportunities to involve the public in the development, review, and implementation of this plan.

Sec. 2-30-2. Definitions.

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

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

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

CONSTRUCTION ACTIVITY — Activities requiring authorization under the NYSDEC SPDES permit for stormwater discharges from construction activity, GP-0-20-001, 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 — The NYSDEC.

DESIGN PROFESSIONAL — A New York State licensed professional engineer or licensed architect.

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 illegal discharge to enter the MS4, including but not limited to:

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

ILLICIT DISCHARGE — Any direct or indirect non-stormwater discharge to the MS4, except as exempted in section 2-30-6.

INDUSTRIAL ACTIVITY — Activities requiring the NYSDEC SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (1) Owned or operated by the city;
- (2) Designed or used for collecting or conveying 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.

MUNICIPALITY — The City of Utica.

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 ordinance and acting as either the owner or as the owner's agent.

POLLUTANT — Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be

expected to cause pollution of the waters of the state in contravention of the standards.

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

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 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 municipality 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 municipality'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 municipality'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 municipality 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 municipality'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 municipality 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 municipality must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

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

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO) — Also known as the stormwater program coordinator, is an employee, the municipal engineer or other public official(s) designated by the city to enforce this plan. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices. The contact information for the SMO is defined in the staffing plan (Appendix A). The SMO oversees the development, implementation, and enforcement of this plan; coordinates all elements in this plan to ensure compliance with the GP-0-24-001; and develops and submits the NYSDEC MS4 annual reports. The SMO will ensure MS4 reporting is completed as required. Additionally, the SMO will ensure illicit discharge reports adheres to the MS4 process of discovery, inspection, enforcement, correction and reporting is completed efficiently. Lastly, the SMO will lead the changes in this plan as needed to be compliant with MS4 regulations and requirements.

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)— 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.

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

Sec. 2-30-3. Applicability.

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

Sec. 2-30-4. Responsibility for administration.

The stormwater management officer(s) (SMO(s)) shall administer, implement, and enforce the provisions of this plan. 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 municipality. Appendix A that includes the job titles and responsibilities for the applicable roles required to meet the elements of this plan and the requirements set forth in the GP-0-24-001.

The following table is an inventory of the entities that assist the city in implementing the SWMP Plan according to the GP-0-24-001 requirements.

Name of Entity	Permit Requirement being Performed by Entity
Ramboll Americas Engineering Solutions (Ramboll).	<ul style="list-style-type: none"> • IV.D. (Mapping) • Assistance in developing and maintaining Part VI and VIII.

Appendix B includes the specific executed documentation between the city and the assisting entity as listed in the above table. Chapter 2-30: Stormwater Management includes model local laws for illicit discharges and stormwater management and erosion & sediment control. Chapter 2-30 is available here: <https://ecode360.com/14017106>. The resolutions of Chapter 2-30 are documented in Appendix C.

Sec. 2-30-5. Severability.

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

Sec. 2-30-6. Public involvement

The municipality will post a notice on the municipality's website (<https://www.cityofutica.com/departments/engineering/storm-water-management/ms4/index>) to announce when the public can attend board meetings or public hearings. At these meetings or hearings, the SWMP plan and the annual report will be reviewed, and an opportunity will be given to the public to comment on the reports. Documentation of the opportunity for the public to be involved in stormwater management-focused meetings and their involvement is located in Appendix D. If the public is unable to attend the meeting or needs to view this plan at any time, a copy of the SWMP Plan, including the annual reports, will be published on the city's website (<https://www.cityofutica.com/departments/engineering/storm-water-management/ms4/index>).

Sec. 2-30-7. Illicit discharge prevention and reporting.

- (a) Allowable discharges are non-stormwater discharges through outfalls listed in Part 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) 750-1.2(a)(29)(vi) and 40 CFR 122.34(b)(3)(ii), are authorized by this NYSDEC SPDES general permit provided they do not violate Environmental Conservation Law (ECL) Section 17-0501. If the NYSDEC or city determines that one or more of the discharges are in violation of ECL Section 17-0501, the identified discharges are illicit and the city must eliminate such discharges by following the illicit discharge MCM requirements found in Part VI.C of the GP-0-24-001, depending on the city type. Discharges from firefighting activities are authorized only when the firefighting activities are emergencies/unplanned.
- (b) No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided herein. Examples that are an illicit discharge include, but are not limited, to the following:
 - (1) Dry weather discharges of wastewater into storm sewer system from illegal dumping, spills and other non-stormwater pollution sources
 - (2) Discharges of pollutants, contaminants or illicit materials into storm drainage/sewer systems (e.g. oil, grease, solvents, metals, nutrients, toxins, viruses, or bacteria)
 - (3) Improper antifreeze, oil disposal from vehicle maintenance, or service stations
 - (4) Vehicle washing wastewaters
 - (5) Autobody/repair facility wastewaters
 - (6) Plating shop wastewater
 - (7) Private service agencies wastewater
 - (8) Wholesale/retail est. wastewater
 - (9) Sanitary wastewater/connection
 - (10) Mobile rug cleaning waste dumping
 - (11) Laundry wastewaters
 - (12) Disposal of auto/household toxins
 - (13) Vehicular/accidental spills

- (14) Dairy barn wastewaters
- (15) On-lot disposal system- sewage effluent
- (c) Exempt illicit discharges shall be made in accordance with an appropriate plan for reducing pollutants. Examples of an exempt illicit discharge, unless the Department or the municipality has determined them to be substantial contributors of pollutants, include, but are not limited, to the following:
 - (1) Discharge from firefighting activities
 - (2) Potable water sources including dechlorinated waterline and fire hydrant flushing
 - (3) Irrigation drainage
 - (4) Landscape irrigation
 - (5) Water from individual residential car washing
 - (6) Dechlorinated swimming pool discharges
 - (7) Water from crawl space or basement sump pumps
 - (8) Uncontaminated water from foundation or footing drains
 - (9) Routine external building wash down which does not use detergents or other compounds
 - (10) Pavement wash water where spills or leaks of toxic or hazardous materials have not occurred (unless spilled material has been removed) and where detergents are not used
 - (11) Air conditioning condensate
 - (12) Existing diverted stream flows
 - (13) Springs
 - (14) Natural riparian habitat or wetland flows
 - (15) Uncontaminated groundwater
 - (16) 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 ordinances 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 plan.
 - (17) Dye testing in compliance with applicable state and local ordinances is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.
 - (18) The prohibition shall not apply to any discharge permitted under an NYSDEC 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 ordinances and regulations, and provided the written approval is granted for any discharge to the MS4.

- (19) Other water source not containing pollutants
- (d) The environmental hazards associated with the contaminants from illicit discharges and improper disposal of waste include, but are not limited, to the following:
- (1) Water quality for drinking water, fisheries, or recreation purposes; thus, decreasing tourism and waterfront home values, fishing and shellfish harvesting, and closure to beaches, primarily as a result of microbial contamination.
 - (2) Aquatic life and wildlife species are impacted such as disruptions to the ecosystem, mass fish die-offs and other aquatic life losses, and loss of biodiversity.
 - (3) Soil contamination which affects vegetation growth and contaminants could potentially enter the food chain and harming wildlife.
 - (4) Health risks to humans and wildlife if the substance is consumed from drinking water or swimming such as skin infections, respiratory issues, and other diseases.
 - (5) In some scenarios, illicit discharges could block drainage systems, leading to flooding and associated damage to property and infrastructure.
 - (6) In some scenarios, illicit discharges can spontaneously combust or be set on fire, posing a risk to nearby areas such as forested areas or property.
- (e) Suggestions to properly practice the handling and disposal of illicit discharges for the most common behaviors within the community (e.g., septic care, car washing, household hazardous waste, swimming pool draining, or other activities resulting in illicit discharges to the MS4) include, but are not limited to, the following:
- (1) Avoid disposing any waste into storm drains.
 - (2) Use lawn and garden chemicals sparingly. Repair vehicle leaks. If a vehicle leak was to occur, cover the spilled fluids with cat litter, then sweep into household waste.
 - (3) Clean up pet waste and dispose of the pet waste properly.
 - (4) Control soil erosion on your property by planting ground cover and stabilizing erosion-prone areas.
 - (5) Avoid grass clippings, leaves, litter, and debris out of street gutters and storm drains by sweeping any excess grass clippings from driveways, sidewalks and roads.
 - (6) Direct downspouts onto grassy areas and away from paved surfaces.
 - (7) Use a commercial car wash or wash your vehicle on the grass instead of the driveway.
 - (8) Dispose of used oil, antifreeze, paints and other household chemicals in an approved manner
- (f) Steps to reporting an illicit discharge:
- (1) Determine property owners name, if available, and street address of the discharge source in the event that follow-up action or elimination is required.
 - (2) Describe the possible illicit discharge for source identification and verification by determining the presences of any odors, the transparency, the colors, and location of source,

if possible. Additionally, describe the presence of any solid or floatables. Finally, examine the possible illicit discharge for iron leaches from soils forming a breakable sheen on stagnant water surfaces or oil sheens

(3) The point of contact for reporting an illicit discharge activity is documented in Appendix A.

(4) Within thirty (30) days of an illicit discharge, the municipality will document each report of an illicit discharge in Appendix E with the following information:

- a. Date of the report
- b. Location of the illicit discharge
- c. Nature of the illicit discharge
- d. Follow up actions taken or needed (including response times)
- e. Inspection outcomes and any enforcement taken

Sec. 2-30-8. Discharge prohibitions.

(a) 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 ordinance or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this plan if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

Sec. 2-30-9. Prohibition against failing individual sewage treatment systems.

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

- (1) The backup of sewage into a structure.
- (2) Discharges of treated or untreated sewage onto the ground surface.
- (3) A connection or connections to a separate stormwater sewer system.
- (4) Liquid level in the septic tank above the outlet invert.
- (5) 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.
- (6) Contamination of off-site groundwater.

Sec. 2-30-10. Prohibition against activities contaminating stormwater.

(a) Activities that are subject to the requirements of this section are those types of activities that:

- (1) Cause or contribute to a violation of the municipality's MS4 NYSDEC SPDES permit.
 - (2) Cause or contribute to the municipality being subject to the special conditions as defined in section 2-30-2.
- (b) Such activities include failing individual sewage treatment systems as defined in section 2-30-8, improper management of pet waste or any other activity that causes or contributes to violations of the municipality's MS4 NYSDEC 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 municipality's MS4 NYSDEC 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 municipality's MS4 NYSDEC SPDES permit authorization.

Sec. 2-30-11. Monitoring locations inspection and sampling program.

The city will inspect each monitoring location identified in the inventory (Appendix F) during dry weather conditions or between 48-72 hours without precipitation, at least once every five years following the most recent inspection. All inspection and sampling results will be documented using the designated field sheets in Appendix F.

The program includes sampling all monitoring locations that indicate a suspect or obvious illicit discharge based on physical indicators such as odors, transparency, colors, solids, floatables, and sheens like an oil sheen. If the source of the illicit discharge is clear and discernable (e.g., sewage), sampling is not necessary. Sampling may be conducted using field test kits or instrumentation sensitive enough to detect parameters below the sampling action level.

Track down procedures will be initiated for any locations that indicate a suspect or obvious illicit discharge or exceed any sampling action level, such that reinspection of the monitoring location will be performed within thirty (30) days of the initial inspection. If persistent physical indicators are found, track down procedures will be initiated (section 2-30-12). New staff will be trained before conducting inspections and sampling, while existing staff will be trained every five years and when procedures are updated. The staffing plan (Appendix B) includes a list of trained individuals to perform the monitoring inspection and sampling procedures, and the list will be updated annually. Procedures will be reviewed and updated annually by April 1, with updates documented in the SWMP Plan.

Sec. 2-30-12. Illicit discharge track down program.

After the track down program is initiated based on monitoring location inspection and sampling procedures, immediate steps will be taken to eliminate the discharge. This may involve cleaning up spills, repairing equipment, or modifying operations to prevent further pollution.

When a suspect or obvious discharge is discovered, track down procedures, as described above or in Chapter 13 of the Center for Watershed Protection Manual, will be initiated within specific timeframes:

- twenty-four (24) hours for obvious discharges
- two (2) hours of discovery for sanitary wastewater affecting bathing areas during bathing season, shell fishing areas, or public water intakes
- five (5) days for suspect discharges

The investigation is to be reported orally or electronically to the regional water engineer and local health department. All findings and corrective actions are documented thoroughly, including the date

and nature of the discharge, the methods used to trace the source, and the steps taken to mitigate the issue. This documentation is included in the SWMP Plan and updated in Appendix D.

New staff will receive training in these procedures before conducting track downs, and existing staff will be trained at least every five years, and when procedures are updated. The staffing plan (Appendix B) includes a list of trained individuals to perform the illicit discharge track down procedures, and the list will be updated annually. Annually, by April 1, track down procedures will be reviewed and updated based on inspection results, with updates documented in the SWMP Plan.

Sec. 2-30-13. Illicit discharge elimination program.

The Illicit Discharge Elimination Program will include escalating enforcement and tracking that is consistent with the Enforcement Response Plan (ERP) (section XX). Additionally, this program includes confirmation of corrective actions taken and detailing necessary steps for illicit discharge elimination which will be based on a case-by-case basis.

Illicit discharges that have a reasonable likelihood of adversely affecting human health or the environment will be eliminated within twenty-four (24) hours of identification.

Training provisions will ensure new staff receive training in these procedures before conducting eliminations, and existing staff will be trained prior to conducting eliminations and every five years thereafter. Staff will also receive updated training if there are procedural changes. The staffing plan (Appendix B) includes a list of trained individuals to perform the illicit discharge track down procedures, and the list will be updated annually. Each year by April 1, the illicit discharge elimination program will be reviewed and updated, and completion of this requirement will be documented in the SWMP Plan.

Sec. 2-30-14. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

When applicable, the Village will consider BMPs at municipal facilities to minimize discharge of pollutants from municipal operations. A municipal facilities inventory is documented in Appendix G. Where the SMO has identified illicit discharges as defined in section 2-30-2 or activities contaminating stormwater as defined in section 2-30-9 the municipality may require implementation of best management practices (BMPs) to control those illicit discharges and activities.

- (a) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.
- (b) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in section 2-30-2 or an activity contaminating stormwater as defined in section 2-30-9, 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.
- (c) Compliance with all terms and conditions of a valid NYSDEC 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.

Sec. 2-30-15. Suspension of access to MS4— illicit discharges in emergency situations.

- (a) The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of

persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

- (b) Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this plan 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 therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if they find 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.

Sec. 2-30-16. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NYSDEC 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 municipality prior to the allowing of discharges to the MS4.

Sec. 2-30-17. Access and monitoring of discharges.

- (a) Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this plan, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this plan.
- (b) Access to facilities.
 - (1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this plan as often as may be necessary to determine compliance with this plan. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
 - (2) Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this plan.
 - (3) The municipality shall have the right to set up on any facility subject to this plan 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 municipality has the right to require the facilities subject to this plan to install monitoring equipment as is reasonably necessary to determine compliance with this plan. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

- (5) Unreasonable delays in allowing the municipality access to a facility subject to this plan is a violation of this plan. A person who is the operator of a facility subject to this plan commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this plan.
- (6) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and they is able to demonstrate probable cause to believe that there may be a violation of this plan, 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 plan or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 2-30-18. Notification of spills.

Notwithstanding other requirements of this plan, 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 SMO no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 2-30-19. Enforcement response plan.

- (a) Violation. It shall be unlawful for any person to violate any provision or fail to comply with any requirements of this plan.
- (b) Types of violation. The SMO or the City's Department of Codes (hereafter "enforcer") has the right to execute the following types of enforcement responses or a combination of the responses considering the type, magnitude, and duration of the violation; effects the violation has on the receiving water; compliance history and good faith efforts of the responsible party:
 - (1) Verbal notifications
 - (2) Written notices
 - (3) Citations (and associated fines)
 - (4) Stop work orders
 - (5) Withholding of plan approvals or other authorizations affecting the ability to discharge to the MS4
 - (6) Additional measures, supported in local legal authorities, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials to correct violations

(c) Notice of violation.

- (1) When the enforcer determines that a party has violated a prohibition or failed to comply with a requirement of this plan, the enforcer will send a written letter titled "Notice and Order." Such notice may include, without limitation, the following considering the type, magnitude, and duration of the violation; effects the violation has on the receiving water; compliance history and good faith efforts of the responsible party:
 - The name and address of the party responsible for the violation.
 - The address, if available, or a description of the building, structure or land upon which the violation is occurring.
 - A statement specifying the nature of the violation.
 - A description of the remedial measures necessary to comply with this plan such as the elimination of illicit discharges.
 - (2) A letter is sent with an affidavit of service. Based on the violation, the enforcer establishes a duration for the reinspection which is typically ten (10) days from the original violation, and a maximum of thirty (30) days. Any request for beyond thirty (30) days to solve the violation must be written and sent to the enforcer. If the violation is not addressed in the given time to reinspection, the City proceeds with the following options:
 - Abate the violation using the City's Department of Parks or the City's Department of Public Works, and the expenses incurred by the City for addressing the violation will be charged to the violator's property tax bill, or
 - Issue a ticket to the violator which will require them to address the violation through the City Court.
 - (3) Abatements are typically completed when the City has realistically declared to resolve the violation. Tickets will be issued when the City is incapable of resolving the violation.
- (d) Response to the notice of violation. The responsible party must respond to the notice of violation with a plan that meets the requirements of the notice and this plan within given time to reinspection outlined in the notice.
- (e) Appeal of notice of violation. Any person receiving a notice of violation may appeal the determination of the enforcer to the City within 7 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.
- (f) Corrective measures after appeal.
- (1) If the violation has not been corrected according to the requirements outlined in the notice of violation, or if the violation is not corrected within five business days of a municipal authority's decision to uphold the enforcer's decision in the event of an appeal, then the enforcer shall request the responsible party's permission to access the private property in order to take any necessary actions to abate the violation and/or restore the property.
 - (2) If refused access to the subject private property, the enforcer 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 enforcer may seek a court order to take 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.

- (g) Enforcement Tracking. The SMO must track instances of non-compliance of this plan in Appendix H. The enforcement case documentation must include, at a minimum, the following:
- (1) Name of the owner/operator of the facility or site of the violation (can be redacted from the publicly available version of this plan).
 - (2) Location of the stormwater source (e.g., construction project).
 - (3) Description of the violation.
 - (4) Schedule for returning to compliance.
 - (5) Description of enforcement response used, including escalated responses if repeat violations occur or violations are not resolved in a timely manner; Accompanying documentation of enforcement response (e.g., notices of noncompliance, notices of violations).
 - (6) Any referrals to different departments or agencies.
 - (7) Date violation was resolved.
 - (8) Penalties for the first, repeating, and continuing offences are defined in Sec. 2-30-20.

Sec. 2-30-20. Penalties/remedies.

- (a) Penalties. In addition to or as an alternative to any penalty provided herein or by ordinance, any person who violates the provisions of this plan shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700, or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 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 plan shall be deemed misdemeanors and for such purpose only all provisions of this plan relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- (b) Alternative remedies.
- (1) Where a person has violated a provision of this plan, they may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the municipal attorney and concurrence of the municipal code enforcement officer, where:
 - a. The violation was unintentional.

- b. The violator has no history of previous violations of this plan.
 - c. Environmental damage was minimal.
 - d. Violator acted quickly to remedy violation.
 - e. Violator cooperated in investigation.
- (2) Alternative remedies may consist of one or more of the following:
- a. Attendance at compliance workshops.
 - b. Storm drain stenciling or storm drain marking.
 - c. River, stream or creek cleanup activities.
- (c) 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 plan 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.
- (d) Injunctive relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this plan. If a person has violated or continues to violate the provisions of this plan, 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.
- (e) Remedies not exclusive. The remedies listed in this plan are not exclusive of any other remedies available under any application federal, state or local ordinance, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Sec. 2-30-21. Impaired Waters

- (a) Known impaired waters in the municipality. The Mohawk River, the Utica Harbor, Ballou Creek and its tributaries, and Nail Creek and its tributaries are all impaired waters within the municipality. The impairment status for all waterbodies in the municipality are shown on the comprehensive map in Appendix I. The pollutants of concern (POC) for each impaired water in the municipality are as follows:
- (1) The Mohawk River contains high levels of fecal coliform, oils and floating substances.
 - (2) The Utica Harbor contains high levels of fecal coliform.
 - (3) Ballou, Nail Creeks, and their tributaries contain high levels of phosphorus.
- (b) Efforts to address the POCs in the impaired waters by the municipality. This plan shall serve as an effort to address the POCs in the impaired waters within the municipality. Additionally, the municipality will implement the following activities to reduce the POCs in impaired waters:
- (1) Creating a long-term plan for the combined stormwater sewer outfalls
 - (2) Placing dog waste receptacles at each park in the municipality
 - (3) Mandating pets to be leashed at parks within the municipality
 - (4) Installing bird spikes on top of park pavilions

- (5) Displaying “Do not feed birds” signage at bird nuisance areas. The municipal facilities with nuisance bird populations include the following:
 - a. Utica Harbor
 - b. Chancellor Park
 - c. F.T. Proctor Park
 - d. Nurses Candlelight Park
 - e. Mini Hanna Park
- (6) Remove accumulated trash and debris from municipal facilities. Stormwater catch basin inspection form and cleaning procedure is documented in Appendix J. The standard operating procedure for the Department of Parks and Recreation to clean and maintain trash receptacles is documented in Appendix K.
- (7) Following a street sweeping procedure as identified in Appendix L
- (8) Washing municipal-owned vehicles at car wash stations
- (9) Eliminating the act of pesticides at each municipality facility
- (10) Constructing a flood bench along Nail Creek
- (11) Implementing blue and green infrastructure when possible

An analysis of the effects for the municipality’s contribution to reduce bird related pathogens entering the impaired waters from the above list of activities will be evaluated by next year’s NYSDEC MS4 annual report (April 2026).

ARTICLE II

Stormwater Management Regulations

Sec. 2-30-22. Title.

This article shall be known as and may be cited as the "City of Utica Stormwater Management Regulations."

Sec. 2-30-23. Legislative intent.

The intent of this plan is as follows:

- (1) To meet the requirements of the six minimum control measures (MCMs) of the GP-0-24-001, as of April 2026, the completed GP-0-24-001 submittals for the MCMs of this traditional land use control city is documented in Appendix L. Requirements for Part VII of the GP-0-24-001 are not applicable to the city because of the city type. Additionally, requirements of Part IX are not applicable to the city because the city is not within an approved total maximum daily load (TMDL) watershed as listed in Table 3 of the GP-0-024-001.
- (2) To minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- (3) To minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality; and
- (4) To minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable.

Sec. 2-30-24. Findings of fact.

It is hereby determined that:

- (1) Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- (2) This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- (3) Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- (4) Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- (5) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow;
- (6) Substantial economic losses can result from these adverse impacts on the waters of the city;
- (7) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and

- minimized through the regulation of stormwater runoff from land development activities;
- (8) The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety; and
 - (9) Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

Sec. 2-30-25. Definitions.

The definitions set forth in the zoning law of the city (article 55) at article III (section 55-3) are incorporated by reference herein for application in this article.

Sec. 2-30-26. Applicability.

No application for approval of a land development activity shall be reviewed until the appropriate board and/or department has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with and the GP-0-20-001 and the specifications in this article and until the SWPPP has been reviewed and approved.

The boundary of the MS4 automatically designated area for the municipality is shown in a comprehensive system map attached in Appendix H. Existing municipality layers and public layers were overlaid on a United States Geologic Survey (USGS) basemap using the software ESRI ArcGIS Pro to create the comprehensive system map. The following layers are visible in the comprehensive map:

- (1) MS4 automatically designated area for the municipality
- (2) MS4 outfalls
- (3) Interconnections, if applicable
- (4) Preliminary storm-sewershed boundaries
- (5) Impaired waters within the city's MS4 boundary limits

The map will be maintained through field investigations and collaboration between the municipality and Ramboll Americas Engineering Solutions (Ramboll).

Sec. 2-30-27. Exemptions.

The following activities may be exempt from review under this article:

- (1) Agricultural activity as defined in this plan.
- (2) Logging activity undertaken pursuant to an approved timber management plan prepared or approved by the county soil and water conservation district or the department; except that landing areas and log haul roads are subject to this law.
- (3) Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a stormwater

management facility.

- (4) Repairs to any stormwater management practice or facility deemed necessary by the SMO.
- (5) Cemetery graves.
- (6) Installation of fence; sign, telephone, and electric poles and other kinds of posts or poles.
- (7) Emergency activity immediately necessary to protect life, property or natural resources.
- (8) Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and their family.
- (9) Landscaping and horticultural activities in connection with an existing structure.

Sec. 2-30-28. Construction oversight program.

The purpose of this Construction Oversight Program is to implement and enforce the following procedures discussed in this section that will ensure the stormwater runoff within applicable construction sites are effectively controlled.

- (a) Applicable construction activities, projects and sites that must meet the Construction Oversight Program, may be defined as:
 - (1) Construction activities that result in a total land disturbance of greater than or equal to one acre; or
 - (2) A total land disturbance of less than one acre if the construction activity is part of a larger common plan of development or sale.
- (b) Applicable construction activities (as defined in Sec. 2-30-28.a.) and construction activities near water bodies or environmentally sensitive areas, such as wetlands or floodplains, may require additional stormwater control measures to ensure runoff is managed properly. Both types of construction activities are required to develop SWPPP. An inventory of construction activities is developed in Appendix M.
- (c) The contractor or developer must prepare a SWPPP prior to the start of construction activities. The plan must include all the necessary components such as erosion and sediment control measures, stormwater management practices, responsible parties for implementation and oversight, insurance, engineering design plans (completed by a licensed professional), property ownership, and license of contractor which is required for plumbing work and electricity. The completed SWPPP should be submitted to the City for review. The City's planning board typically reviews the SWPPP first, then the Departments of Engineering, Codes and Urban Development will follow the planning board's approval. After all departments have approved the SWPPP and all necessary permits, the city and owner will schedule a pre-construction meeting date. If the city has insufficient internal resources, the city will hire appropriate consultants to participate in SWPPP review. The approval of the SWPPP is required prior to the commencement of construction activities.
- (d) Electronic or hard copies of the SWPPP may need to be submitted. The SWPPP should be submitted a minimum of 60 days before construction activities begin, to allow time for review and any necessary revisions.
- (e) The SWPPP should remain on-site for the duration of the construction project.

- (f) In cases where the owner does not file a SWPPP, the City immediately issues a stop work order on the project until proper permitting is obtained.
- (g) The SWPPP will be reviewed by the City within 60 days of submission. The review will assess whether the SWPPP adequately addresses all necessary regulatory components outlined in the permit. The SWPPP reviewers must review all SWPPPs for applicable construction activities and for conformance with the requirements of the GP-0-25-001 which includes the following:
 - (1) Erosion and sediment controls must be reviewed for conformance with the NYS Erosion & Sediment Control of 2016, or equivalent;
 - (2) Individuals responsible for review of post-construction stormwater management practices (SMPs) must be qualified professionals or under the supervision of a qualified professional; and
 - (3) Post-construction SMPs must be reviewed for conformance with the New York State Stormwater Management Design Manual, January 2015 (NYS SWMDM 2015) or equivalent, including:
 - a. All post-construction SMPs must meet the sizing criteria contained in the GP-0-25-001 and NYS SWMDM 2015.
 - b. Deviations from the performance criteria of the NYS SWMDM 2015 must demonstrate that they are equivalent.
- (h) The SWPPP must include an Operations and Maintenance plan that includes inspection and maintenance schedules and actions to ensure continuous and effective operation of each post-construction SMP. The SWPPP must identify the entity that will be responsible for the long-term operation and maintenance of each practice. If the SWPPP is determined to be in compliance, approval will be granted. If revisions are necessary, the applicant must modify the plan as requested and resubmit for approval. In this article, documentation of the SWPPP review process is required to keep on record including the information found in Part III.B. of the GP-0-25-001.
- (i) Prior to the commencement of construction activities, a pre-construction meeting will be held with all relevant parties (contractor as listed on the GP-0-25-001 NOI, developers, qualified inspectors, environmental consultants, and the MS4 operator) to discuss the SWPPP, stormwater management measures, and compliance expectations. The details of the meeting (e.g. date, attendance and agenda) will be documented as an attachment to this plan in Appendix N. The meeting agenda will confirm the approved project has received, or will receive, coverage under the GP-0-25-001 or an individual SPDES permit; verify contractors and subcontractors selected by the owner/operator of the construction activity have identified at least one individual that has received four (4) hours of NYSDEC endorsed training in proper erosion and sediment control principles from a Soil & Water Conservation District or other endorsed entity as required by the GP-0-25-001 and; review this construction oversight program and expectations for compliance. If all outstanding action items are completed after the pre-construction meeting has been conducted, the construction activities may be commenced.
- (j) Regular site inspections and oversight ensures the owner complies with the SWPPP and permit requirements. The construction activity sites identified in the inventory will be inspected at a minimum of once a year during active construction after the pre-construction meeting or sooner if deficiencies are noted that require attention. Follow up to construction site inspections must confirm corrective actions are completed within timeframes established by the GP-0-25-001 and

the city's Enforcement Response Plan (ERP) as identified in Sec 2-30-16. All site inspections must be documented in Appendix O. If non-compliance is identified, corrective actions will be required, and penalties will be imposed for continued violations. If deficiencies persist or corrective actions are not implemented in a timely manner, escalating enforcement actions will include fines, suspension of work, or legal action, depending on the severity of the violation. All violations of stormwater regulations or the SWPPP must be reported to the designated enforcement authority immediately.

- (k) The city must ensure a final construction site inspection is conducted, and documentation of the final construction site inspection must be maintained in this plan as an attachment in Appendix O. The final construction site inspection must be documented using the Construction Site Inspection Report Form (Appendix O), or an equivalent form containing the same information, or accept the construction site owner/operator's qualified inspector final inspection certification required by the GP-0-25-001. The Notice of Termination (NOT) and Certification of Completion/Occupancy must be signed by the city as required by the GP-0-25-001 for projects determined to be complete. The NOT and certifications verify that all standards are meant and the project is in substantial compliance. Failure to provide the City with a NOT and a Certification of Completion/Occupancy indicates the construction activity is incomplete or flawed, and the City has the authority to issue a ticket to the owner.
- (l) Other procedures associated with the control of stormwater runoff from applicable construction activities maintenance of best management practices (BMPs) includes ensuring all BMPs outlined in the SWPPP are maintained throughout the construction process and repaired or replaced if they become ineffective. Personnel responsible for stormwater management on-site must receive appropriate training to ensure they understand their roles in the SWPPP and compliance requirements. If any changes in the construction project occur that affect stormwater management (e.g., changes in grading or project scope), the SWPPP must be amended and submitted for approval. Procedures must be in place for responding to emergencies such as equipment failure or unexpected storm events that could cause pollution or inadequate stormwater management.
- (m) The City, such as the City's Department of Engineering, must train new and existing staff involved in the construction oversight program every five (5) years, or after any updates to the program, prior to conducting any construction oversight activities. Procedures to ensure those involved in the construction activity itself (e.g., contractor, subcontractor, construction site inspector, SWPPP reviewers) have received four (4) hours of NYSDEC endorsed training in proper erosion and sediment control principles from a Soil & Water Conservation District, or other NYSDEC endorsed entity. This training must be completed every three (3) years and all MS4 construction site inspectors receive this training prior to conducting construction site inspections. The staff members trained to proceed with the construction oversight program are listed in Appendix B.

Sec. 2-30-29. Post-construction SMP inspection and maintenance program.

- (a) A post-construction SMP inventory is developed in Appendix M. Each post-construction SMP identified in the post-construction SMP inventory is inspected with a checklist at the frequency specified in the Appendix M. The City's Department of Engineering trained staff will conduct the SMPs inspections listed in the post-construction SMP inventory (Appendix M). The City's trained inspection staff will contact the applicable operators of the SMPs to collect inspection or maintenance documentation, then the City will enforce action as needed.

- (b) If the post-construction SMP inspection requires additional maintenance, repair, or higher-level inspection, these follow-up actions must be met within thirty (30) days of the post-construction SMP inspection. If failure to meet the required follow-up actions, the enforcer will initiate enforcement within sixty (60) days of the post-construction SMP inspection.
- (c) The City must train new and existing staff involved in the post-construction SMP inspection and maintenance program and procedures outlined in the NYSDEC endorsed programs every five (5) years, or after any updates to the program, prior to conducting any construction oversight activities. The staff members trained to proceed with the post-construction SMP inspections and maintenance program are listed in Appendix B.

Sec. 2-30-30. Contents of stormwater pollution prevention plans (SWPPP).

- (n) In accordance with the NYSDEC SPDES general permit for construction activities GP-0-20-001 and the specifications in this article, SWPPPs shall provide the following background information and erosion and sediment controls:
 - (1) Background information about the scope of the project, including location, type, and size of project.
 - (2) Site map/construction drawing(s) for the project, including a general location map at a scale no smaller than one-inch equals 100 feet. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
 - (3) Description of the soil(s) present at the site;
 - (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
 - (5) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
 - (6) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
 - (7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
 - (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

- (9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
 - (10) Temporary practices that will be converted to permanent control measures;
 - (11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
 - i. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 - (12) Name(s) of the receiving water(s);
 - (13) Delineation of SWPPP implementation responsibilities for each part of the site;
 - (14) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
 - (15) Any existing data that describes the stormwater runoff at the site.
- (o) Land development activities meeting condition "A", "B" or "C" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in section 2-30-40 as applicable:
- (1) Condition A. Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
 - (2) Condition B. Stormwater runoff from land development activities disturbing five or more acres.
 - (3) Condition C. Stormwater runoff from construction activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.
- (p) SWPPP content requirements for condition A, B and C.
- (1) All information in section 2-30-36.
 - (2) Description of each post-construction stormwater management practice;
 - (3) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
 - (4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
 - (5) Comparison of post-development stormwater runoff conditions with pre development conditions;
 - (6) Dimensions, material specifications and installation details for each post construction stormwater management practice;

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

Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.

- (8) Inspection and maintenance agreement binding on all subsequent landowners served by the onsite stormwater management measures in accordance with section 2-30-41.

Sec. 2-30-31. Plan certification.

The SWPPP shall be prepared by a landscape architect, certified professional with an erosion and sediment control (CPESC) certificate or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in the NYSDEC SPDES general permit for construction activities GP-0-20-001 and this plan.

Sec. 2-30-32. Other environmental permits.

The applicant shall certify that all other applicable environmental permits have been acquired for the land development activity prior to making application to the city for approval of the stormwater management plan.

Sec. 2-30-33. Contractor certification.

- (a) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

- (b) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- (c) The certification statement(s) shall become part of the SWPPP for the land development activity.
- (d) A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

Sec. 2-30-34. Performance and design criteria for stormwater management and erosion and sediment control.

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

- (1) Technical standards. For the purpose of this article, the following documents shall serve as

the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

- (2) NYS SWMDM 2015, or equivalent.
 - a. New York Standards and Specifications for Erosion and Sediment Control, (Empire State Article of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).
- (3) Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state.

Sec. 2-30-35. Maintenance and repair of stormwater facilities.

- (a) Maintenance during construction.
 - (1) The applicant or developer of the land development activity shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
 - (2) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to SMO and also copied to the site log book.
- (b) Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the NYS department of environmental conservation and/or a designated representative of the city to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article. The easement shall be recorded by the grantor in the office of the county clerk after review by the counsel for the city and acceptance by the planning board.
- (c) Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this law shall be operated and maintained to achieve the goals of this law. At a minimum, proper operation and maintenance includes the following:
 - (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.
 - (2) Written procedures for operation and maintenance and training new maintenance personnel.
 - (3) Actions to insure discharges from the SMPs shall not exceed design criteria or cause or

contribute to water quality standard violations.

- (d) Maintenance agreements. The city shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the county clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions in Appendix P which is the "Sample Stormwater Control Facility Maintenance Agreement." The city, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Sec. 2-30-36. Stormwater management inspections.

- (a) Inspection during construction. The SMO or designated agent that has completed the required training in Sec. 2-30-28 and Sec. 2-30-29 may choose to require such inspections as necessary to determine compliance with the stormwater management provisions of this law. Following any such inspection, the codes enforcement officer and/or the city engineer may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the SWPPP as approved. The city may determine the need for an inspection, the applicant shall notify the codes enforcement officer and/or the city engineer at least 48 hours before any of the following:
 - (1) Start of construction;
 - (2) Installation of sediment and erosion control measures;
 - (3) Completion of site clearing;
 - (4) Completion of rough grading;
 - (5) Completion of final grading;
 - (6) Close of the construction season;
 - (7) Completion of final landscaping;
 - (8) Successful establishment of landscaping in public areas.
- (b) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted, except for site stabilization, until any violations are corrected and all work previously completed has received approval by the codes enforcement officer and/or the city engineer.
- (c) "As-built" filing requirements. All applicants are required to submit to the codes enforcement officer and/or the city engineer "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.
- (d) Inspection of stormwater facilities after project completion. Inspection programs may be established on any reasonable basis after construction. The city may choose to conduct: routine inspections; random inspections; inspections based upon complaints or other notice

of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NYSDEC SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices. Such inspections may be performed by officials of the city or the city may designate an inspector who will be required to have a professional engineer's (PE) license or certified professional in erosion and sediment control (CPESC) certificate. The designated inspector shall be required to prepare and submit an inspection report to the commissioner of codes and/or the city engineer.

- (e) Submission of monitoring reports. The SMO may require monitoring and reporting from entities or applicants subject to this law as are necessary to determine compliance with this law.
- (f) Right-of-entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the city the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Section 2-30-42.

Sec. 2-30-37. Fees for services.

The city may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the city or performed by a third party for the city.

Sec. 2-30-38. Performance guarantee.

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

- (a) Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be

required to provide the city with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the city may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

- (b) Record keeping. The city may require entities subject to this law to maintain records demonstrating compliance with this law.

Sec. 2-30-39. Enforcement response plan.

- (a) The enforcement response plan for construction or post-construction activities will follow the procedures identified in Sec. 2-30-19.

Sec. 2-30-40. Additional remedies.

- (a) Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the city may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- (b) Stop work orders. The city may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the city confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this plan.
- (c) 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.
- (d) 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 city 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.
- (e) Remedies not exclusive. The remedies listed in this law are not exclusive of any other remedies available under any applicable federal, state or ordinance and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Sec. 2-30-41. Penalties.

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this plan shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for

conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 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 plan 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.

Sec. 2-30-42. Validity.

If any part or provision of this plan or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not effect or impair the validity of the remainder of this plan or the application thereof to other persons or circumstances, and the city hereby declares that it would have passed the ordinance from which this plan derives or the remainder thereof had such invalid application or invalid provision been apparent.

City of Utica, NY

Date

March 2026

STORMWATER MANAGEMENT PROGRAM (SWMP) PLAN CITY OF UTICA



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Illicit Discharges, Activities and
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- Sec. 2-30-38. Performance guarantee.**
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- Sec. 2-30-40. Additional remedies.**
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Appendices:

Appendix A: Public Involvement

Appendix B: Utica MS4 Staffing Plan

Appendix C: Ramboll Stormwater TO 42 Agreement

Appendix D: Illicit Discharge Reports

Appendix E: Enforcement Tracking Reports

Appendix F: Monitoring Locations Inventory and Field Inspections Forms

Appendix G: Municipal Facilities Inventory

Appendix H: Comprehensive System Map

Appendix I: Stormwater Catch Basin Inspection Form and Cleaning Procedure

Appendix J: Parks Trash Maintenance Procedure

Appendix K: Street Sweeping Procedure

Appendix L: NYSDEC MS4 Submittals

Appendix M: Inventory of Construction Activities

Appendix N: Pre-Construction Meeting Details

Appendix O: Construction Site Inspections

Appendix P: Stormwater Control Facility Maintenance Agreement

ARTICLE I

Illicit Discharges, Activities And Connections To Separate Storm Sewer System Prohibited

Sec. 2-30-1. Purpose/intent.

The purpose of this plan is to provide for the health, safety, and general welfare of the citizens of the City of Utica (“city”, hereafter) through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state ordinance. This plan establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the New York State Department of Environmental Conservation (NYSDEC) State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharge from MS4s, Permit No. GP-0-24-001, as of April 2025. The objectives of this plan are:

- (1) To meet the requirements of the GP-0-24-001 or as amended or revised;
- (2) To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- (3) To prohibit illicit connections, activities and discharges to the MS4;
- (4) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this plan; and
- (5) To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.
- (6) To provide opportunities to involve the public in the development, review, and implementation of this plan.

Sec. 2-30-2. Definitions.

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

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

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

CONSTRUCTION ACTIVITY — Activities requiring authorization under the NYSDEC SPDES permit for stormwater discharges from construction activity, GP-0-20-001, 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 — The NYSDEC.

DESIGN PROFESSIONAL — A New York State licensed professional engineer or licensed architect.

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.

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

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

ILLCIT DISCHARGE — Any direct or indirect non-stormwater discharge to the MS4, except as exempted in section 2-30-6.

INDUSTRIAL ACTIVITY — Activities requiring the NYSDEC SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (1) Owned or operated by the city;
- (2) Designed or used for collecting or conveying 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.

MUNICIPALITY — The City of Utica.

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 ordinance and acting as either the owner or as the owner's agent.

POLLUTANT — Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be

expected to cause pollution of the waters of the state in contravention of the standards.

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

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 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 municipality 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 municipality'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 municipality'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 municipality 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 municipality'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 municipality 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 municipality must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

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

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO) — Also known as the stormwater program coordinator, is an employee, the municipal engineer or other public official(s) designated by the city to enforce this plan. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices. The contact information for the SMO is defined in the staffing plan (Appendix A). The SMO oversees the development, implementation, and enforcement of this plan; coordinates all elements in this plan to ensure compliance with the GP-0-24-001; and develops and submits the NYSDEC MS4 annual reports. The SMO will ensure MS4 reporting is completed as required. Additionally, the SMO will ensure illicit discharge reports adheres to the MS4 process of discovery, inspection, enforcement, correction and reporting is completed efficiently. Lastly, the SMO will lead the changes in this plan as needed to be compliant with MS4 regulations and requirements.

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)— 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.

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

Sec. 2-30-3. Applicability.

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

Sec. 2-30-4. Responsibility for administration.

The stormwater management officer(s) (SMO(s)) shall administer, implement, and enforce the provisions of this plan. 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 municipality. Appendix A that includes the job titles and responsibilities for the applicable roles required to meet the elements of this plan and the requirements set forth in the GP-0-24-001.

The following table is an inventory of the entities that assist the city in implementing the SWMP Plan according to the GP-0-24-001 requirements.

Name of Entity	Permit Requirement being Performed by Entity
Ramboll Americas Engineering Solutions (Ramboll).	<ul style="list-style-type: none"> • IV.D. (Mapping) • Assistance in developing and maintaining Part VI and VIII.

Appendix B includes the specific executed documentation between the city and the assisting entity as listed in the above table. Chapter 2-30: Stormwater Management includes model local laws for illicit discharges and stormwater management and erosion & sediment control. Chapter 2-30 is available here: <https://ecode360.com/14017106>. The resolutions of Chapter 2-30 are documented in Appendix C.

Sec. 2-30-5. Severability.

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

Sec. 2-30-6. Public involvement

The municipality will post a notice on the municipality's website (<https://www.cityofutica.com/departments/engineering/storm-water-management/ms4/index>) to announce when the public can attend board meetings or public hearings. At these meetings or hearings, the SWMP plan and the annual report will be reviewed, and an opportunity will be given to the public to comment on the reports. Documentation of the opportunity for the public to be involved in stormwater management-focused meetings and their involvement is located in Appendix D. If the public is unable to attend the meeting or needs to view this plan at any time, a copy of the SWMP Plan, including the annual reports, will be published on the city's website (<https://www.cityofutica.com/departments/engineering/storm-water-management/ms4/index>).

Sec. 2-30-7. Illicit discharge prevention and reporting.

- (a) Allowable discharges are non-stormwater discharges through outfalls listed in Part 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) 750-1.2(a)(29)(vi) and 40 CFR 122.34(b)(3)(ii), are authorized by this NYSDEC SPDES general permit provided they do not violate Environmental Conservation Law (ECL) Section 17-0501. If the NYSDEC or city determines that one or more of the discharges are in violation of ECL Section 17-0501, the identified discharges are illicit and the city must eliminate such discharges by following the illicit discharge MCM requirements found in Part VI.C of the GP-0-24-001, depending on the city type. Discharges from firefighting activities are authorized only when the firefighting activities are emergencies/unplanned.
- (b) No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided herein. Examples that are an illicit discharge include, but are not limited, to the following:
 - (1) Dry weather discharges of wastewater into storm sewer system from illegal dumping, spills and other non-stormwater pollution sources
 - (2) Discharges of pollutants, contaminants or illicit materials into storm drainage/sewer systems (e.g. oil, grease, solvents, metals, nutrients, toxins, viruses, or bacteria)
 - (3) Improper antifreeze, oil disposal from vehicle maintenance, or service stations
 - (4) Vehicle washing wastewaters
 - (5) Autobody/repair facility wastewaters
 - (6) Plating shop wastewater
 - (7) Private service agencies wastewater
 - (8) Wholesale/retail est. wastewater
 - (9) Sanitary wastewater/connection
 - (10) Mobile rug cleaning waste dumping
 - (11) Laundry wastewaters
 - (12) Disposal of auto/household toxins
 - (13) Vehicular/accidental spills

- (14) Dairy barn wastewaters
- (15) On-lot disposal system- sewage effluent
- (c) Exempt illicit discharges shall be made in accordance with an appropriate plan for reducing pollutants. Examples of an exempt illicit discharge, unless the Department or the municipality has determined them to be substantial contributors of pollutants, include, but are not limited, to the following:
 - (1) Discharge from firefighting activities
 - (2) Potable water sources including dechlorinated waterline and fire hydrant flushing
 - (3) Irrigation drainage
 - (4) Landscape irrigation
 - (5) Water from individual residential car washing
 - (6) Dechlorinated swimming pool discharges
 - (7) Water from crawl space or basement sump pumps
 - (8) Uncontaminated water from foundation or footing drains
 - (9) Routine external building wash down which does not use detergents or other compounds
 - (10) Pavement wash water where spills or leaks of toxic or hazardous materials have not occurred (unless spilled material has been removed) and where detergents are not used
 - (11) Air conditioning condensate
 - (12) Existing diverted stream flows
 - (13) Springs
 - (14) Natural riparian habitat or wetland flows
 - (15) Uncontaminated groundwater
 - (16) 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 ordinances 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 plan.
 - (17) Dye testing in compliance with applicable state and local ordinances is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.
 - (18) The prohibition shall not apply to any discharge permitted under an NYSDEC 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 ordinances and regulations, and provided the written approval is granted for any discharge to the MS4.

- (19) Other water source not containing pollutants
- (d) The environmental hazards associated with the contaminants from illicit discharges and improper disposal of waste include, but are not limited, to the following:
- (1) Water quality for drinking water, fisheries, or recreation purposes; thus, decreasing tourism and waterfront home values, fishing and shellfish harvesting, and closure to beaches, primarily as a result of microbial contamination.
 - (2) Aquatic life and wildlife species are impacted such as disruptions to the ecosystem, mass fish die-offs and other aquatic life losses, and loss of biodiversity.
 - (3) Soil contamination which affects vegetation growth and contaminants could potentially enter the food chain and harming wildlife.
 - (4) Health risks to humans and wildlife if the substance is consumed from drinking water or swimming such as skin infections, respiratory issues, and other diseases.
 - (5) In some scenarios, illicit discharges could block drainage systems, leading to flooding and associated damage to property and infrastructure.
 - (6) In some scenarios, illicit discharges can spontaneously combust or be set on fire, posing a risk to nearby areas such as forested areas or property.
- (e) Suggestions to properly practice the handling and disposal of illicit discharges for the most common behaviors within the community (e.g., septic care, car washing, household hazardous waste, swimming pool draining, or other activities resulting in illicit discharges to the MS4) include, but are not limited to, the following:
- (1) Avoid disposing any waste into storm drains.
 - (2) Use lawn and garden chemicals sparingly. Repair vehicle leaks. If a vehicle leak was to occur, cover the spilled fluids with cat litter, then sweep into household waste.
 - (3) Clean up pet waste and dispose of the pet waste properly.
 - (4) Control soil erosion on your property by planting ground cover and stabilizing erosion-prone areas.
 - (5) Avoid grass clippings, leaves, litter, and debris out of street gutters and storm drains by sweeping any excess grass clippings from driveways, sidewalks and roads.
 - (6) Direct downspouts onto grassy areas and away from paved surfaces.
 - (7) Use a commercial car wash or wash your vehicle on the grass instead of the driveway.
 - (8) Dispose of used oil, antifreeze, paints and other household chemicals in an approved manner
- (f) Steps to reporting an illicit discharge:
- (1) Determine property owners name, if available, and street address of the discharge source in the event that follow-up action or elimination is required.
 - (2) Describe the possible illicit discharge for source identification and verification by determining the presences of any odors, the transparency, the colors, and location of source,

if possible. Additionally, describe the presence of any solid or floatables. Finally, examine the possible illicit discharge for iron leaches from soils forming a breakable sheen on stagnant water surfaces or oil sheens

(3) The point of contact for reporting an illicit discharge activity is documented in Appendix A.

(4) Within thirty (30) days of an illicit discharge, the municipality will document each report of an illicit discharge in Appendix E with the following information:

- a. Date of the report
- b. Location of the illicit discharge
- c. Nature of the illicit discharge
- d. Follow up actions taken or needed (including response times)
- e. Inspection outcomes and any enforcement taken

Sec. 2-30-8. Discharge prohibitions.

(a) 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 ordinance or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this plan if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

Sec. 2-30-9. Prohibition against failing individual sewage treatment systems.

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

- (1) The backup of sewage into a structure.
- (2) Discharges of treated or untreated sewage onto the ground surface.
- (3) A connection or connections to a separate stormwater sewer system.
- (4) Liquid level in the septic tank above the outlet invert.
- (5) 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.
- (6) Contamination of off-site groundwater.

Sec. 2-30-10. Prohibition against activities contaminating stormwater.

(a) Activities that are subject to the requirements of this section are those types of activities that:

- (1) Cause or contribute to a violation of the municipality's MS4 NYSDEC SPDES permit.
 - (2) Cause or contribute to the municipality being subject to the special conditions as defined in section 2-30-2.
- (b) Such activities include failing individual sewage treatment systems as defined in section 2-30-8, improper management of pet waste or any other activity that causes or contributes to violations of the municipality's MS4 NYSDEC 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 municipality's MS4 NYSDEC 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 municipality's MS4 NYSDEC SPDES permit authorization.

Sec. 2-30-11. Monitoring locations inspection and sampling program.

The city will inspect each monitoring location identified in the inventory (Appendix F) during dry weather conditions or between 48-72 hours without precipitation, at least once every five years following the most recent inspection. All inspection and sampling results will be documented using the designated field sheets in Appendix F.

The program includes sampling all monitoring locations that indicate a suspect or obvious illicit discharge based on physical indicators such as odors, transparency, colors, solids, floatables, and sheens like an oil sheen. If the source of the illicit discharge is clear and discernable (e.g., sewage), sampling is not necessary. Sampling may be conducted using field test kits or instrumentation sensitive enough to detect parameters below the sampling action level.

Track down procedures will be initiated for any locations that indicate a suspect or obvious illicit discharge or exceed any sampling action level, such that reinspection of the monitoring location will be performed within thirty (30) days of the initial inspection. If persistent physical indicators are found, track down procedures will be initiated (section 2-30-12). New staff will be trained before conducting inspections and sampling, while existing staff will be trained every five years and when procedures are updated. The staffing plan (Appendix B) includes a list of trained individuals to perform the monitoring inspection and sampling procedures, and the list will be updated annually. Procedures will be reviewed and updated annually by April 1, with updates documented in the SWMP Plan.

Sec. 2-30-12. Illicit discharge track down program.

After the track down program is initiated based on monitoring location inspection and sampling procedures, immediate steps will be taken to eliminate the discharge. This may involve cleaning up spills, repairing equipment, or modifying operations to prevent further pollution.

When a suspect or obvious discharge is discovered, track down procedures, as described above or in Chapter 13 of the Center for Watershed Protection Manual, will be initiated within specific timeframes:

- twenty-four (24) hours for obvious discharges
- two (2) hours of discovery for sanitary wastewater affecting bathing areas during bathing season, shell fishing areas, or public water intakes
- five (5) days for suspect discharges

The investigation is to be reported orally or electronically to the regional water engineer and local health department. All findings and corrective actions are documented thoroughly, including the date

and nature of the discharge, the methods used to trace the source, and the steps taken to mitigate the issue. This documentation is included in the SWMP Plan and updated in Appendix D.

New staff will receive training in these procedures before conducting track downs, and existing staff will be trained at least every five years, and when procedures are updated. The staffing plan (Appendix B) includes a list of trained individuals to perform the illicit discharge track down procedures, and the list will be updated annually. Annually, by April 1, track down procedures will be reviewed and updated based on inspection results, with updates documented in the SWMP Plan.

Sec. 2-30-13. Illicit discharge elimination program.

The Illicit Discharge Elimination Program will include escalating enforcement and tracking that is consistent with the Enforcement Response Plan (ERP) (section XX). Additionally, this program includes confirmation of corrective actions taken and detailing necessary steps for illicit discharge elimination which will be based on a case-by-case basis.

Illicit discharges that have a reasonable likelihood of adversely affecting human health or the environment will be eliminated within twenty-four (24) hours of identification.

Training provisions will ensure new staff receive training in these procedures before conducting eliminations, and existing staff will be trained prior to conducting eliminations and every five years thereafter. Staff will also receive updated training if there are procedural changes. The staffing plan (Appendix B) includes a list of trained individuals to perform the illicit discharge track down procedures, and the list will be updated annually. Each year by April 1, the illicit discharge elimination program will be reviewed and updated, and completion of this requirement will be documented in the SWMP Plan.

Sec. 2-30-14. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

When applicable, the Village will consider BMPs at municipal facilities to minimize discharge of pollutants from municipal operations. A municipal facilities inventory is documented in Appendix G. Where the SMO has identified illicit discharges as defined in section 2-30-2 or activities contaminating stormwater as defined in section 2-30-9 the municipality may require implementation of best management practices (BMPs) to control those illicit discharges and activities.

- (a) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.
- (b) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in section 2-30-2 or an activity contaminating stormwater as defined in section 2-30-9, 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.
- (c) Compliance with all terms and conditions of a valid NYSDEC 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.

Sec. 2-30-15. Suspension of access to MS4— illicit discharges in emergency situations.

- (a) The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of

persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

- (b) Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this plan 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 therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if they find 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.

Sec. 2-30-16. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NYSDEC 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 municipality prior to the allowing of discharges to the MS4.

Sec. 2-30-17. Access and monitoring of discharges.

- (a) Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this plan, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this plan.
- (b) Access to facilities.
 - (1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this plan as often as may be necessary to determine compliance with this plan. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
 - (2) Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this plan.
 - (3) The municipality shall have the right to set up on any facility subject to this plan 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 municipality has the right to require the facilities subject to this plan to install monitoring equipment as is reasonably necessary to determine compliance with this plan. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

- (5) Unreasonable delays in allowing the municipality access to a facility subject to this plan is a violation of this plan. A person who is the operator of a facility subject to this plan commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this plan.
- (6) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and they is able to demonstrate probable cause to believe that there may be a violation of this plan, 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 plan or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 2-30-18. Notification of spills.

Notwithstanding other requirements of this plan, 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 SMO no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 2-30-19. Enforcement response plan.

- (a) Violation. It shall be unlawful for any person to violate any provision or fail to comply with any requirements of this plan.
- (b) Types of violation. The SMO or the City's Department of Codes (hereafter "enforcer") has the right to execute the following types of enforcement responses or a combination of the responses considering the type, magnitude, and duration of the violation; effects the violation has on the receiving water; compliance history and good faith efforts of the responsible party:
 - (1) Verbal notifications
 - (2) Written notices
 - (3) Citations (and associated fines)
 - (4) Stop work orders
 - (5) Withholding of plan approvals or other authorizations affecting the ability to discharge to the MS4
 - (6) Additional measures, supported in local legal authorities, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials to correct violations

(c) Notice of violation.

- (1) When the enforcer determines that a party has violated a prohibition or failed to comply with a requirement of this plan, the enforcer will send a written letter titled "Notice and Order." Such notice may include, without limitation, the following considering the type, magnitude, and duration of the violation; effects the violation has on the receiving water; compliance history and good faith efforts of the responsible party:
 - The name and address of the party responsible for the violation.
 - The address, if available, or a description of the building, structure or land upon which the violation is occurring.
 - A statement specifying the nature of the violation.
 - A description of the remedial measures necessary to comply with this plan such as the elimination of illicit discharges.
 - (2) A letter is sent with an affidavit of service. Based on the violation, the enforcer establishes a duration for the reinspection which is typically ten (10) days from the original violation, and a maximum of thirty (30) days. Any request for beyond thirty (30) days to solve the violation must be written and sent to the enforcer. If the violation is not addressed in the given time to reinspection, the City proceeds with the following options:
 - Abate the violation using the City's Department of Parks or the City's Department of Public Works, and the expenses incurred by the City for addressing the violation will be charged to the violator's property tax bill, or
 - Issue a ticket to the violator which will require them to address the violation through the City Court.
 - (3) Abatements are typically completed when the City has realistically declared to resolve the violation. Tickets will be issued when the City is incapable of resolving the violation.
- (d) Response to the notice of violation. The responsible party must respond to the notice of violation with a plan that meets the requirements of the notice and this plan within given time to reinspection outlined in the notice.
- (e) Appeal of notice of violation. Any person receiving a notice of violation may appeal the determination of the enforcer to the City within 7 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.
- (f) Corrective measures after appeal.
- (1) If the violation has not been corrected according to the requirements outlined in the notice of violation, or if the violation is not corrected within five business days of a municipal authority's decision to uphold the enforcer's decision in the event of an appeal, then the enforcer shall request the responsible party's permission to access the private property in order to take any necessary actions to abate the violation and/or restore the property.
 - (2) If refused access to the subject private property, the enforcer 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 enforcer may seek a court order to take 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.

- (g) Enforcement Tracking. The SMO must track instances of non-compliance of this plan in Appendix H. The enforcement case documentation must include, at a minimum, the following:
- (1) Name of the owner/operator of the facility or site of the violation (can be redacted from the publicly available version of this plan).
 - (2) Location of the stormwater source (e.g., construction project).
 - (3) Description of the violation.
 - (4) Schedule for returning to compliance.
 - (5) Description of enforcement response used, including escalated responses if repeat violations occur or violations are not resolved in a timely manner; Accompanying documentation of enforcement response (e.g., notices of noncompliance, notices of violations).
 - (6) Any referrals to different departments or agencies.
 - (7) Date violation was resolved.
 - (8) Penalties for the first, repeating, and continuing offences are defined in Sec. 2-30-20.

Sec. 2-30-20. Penalties/remedies.

- (a) Penalties. In addition to or as an alternative to any penalty provided herein or by ordinance, any person who violates the provisions of this plan shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700, or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 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 plan shall be deemed misdemeanors and for such purpose only all provisions of this plan relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- (b) Alternative remedies.
- (1) Where a person has violated a provision of this plan, they may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the municipal attorney and concurrence of the municipal code enforcement officer, where:
 - a. The violation was unintentional.

- b. The violator has no history of previous violations of this plan.
 - c. Environmental damage was minimal.
 - d. Violator acted quickly to remedy violation.
 - e. Violator cooperated in investigation.
- (2) Alternative remedies may consist of one or more of the following:
- a. Attendance at compliance workshops.
 - b. Storm drain stenciling or storm drain marking.
 - c. River, stream or creek cleanup activities.
- (c) 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 plan 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.
- (d) Injunctive relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this plan. If a person has violated or continues to violate the provisions of this plan, 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.
- (e) Remedies not exclusive. The remedies listed in this plan are not exclusive of any other remedies available under any application federal, state or local ordinance, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Sec. 2-30-21. Impaired Waters

- (a) Known impaired waters in the municipality. The Mohawk River, the Utica Harbor, Ballou Creek and its tributaries, and Nail Creek and its tributaries are all impaired waters within the municipality. The impairment status for all waterbodies in the municipality are shown on the comprehensive map in Appendix I. The pollutants of concern (POC) for each impaired water in the municipality are as follows:
- (1) The Mohawk River contains high levels of fecal coliform, oils and floating substances.
 - (2) The Utica Harbor contains high levels of fecal coliform.
 - (3) Ballou, Nail Creeks, and their tributaries contain high levels of phosphorus.
- (b) Efforts to address the POCs in the impaired waters by the municipality. This plan shall serve as an effort to address the POCs in the impaired waters within the municipality. Additionally, the municipality will implement the following activities to reduce the POCs in impaired waters:
- (1) Creating a long-term plan for the combined stormwater sewer outfalls
 - (2) Placing dog waste receptacles at each park in the municipality
 - (3) Mandating pets to be leashed at parks within the municipality
 - (4) Installing bird spikes on top of park pavilions

- (5) Displaying “Do not feed birds” signage at bird nuisance areas. The municipal facilities with nuisance bird populations include the following:
 - a. Utica Harbor
 - b. Chancellor Park
 - c. F.T. Proctor Park
 - d. Nurses Candlelight Park
 - e. Mini Hanna Park
- (6) Remove accumulated trash and debris from municipal facilities. Stormwater catch basin inspection form and cleaning procedure is documented in Appendix J. The standard operating procedure for the Department of Parks and Recreation to clean and maintain trash receptacles is documented in Appendix K.
- (7) Following a street sweeping procedure as identified in Appendix L
- (8) Washing municipal-owned vehicles at car wash stations
- (9) Eliminating the act of pesticides at each municipality facility
- (10) Constructing a flood bench along Nail Creek
- (11) Implementing blue and green infrastructure when possible

An analysis of the effects for the municipality’s contribution to reduce bird related pathogens entering the impaired waters from the above list of activities will be evaluated by next year’s NYSDEC MS4 annual report (April 2026).

ARTICLE II

Stormwater Management Regulations

Sec. 2-30-22. Title.

This article shall be known as and may be cited as the "City of Utica Stormwater Management Regulations."

Sec. 2-30-23. Legislative intent.

The intent of this plan is as follows:

- (1) To meet the requirements of the six minimum control measures (MCMs) of the GP-0-24-001, as of April 2026, the completed GP-0-24-001 submittals for the MCMs of this traditional land use control city is documented in Appendix L. Requirements for Part VII of the GP-0-24-001 are not applicable to the city because of the city type. Additionally, requirements of Part IX are not applicable to the city because the city is not within an approved total maximum daily load (TMDL) watershed as listed in Table 3 of the GP-0-024-001.
- (2) To minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- (3) To minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality; and
- (4) To minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable.

Sec. 2-30-24. Findings of fact.

It is hereby determined that:

- (1) Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- (2) This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- (3) Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- (4) Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- (5) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow;
- (6) Substantial economic losses can result from these adverse impacts on the waters of the city;
- (7) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and

minimized through the regulation of stormwater runoff from land development activities;

- (8) The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety; and
- (9) Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

Sec. 2-30-25. Definitions.

The definitions set forth in the zoning law of the city (article 55) at article III (section 55-3) are incorporated by reference herein for application in this article.

Sec. 2-30-26. Applicability.

No application for approval of a land development activity shall be reviewed until the appropriate board and/or department has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with and the GP-0-20-001 and the specifications in this article and until the SWPPP has been reviewed and approved.

The boundary of the MS4 automatically designated area for the municipality is shown in a comprehensive system map attached in Appendix H. Existing municipality layers and public layers were overlaid on a United States Geologic Survey (USGS) basemap using the software ESRI ArcGIS Pro to create the comprehensive system map. The following layers are visible in the comprehensive map:

- (1) MS4 automatically designated area for the municipality
- (2) MS4 outfalls
- (3) Interconnections, if applicable
- (4) Preliminary storm-sewershed boundaries
- (5) Impaired waters within the city's MS4 boundary limits

The map will be maintained through field investigations and collaboration between the municipality and Ramboll Americas Engineering Solutions (Ramboll).

Sec. 2-30-27. Exemptions.

The following activities may be exempt from review under this article:

- (1) Agricultural activity as defined in this plan.
- (2) Logging activity undertaken pursuant to an approved timber management plan prepared or approved by the county soil and water conservation district or the department; except that landing areas and log haul roads are subject to this law.
- (3) Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a stormwater

management facility.

- (4) Repairs to any stormwater management practice or facility deemed necessary by the SMO.
- (5) Cemetery graves.
- (6) Installation of fence; sign, telephone, and electric poles and other kinds of posts or poles.
- (7) Emergency activity immediately necessary to protect life, property or natural resources.
- (8) Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and their family.
- (9) Landscaping and horticultural activities in connection with an existing structure.

Sec. 2-30-28. Construction oversight program.

The purpose of this Construction Oversight Program is to implement and enforce the following procedures discussed in this section that will ensure the stormwater runoff within applicable construction sites are effectively controlled.

- (a) Applicable construction activities, projects and sites that must meet the Construction Oversight Program, may be defined as:
 - (1) Construction activities that result in a total land disturbance of greater than or equal to one acre; or
 - (2) A total land disturbance of less than one acre if the construction activity is part of a larger common plan of development or sale.
- (b) Applicable construction activities (as defined in Sec. 2-30-28.a.) and construction activities near water bodies or environmentally sensitive areas, such as wetlands or floodplains, may require additional stormwater control measures to ensure runoff is managed properly. Both types of construction activities are required to develop SWPPP. An inventory of construction activities is developed in Appendix M.
- (c) The contractor or developer must prepare a SWPPP prior to the start of construction activities. The plan must include all the necessary components such as erosion and sediment control measures, stormwater management practices, responsible parties for implementation and oversight, insurance, engineering design plans (completed by a licensed professional), property ownership, and license of contractor which is required for plumbing work and electricity. The completed SWPPP should be submitted to the City for review. The City's planning board typically reviews the SWPPP first, then the Departments of Engineering, Codes and Urban Development will follow the planning board's approval. After all departments have approved the SWPPP and all necessary permits, the city and owner will schedule a pre-construction meeting date. If the city has insufficient internal resources, the city will hire appropriate consultants to participate in SWPPP review. The approval of the SWPPP is required prior to the commencement of construction activities.
- (d) Electronic or hard copies of the SWPPP may need to be submitted. The SWPPP should be submitted a minimum of 60 days before construction activities begin, to allow time for review and any necessary revisions.
- (e) The SWPPP should remain on-site for the duration of the construction project.

- (f) In cases where the owner does not file a SWPPP, the City immediately issues a stop work order on the project until proper permitting is obtained.
- (g) The SWPPP will be reviewed by the City within 60 days of submission. The review will assess whether the SWPPP adequately addresses all necessary regulatory components outlined in the permit. The SWPPP reviewers must review all SWPPPs for applicable construction activities and for conformance with the requirements of the GP-0-25-001 which includes the following:
 - (1) Erosion and sediment controls must be reviewed for conformance with the NYS Erosion & Sediment Control of 2016, or equivalent;
 - (2) Individuals responsible for review of post-construction stormwater management practices (SMPs) must be qualified professionals or under the supervision of a qualified professional; and
 - (3) Post-construction SMPs must be reviewed for conformance with the New York State Stormwater Management Design Manual, January 2015 (NYS SWMDM 2015) or equivalent, including:
 - a. All post-construction SMPs must meet the sizing criteria contained in the GP-0-25-001 and NYS SWMDM 2015.
 - b. Deviations from the performance criteria of the NYS SWMDM 2015 must demonstrate that they are equivalent.
- (h) The SWPPP must include an Operations and Maintenance plan that includes inspection and maintenance schedules and actions to ensure continuous and effective operation of each post-construction SMP. The SWPPP must identify the entity that will be responsible for the long-term operation and maintenance of each practice. If the SWPPP is determined to be in compliance, approval will be granted. If revisions are necessary, the applicant must modify the plan as requested and resubmit for approval. In this article, documentation of the SWPPP review process is required to keep on record including the information found in Part III.B. of the GP-0-25-001.
- (i) Prior to the commencement of construction activities, a pre-construction meeting will be held with all relevant parties (contractor as listed on the GP-0-25-001 NOI, developers, qualified inspectors, environmental consultants, and the MS4 operator) to discuss the SWPPP, stormwater management measures, and compliance expectations. The details of the meeting (e.g. date, attendance and agenda) will be documented as an attachment to this plan in Appendix N. The meeting agenda will confirm the approved project has received, or will receive, coverage under the GP-0-25-001 or an individual SPDES permit; verify contractors and subcontractors selected by the owner/operator of the construction activity have identified at least one individual that has received four (4) hours of NYSDEC endorsed training in proper erosion and sediment control principles from a Soil & Water Conservation District or other endorsed entity as required by the GP-0-25-001 and; review this construction oversight program and expectations for compliance. If all outstanding action items are completed after the pre-construction meeting has been conducted, the construction activities may be commenced.
- (j) Regular site inspections and oversight ensures the owner complies with the SWPPP and permit requirements. The construction activity sites identified in the inventory will be inspected at a minimum of once a year during active construction after the pre-construction meeting or sooner if deficiencies are noted that require attention. Follow up to construction site inspections must confirm corrective actions are completed within timeframes established by the GP-0-25-001 and

the city's Enforcement Response Plan (ERP) as identified in Sec 2-30-16. All site inspections must be documented in Appendix O. If non-compliance is identified, corrective actions will be required, and penalties will be imposed for continued violations. If deficiencies persist or corrective actions are not implemented in a timely manner, escalating enforcement actions will include fines, suspension of work, or legal action, depending on the severity of the violation. All violations of stormwater regulations or the SWPPP must be reported to the designated enforcement authority immediately.

- (k) The city must ensure a final construction site inspection is conducted, and documentation of the final construction site inspection must be maintained in this plan as an attachment in Appendix O. The final construction site inspection must be documented using the Construction Site Inspection Report Form (Appendix O), or an equivalent form containing the same information, or accept the construction site owner/operator's qualified inspector final inspection certification required by the GP-0-25-001. The Notice of Termination (NOT) and Certification of Completion/Occupancy must be signed by the city as required by the GP-0-25-001 for projects determined to be complete. The NOT and certifications verify that all standards are meant and the project is in substantial compliance. Failure to provide the City with a NOT and a Certification of Completion/Occupancy indicates the construction activity is incomplete or flawed, and the City has the authority to issue a ticket to the owner.
- (l) Other procedures associated with the control of stormwater runoff from applicable construction activities maintenance of best management practices (BMPs) includes ensuring all BMPs outlined in the SWPPP are maintained throughout the construction process and repaired or replaced if they become ineffective. Personnel responsible for stormwater management on-site must receive appropriate training to ensure they understand their roles in the SWPPP and compliance requirements. If any changes in the construction project occur that affect stormwater management (e.g., changes in grading or project scope), the SWPPP must be amended and submitted for approval. Procedures must be in place for responding to emergencies such as equipment failure or unexpected storm events that could cause pollution or inadequate stormwater management.
- (m) The City, such as the City's Department of Engineering, must train new and existing staff involved in the construction oversight program every five (5) years, or after any updates to the program, prior to conducting any construction oversight activities. Procedures to ensure those involved in the construction activity itself (e.g., contractor, subcontractor, construction site inspector, SWPPP reviewers) have received four (4) hours of NYSDEC endorsed training in proper erosion and sediment control principles from a Soil & Water Conservation District, or other NYSDEC endorsed entity. This training must be completed every three (3) years and all MS4 construction site inspectors receive this training prior to conducting construction site inspections. The staff members trained to proceed with the construction oversight program are listed in Appendix B.

Sec. 2-30-29. Post-construction SMP inspection and maintenance program.

- (a) A post-construction SMP inventory is developed in Appendix M. Each post-construction SMP identified in the post-construction SMP inventory is inspected with a checklist at the frequency specified in the Appendix M. The City's Department of Engineering trained staff will conduct the SMPs inspections listed in the post-construction SMP inventory (Appendix M). The City's trained inspection staff will contact the applicable operators of the SMPs to collect inspection or maintenance documentation, then the City will enforce action as needed.

- (b) If the post-construction SMP inspection requires additional maintenance, repair, or higher-level inspection, these follow-up actions must be met within thirty (30) days of the post-construction SMP inspection. If failure to meet the required follow-up actions, the enforcer will initiate enforcement within sixty (60) days of the post-construction SMP inspection.
- (c) The City must train new and existing staff involved in the post-construction SMP inspection and maintenance program and procedures outlined in the NYSDEC endorsed programs every five (5) years, or after any updates to the program, prior to conducting any construction oversight activities. The staff members trained to proceed with the post-construction SMP inspections and maintenance program are listed in Appendix B.

Sec. 2-30-30. Contents of stormwater pollution prevention plans (SWPPP).

- (n) In accordance with the NYSDEC SPDES general permit for construction activities GP-0-20-001 and the specifications in this article, SWPPPs shall provide the following background information and erosion and sediment controls:
 - (1) Background information about the scope of the project, including location, type, and size of project.
 - (2) Site map/construction drawing(s) for the project, including a general location map at a scale no smaller than one-inch equals 100 feet. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
 - (3) Description of the soil(s) present at the site;
 - (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
 - (5) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
 - (6) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
 - (7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
 - (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

- (9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
 - (10) Temporary practices that will be converted to permanent control measures;
 - (11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
 - i. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 - (12) Name(s) of the receiving water(s);
 - (13) Delineation of SWPPP implementation responsibilities for each part of the site;
 - (14) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
 - (15) Any existing data that describes the stormwater runoff at the site.
- (o) Land development activities meeting condition "A", "B" or "C" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in section 2-30-40 as applicable:
- (1) Condition A. Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
 - (2) Condition B. Stormwater runoff from land development activities disturbing five or more acres.
 - (3) Condition C. Stormwater runoff from construction activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.
- (p) SWPPP content requirements for condition A, B and C.
- (1) All information in section 2-30-36.
 - (2) Description of each post-construction stormwater management practice;
 - (3) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
 - (4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
 - (5) Comparison of post-development stormwater runoff conditions with pre development conditions;
 - (6) Dimensions, material specifications and installation details for each post construction stormwater management practice;

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

Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.

- (8) Inspection and maintenance agreement binding on all subsequent landowners served by the onsite stormwater management measures in accordance with section 2-30-41.

Sec. 2-30-31. Plan certification.

The SWPPP shall be prepared by a landscape architect, certified professional with an erosion and sediment control (CPESC) certificate or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in the NYSDEC SPDES general permit for construction activities GP-0-20-001 and this plan.

Sec. 2-30-32. Other environmental permits.

The applicant shall certify that all other applicable environmental permits have been acquired for the land development activity prior to making application to the city for approval of the stormwater management plan.

Sec. 2-30-33. Contractor certification.

- (a) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

- (b) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- (c) The certification statement(s) shall become part of the SWPPP for the land development activity.
- (d) A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

Sec. 2-30-34. Performance and design criteria for stormwater management and erosion and sediment control.

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

- (1) Technical standards. For the purpose of this article, the following documents shall serve as

the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

- (2) NYS SWMDM 2015, or equivalent.
 - a. New York Standards and Specifications for Erosion and Sediment Control, (Empire State Article of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).
- (3) Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state.

Sec. 2-30-35. Maintenance and repair of stormwater facilities.

- (a) Maintenance during construction.
 - (1) The applicant or developer of the land development activity shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
 - (2) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to SMO and also copied to the site log book.
- (b) Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the NYS department of environmental conservation and/or a designated representative of the city to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article. The easement shall be recorded by the grantor in the office of the county clerk after review by the counsel for the city and acceptance by the planning board.
- (c) Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this law shall be operated and maintained to achieve the goals of this law. At a minimum, proper operation and maintenance includes the following:
 - (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.
 - (2) Written procedures for operation and maintenance and training new maintenance personnel.
 - (3) Actions to insure discharges from the SMPs shall not exceed design criteria or cause or

contribute to water quality standard violations.

- (d) Maintenance agreements. The city shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the county clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions in Appendix P which is the "Sample Stormwater Control Facility Maintenance Agreement." The city, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Sec. 2-30-36. Stormwater management inspections.

- (a) Inspection during construction. The SMO or designated agent that has completed the required training in Sec. 2-30-28 and Sec. 2-30-29 may choose to require such inspections as necessary to determine compliance with the stormwater management provisions of this law. Following any such inspection, the codes enforcement officer and/or the city engineer may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the SWPPP as approved. The city may determine the need for an inspection, the applicant shall notify the codes enforcement officer and/or the city engineer at least 48 hours before any of the following:
 - (1) Start of construction;
 - (2) Installation of sediment and erosion control measures;
 - (3) Completion of site clearing;
 - (4) Completion of rough grading;
 - (5) Completion of final grading;
 - (6) Close of the construction season;
 - (7) Completion of final landscaping;
 - (8) Successful establishment of landscaping in public areas.
- (b) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted, except for site stabilization, until any violations are corrected and all work previously completed has received approval by the codes enforcement officer and/or the city engineer.
- (c) "As-built" filing requirements. All applicants are required to submit to the codes enforcement officer and/or the city engineer "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.
- (d) Inspection of stormwater facilities after project completion. Inspection programs may be established on any reasonable basis after construction. The city may choose to conduct: routine inspections; random inspections; inspections based upon complaints or other notice

of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NYSDEC SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices. Such inspections may be performed by officials of the city or the city may designate an inspector who will be required to have a professional engineer's (PE) license or certified professional in erosion and sediment control (CPESC) certificate. The designated inspector shall be required to prepare and submit an inspection report to the commissioner of codes and/or the city engineer.

- (e) Submission of monitoring reports. The SMO may require monitoring and reporting from entities or applicants subject to this law as are necessary to determine compliance with this law.
- (f) Right-of-entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the city the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Section 2-30-42.

Sec. 2-30-37. Fees for services.

The city may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the city or performed by a third party for the city.

Sec. 2-30-38. Performance guarantee.

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

- (a) Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be

required to provide the city with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the city may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

- (b) Record keeping. The city may require entities subject to this law to maintain records demonstrating compliance with this law.

Sec. 2-30-39. Enforcement response plan.

- (a) The enforcement response plan for construction or post-construction activities will follow the procedures identified in Sec. 2-30-19.

Sec. 2-30-40. Additional remedies.

- (a) Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the city may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- (b) Stop work orders. The city may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the city confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this plan.
- (c) 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.
- (d) 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 city 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.
- (e) Remedies not exclusive. The remedies listed in this law are not exclusive of any other remedies available under any applicable federal, state or ordinance and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Sec. 2-30-41. Penalties.

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this plan shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for

conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 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 plan 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.

Sec. 2-30-42. Validity.

If any part or provision of this plan or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not effect or impair the validity of the remainder of this plan or the application thereof to other persons or circumstances, and the city hereby declares that it would have passed the ordinance from which this plan derives or the remainder thereof had such invalid application or invalid provision been apparent.

City of Utica, NY

Date

March 2026

STORMWATER MANAGEMENT PROGRAM (SWMP) PLAN

CITY OF UTICA



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Illicit Discharges, Activities and
Connections to Storm Sewers System

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Appendices:

Appendix A: Public Involvement

Appendix B: Utica MS4 Staffing Plan

Appendix C: Ramboll Stormwater TO 42 Agreement

Appendix D: Illicit Discharge Reports

Appendix E: Enforcement Tracking Reports

Appendix F: Monitoring Locations Inventory and Field Inspections Forms

Appendix G: Municipal Facilities Inventory

Appendix H: Comprehensive System Map

Appendix I: Stormwater Catch Basin Inspection Form and Cleaning Procedure

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Appendix K: Street Sweeping Procedure

Appendix L: NYSDEC MS4 Submittals

Appendix M: Inventory of Construction Activities

Appendix N: Pre-Construction Meeting Details

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ARTICLE I

Illicit Discharges, Activities And Connections To Separate Storm Sewer System Prohibited

Sec. 2-30-1. Purpose/intent.

The purpose of this plan is to provide for the health, safety, and general welfare of the citizens of the City of Utica (“city”, hereafter) through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state ordinance. This plan establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the New York State Department of Environmental Conservation (NYSDEC) State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharge from MS4s, Permit No. GP-0-24-001, as of April 2025. The objectives of this plan are:

- (1) To meet the requirements of the GP-0-24-001 or as amended or revised;
- (2) To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- (3) To prohibit illicit connections, activities and discharges to the MS4;
- (4) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this plan; and
- (5) To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.
- (6) To provide opportunities to involve the public in the development, review, and implementation of this plan.

Sec. 2-30-2. Definitions.

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

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

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

CONSTRUCTION ACTIVITY — Activities requiring authorization under the NYSDEC SPDES permit for stormwater discharges from construction activity, GP-0-20-001, 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 — The NYSDEC.

DESIGN PROFESSIONAL — A New York State licensed professional engineer or licensed architect.

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.

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

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

ILLCIT DISCHARGE — Any direct or indirect non-stormwater discharge to the MS4, except as exempted in section 2-30-6.

INDUSTRIAL ACTIVITY — Activities requiring the NYSDEC SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (1) Owned or operated by the city;
- (2) Designed or used for collecting or conveying 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.

MUNICIPALITY — The City of Utica.

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 ordinance and acting as either the owner or as the owner's agent.

POLLUTANT — Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be

expected to cause pollution of the waters of the state in contravention of the standards.

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

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 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 municipality 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 municipality'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 municipality'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 municipality 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 municipality'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 municipality 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 municipality must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

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

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO) — Also known as the stormwater program coordinator, is an employee, the municipal engineer or other public official(s) designated by the city to enforce this plan. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices. The contact information for the SMO is defined in the staffing plan (Appendix A). The SMO oversees the development, implementation, and enforcement of this plan; coordinates all elements in this plan to ensure compliance with the GP-0-24-001; and develops and submits the NYSDEC MS4 annual reports. The SMO will ensure MS4 reporting is completed as required. Additionally, the SMO will ensure illicit discharge reports adheres to the MS4 process of discovery, inspection, enforcement, correction and reporting is completed efficiently. Lastly, the SMO will lead the changes in this plan as needed to be compliant with MS4 regulations and requirements.

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)— 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.

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

Sec. 2-30-3. Applicability.

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

Sec. 2-30-4. Responsibility for administration.

The stormwater management officer(s) (SMO(s)) shall administer, implement, and enforce the provisions of this plan. 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 municipality. Appendix A that includes the job titles and responsibilities for the applicable roles required to meet the elements of this plan and the requirements set forth in the GP-0-24-001.

The following table is an inventory of the entities that assist the city in implementing the SWMP Plan according to the GP-0-24-001 requirements.

Name of Entity	Permit Requirement being Performed by Entity
Ramboll Americas Engineering Solutions (Ramboll).	<ul style="list-style-type: none"> • IV.D. (Mapping) • Assistance in developing and maintaining Part VI and VIII.

Appendix B includes the specific executed documentation between the city and the assisting entity as listed in the above table. Chapter 2-30: Stormwater Management includes model local laws for illicit discharges and stormwater management and erosion & sediment control. Chapter 2-30 is available here: <https://ecode360.com/14017106>. The resolutions of Chapter 2-30 are documented in Appendix C.

Sec. 2-30-5. Severability.

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

Sec. 2-30-6. Public involvement

The municipality will post a notice on the municipality's website (<https://www.cityofutica.com/departments/engineering/storm-water-management/ms4/index>) to announce when the public can attend board meetings or public hearings. At these meetings or hearings, the SWMP plan and the annual report will be reviewed, and an opportunity will be given to the public to comment on the reports. Documentation of the opportunity for the public to be involved in stormwater management-focused meetings and their involvement is located in Appendix D. If the public is unable to attend the meeting or needs to view this plan at any time, a copy of the SWMP Plan, including the annual reports, will be published on the city's website (<https://www.cityofutica.com/departments/engineering/storm-water-management/ms4/index>).

Sec. 2-30-7. Illicit discharge prevention and reporting.

- (a) Allowable discharges are non-stormwater discharges through outfalls listed in Part 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) 750-1.2(a)(29)(vi) and 40 CFR 122.34(b)(3)(ii), are authorized by this NYSDEC SPDES general permit provided they do not violate Environmental Conservation Law (ECL) Section 17-0501. If the NYSDEC or city determines that one or more of the discharges are in violation of ECL Section 17-0501, the identified discharges are illicit and the city must eliminate such discharges by following the illicit discharge MCM requirements found in Part VI.C of the GP-0-24-001, depending on the city type. Discharges from firefighting activities are authorized only when the firefighting activities are emergencies/unplanned.
- (b) No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided herein. Examples that are an illicit discharge include, but are not limited, to the following:
 - (1) Dry weather discharges of wastewater into storm sewer system from illegal dumping, spills and other non-stormwater pollution sources
 - (2) Discharges of pollutants, contaminants or illicit materials into storm drainage/sewer systems (e.g. oil, grease, solvents, metals, nutrients, toxins, viruses, or bacteria)
 - (3) Improper antifreeze, oil disposal from vehicle maintenance, or service stations
 - (4) Vehicle washing wastewaters
 - (5) Autobody/repair facility wastewaters
 - (6) Plating shop wastewater
 - (7) Private service agencies wastewater
 - (8) Wholesale/retail est. wastewater
 - (9) Sanitary wastewater/connection
 - (10) Mobile rug cleaning waste dumping
 - (11) Laundry wastewaters
 - (12) Disposal of auto/household toxins
 - (13) Vehicular/accidental spills

- (14) Dairy barn wastewaters
- (15) On-lot disposal system- sewage effluent
- (c) Exempt illicit discharges shall be made in accordance with an appropriate plan for reducing pollutants. Examples of an exempt illicit discharge, unless the Department or the municipality has determined them to be substantial contributors of pollutants, include, but are not limited, to the following:
 - (1) Discharge from firefighting activities
 - (2) Potable water sources including dechlorinated waterline and fire hydrant flushing
 - (3) Irrigation drainage
 - (4) Landscape irrigation
 - (5) Water from individual residential car washing
 - (6) Dechlorinated swimming pool discharges
 - (7) Water from crawl space or basement sump pumps
 - (8) Uncontaminated water from foundation or footing drains
 - (9) Routine external building wash down which does not use detergents or other compounds
 - (10) Pavement wash water where spills or leaks of toxic or hazardous materials have not occurred (unless spilled material has been removed) and where detergents are not used
 - (11) Air conditioning condensate
 - (12) Existing diverted stream flows
 - (13) Springs
 - (14) Natural riparian habitat or wetland flows
 - (15) Uncontaminated groundwater
 - (16) 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 ordinances 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 plan.
 - (17) Dye testing in compliance with applicable state and local ordinances is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.
 - (18) The prohibition shall not apply to any discharge permitted under an NYSDEC 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 ordinances and regulations, and provided the written approval is granted for any discharge to the MS4.

- (19) Other water source not containing pollutants
- (d) The environmental hazards associated with the contaminants from illicit discharges and improper disposal of waste include, but are not limited, to the following:
- (1) Water quality for drinking water, fisheries, or recreation purposes; thus, decreasing tourism and waterfront home values, fishing and shellfish harvesting, and closure to beaches, primarily as a result of microbial contamination.
 - (2) Aquatic life and wildlife species are impacted such as disruptions to the ecosystem, mass fish die-offs and other aquatic life losses, and loss of biodiversity.
 - (3) Soil contamination which affects vegetation growth and contaminants could potentially enter the food chain and harming wildlife.
 - (4) Health risks to humans and wildlife if the substance is consumed from drinking water or swimming such as skin infections, respiratory issues, and other diseases.
 - (5) In some scenarios, illicit discharges could block drainage systems, leading to flooding and associated damage to property and infrastructure.
 - (6) In some scenarios, illicit discharges can spontaneously combust or be set on fire, posing a risk to nearby areas such as forested areas or property.
- (e) Suggestions to properly practice the handling and disposal of illicit discharges for the most common behaviors within the community (e.g., septic care, car washing, household hazardous waste, swimming pool draining, or other activities resulting in illicit discharges to the MS4) include, but are not limited to, the following:
- (1) Avoid disposing any waste into storm drains.
 - (2) Use lawn and garden chemicals sparingly. Repair vehicle leaks. If a vehicle leak was to occur, cover the spilled fluids with cat litter, then sweep into household waste.
 - (3) Clean up pet waste and dispose of the pet waste properly.
 - (4) Control soil erosion on your property by planting ground cover and stabilizing erosion-prone areas.
 - (5) Avoid grass clippings, leaves, litter, and debris out of street gutters and storm drains by sweeping any excess grass clippings from driveways, sidewalks and roads.
 - (6) Direct downspouts onto grassy areas and away from paved surfaces.
 - (7) Use a commercial car wash or wash your vehicle on the grass instead of the driveway.
 - (8) Dispose of used oil, antifreeze, paints and other household chemicals in an approved manner
- (f) Steps to reporting an illicit discharge:
- (1) Determine property owners name, if available, and street address of the discharge source in the event that follow-up action or elimination is required.
 - (2) Describe the possible illicit discharge for source identification and verification by determining the presences of any odors, the transparency, the colors, and location of source,

if possible. Additionally, describe the presence of any solid or floatables. Finally, examine the possible illicit discharge for iron leaches from soils forming a breakable sheen on stagnant water surfaces or oil sheens

(3) The point of contact for reporting an illicit discharge activity is documented in Appendix A.

(4) Within thirty (30) days of an illicit discharge, the municipality will document each report of an illicit discharge in Appendix E with the following information:

- a. Date of the report
- b. Location of the illicit discharge
- c. Nature of the illicit discharge
- d. Follow up actions taken or needed (including response times)
- e. Inspection outcomes and any enforcement taken

Sec. 2-30-8. Discharge prohibitions.

(a) 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 ordinance or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this plan if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

Sec. 2-30-9. Prohibition against failing individual sewage treatment systems.

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

- (1) The backup of sewage into a structure.
- (2) Discharges of treated or untreated sewage onto the ground surface.
- (3) A connection or connections to a separate stormwater sewer system.
- (4) Liquid level in the septic tank above the outlet invert.
- (5) 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.
- (6) Contamination of off-site groundwater.

Sec. 2-30-10. Prohibition against activities contaminating stormwater.

(a) Activities that are subject to the requirements of this section are those types of activities that:

- (1) Cause or contribute to a violation of the municipality's MS4 NYSDEC SPDES permit.
 - (2) Cause or contribute to the municipality being subject to the special conditions as defined in section 2-30-2.
- (b) Such activities include failing individual sewage treatment systems as defined in section 2-30-8, improper management of pet waste or any other activity that causes or contributes to violations of the municipality's MS4 NYSDEC 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 municipality's MS4 NYSDEC 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 municipality's MS4 NYSDEC SPDES permit authorization.

Sec. 2-30-11. Monitoring locations inspection and sampling program.

The city will inspect each monitoring location identified in the inventory (Appendix F) during dry weather conditions or between 48-72 hours without precipitation, at least once every five years following the most recent inspection. All inspection and sampling results will be documented using the designated field sheets in Appendix F.

The program includes sampling all monitoring locations that indicate a suspect or obvious illicit discharge based on physical indicators such as odors, transparency, colors, solids, floatables, and sheens like an oil sheen. If the source of the illicit discharge is clear and discernable (e.g., sewage), sampling is not necessary. Sampling may be conducted using field test kits or instrumentation sensitive enough to detect parameters below the sampling action level.

Track down procedures will be initiated for any locations that indicate a suspect or obvious illicit discharge or exceed any sampling action level, such that reinspection of the monitoring location will be performed within thirty (30) days of the initial inspection. If persistent physical indicators are found, track down procedures will be initiated (section 2-30-12). New staff will be trained before conducting inspections and sampling, while existing staff will be trained every five years and when procedures are updated. The staffing plan (Appendix B) includes a list of trained individuals to perform the monitoring inspection and sampling procedures, and the list will be updated annually. Procedures will be reviewed and updated annually by April 1, with updates documented in the SWMP Plan.

Sec. 2-30-12. Illicit discharge track down program.

After the track down program is initiated based on monitoring location inspection and sampling procedures, immediate steps will be taken to eliminate the discharge. This may involve cleaning up spills, repairing equipment, or modifying operations to prevent further pollution.

When a suspect or obvious discharge is discovered, track down procedures, as described above or in Chapter 13 of the Center for Watershed Protection Manual, will be initiated within specific timeframes:

- twenty-four (24) hours for obvious discharges
- two (2) hours of discovery for sanitary wastewater affecting bathing areas during bathing season, shell fishing areas, or public water intakes
- five (5) days for suspect discharges

The investigation is to be reported orally or electronically to the regional water engineer and local health department. All findings and corrective actions are documented thoroughly, including the date

and nature of the discharge, the methods used to trace the source, and the steps taken to mitigate the issue. This documentation is included in the SWMP Plan and updated in Appendix D.

New staff will receive training in these procedures before conducting track downs, and existing staff will be trained at least every five years, and when procedures are updated. The staffing plan (Appendix B) includes a list of trained individuals to perform the illicit discharge track down procedures, and the list will be updated annually. Annually, by April 1, track down procedures will be reviewed and updated based on inspection results, with updates documented in the SWMP Plan.

Sec. 2-30-13. Illicit discharge elimination program.

The Illicit Discharge Elimination Program will include escalating enforcement and tracking that is consistent with the Enforcement Response Plan (ERP) (section XX). Additionally, this program includes confirmation of corrective actions taken and detailing necessary steps for illicit discharge elimination which will be based on a case-by-case basis.

Illicit discharges that have a reasonable likelihood of adversely affecting human health or the environment will be eliminated within twenty-four (24) hours of identification.

Training provisions will ensure new staff receive training in these procedures before conducting eliminations, and existing staff will be trained prior to conducting eliminations and every five years thereafter. Staff will also receive updated training if there are procedural changes. The staffing plan (Appendix B) includes a list of trained individuals to perform the illicit discharge track down procedures, and the list will be updated annually. Each year by April 1, the illicit discharge elimination program will be reviewed and updated, and completion of this requirement will be documented in the SWMP Plan.

Sec. 2-30-14. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

When applicable, the Village will consider BMPs at municipal facilities to minimize discharge of pollutants from municipal operations. A municipal facilities inventory is documented in Appendix G. Where the SMO has identified illicit discharges as defined in section 2-30-2 or activities contaminating stormwater as defined in section 2-30-9 the municipality may require implementation of best management practices (BMPs) to control those illicit discharges and activities.

- (a) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.
- (b) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in section 2-30-2 or an activity contaminating stormwater as defined in section 2-30-9, 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.
- (c) Compliance with all terms and conditions of a valid NYSDEC 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.

Sec. 2-30-15. Suspension of access to MS4— illicit discharges in emergency situations.

- (a) The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of

persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

- (b) Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this plan 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 therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if they find 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.

Sec. 2-30-16. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NYSDEC 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 municipality prior to the allowing of discharges to the MS4.

Sec. 2-30-17. Access and monitoring of discharges.

- (a) Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this plan, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this plan.
- (b) Access to facilities.
 - (1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this plan as often as may be necessary to determine compliance with this plan. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
 - (2) Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this plan.
 - (3) The municipality shall have the right to set up on any facility subject to this plan 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 municipality has the right to require the facilities subject to this plan to install monitoring equipment as is reasonably necessary to determine compliance with this plan. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

- (5) Unreasonable delays in allowing the municipality access to a facility subject to this plan is a violation of this plan. A person who is the operator of a facility subject to this plan commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this plan.
- (6) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and they is able to demonstrate probable cause to believe that there may be a violation of this plan, 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 plan or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 2-30-18. Notification of spills.

Notwithstanding other requirements of this plan, 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 SMO no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 2-30-19. Enforcement response plan.

- (a) Violation. It shall be unlawful for any person to violate any provision or fail to comply with any requirements of this plan.
- (b) Types of violation. The SMO or the City's Department of Codes (hereafter "enforcer") has the right to execute the following types of enforcement responses or a combination of the responses considering the type, magnitude, and duration of the violation; effects the violation has on the receiving water; compliance history and good faith efforts of the responsible party:
 - (1) Verbal notifications
 - (2) Written notices
 - (3) Citations (and associated fines)
 - (4) Stop work orders
 - (5) Withholding of plan approvals or other authorizations affecting the ability to discharge to the MS4
 - (6) Additional measures, supported in local legal authorities, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials to correct violations

(c) Notice of violation.

- (1) When the enforcer determines that a party has violated a prohibition or failed to comply with a requirement of this plan, the enforcer will send a written letter titled "Notice and Order." Such notice may include, without limitation, the following considering the type, magnitude, and duration of the violation; effects the violation has on the receiving water; compliance history and good faith efforts of the responsible party:
 - The name and address of the party responsible for the violation.
 - The address, if available, or a description of the building, structure or land upon which the violation is occurring.
 - A statement specifying the nature of the violation.
 - A description of the remedial measures necessary to comply with this plan such as the elimination of illicit discharges.
 - (2) A letter is sent with an affidavit of service. Based on the violation, the enforcer establishes a duration for the reinspection which is typically ten (10) days from the original violation, and a maximum of thirty (30) days. Any request for beyond thirty (30) days to solve the violation must be written and sent to the enforcer. If the violation is not addressed in the given time to reinspection, the City proceeds with the following options:
 - Abate the violation using the City's Department of Parks or the City's Department of Public Works, and the expenses incurred by the City for addressing the violation will be charged to the violator's property tax bill, or
 - Issue a ticket to the violator which will require them to address the violation through the City Court.
 - (3) Abatements are typically completed when the City has realistically declared to resolve the violation. Tickets will be issued when the City is incapable of resolving the violation.
- (d) Response to the notice of violation. The responsible party must respond to the notice of violation with a plan that meets the requirements of the notice and this plan within given time to reinspection outlined in the notice.
- (e) Appeal of notice of violation. Any person receiving a notice of violation may appeal the determination of the enforcer to the City within 7 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.
- (f) Corrective measures after appeal.
- (1) If the violation has not been corrected according to the requirements outlined in the notice of violation, or if the violation is not corrected within five business days of a municipal authority's decision to uphold the enforcer's decision in the event of an appeal, then the enforcer shall request the responsible party's permission to access the private property in order to take any necessary actions to abate the violation and/or restore the property.
 - (2) If refused access to the subject private property, the enforcer 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 enforcer may seek a court order to take 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.

- (g) Enforcement Tracking. The SMO must track instances of non-compliance of this plan in Appendix H. The enforcement case documentation must include, at a minimum, the following:
- (1) Name of the owner/operator of the facility or site of the violation (can be redacted from the publicly available version of this plan).
 - (2) Location of the stormwater source (e.g., construction project).
 - (3) Description of the violation.
 - (4) Schedule for returning to compliance.
 - (5) Description of enforcement response used, including escalated responses if repeat violations occur or violations are not resolved in a timely manner; Accompanying documentation of enforcement response (e.g., notices of noncompliance, notices of violations).
 - (6) Any referrals to different departments or agencies.
 - (7) Date violation was resolved.
 - (8) Penalties for the first, repeating, and continuing offences are defined in Sec. 2-30-20.

Sec. 2-30-20. Penalties/remedies.

- (a) Penalties. In addition to or as an alternative to any penalty provided herein or by ordinance, any person who violates the provisions of this plan shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700, or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 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 plan shall be deemed misdemeanors and for such purpose only all provisions of this plan relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- (b) Alternative remedies.
- (1) Where a person has violated a provision of this plan, they may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the municipal attorney and concurrence of the municipal code enforcement officer, where:
 - a. The violation was unintentional.

- b. The violator has no history of previous violations of this plan.
 - c. Environmental damage was minimal.
 - d. Violator acted quickly to remedy violation.
 - e. Violator cooperated in investigation.
- (2) Alternative remedies may consist of one or more of the following:
- a. Attendance at compliance workshops.
 - b. Storm drain stenciling or storm drain marking.
 - c. River, stream or creek cleanup activities.
- (c) 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 plan 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.
- (d) Injunctive relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this plan. If a person has violated or continues to violate the provisions of this plan, 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.
- (e) Remedies not exclusive. The remedies listed in this plan are not exclusive of any other remedies available under any application federal, state or local ordinance, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Sec. 2-30-21. Impaired Waters

- (a) Known impaired waters in the municipality. The Mohawk River, the Utica Harbor, Ballou Creek and its tributaries, and Nail Creek and its tributaries are all impaired waters within the municipality. The impairment status for all waterbodies in the municipality are shown on the comprehensive map in Appendix I. The pollutants of concern (POC) for each impaired water in the municipality are as follows:
- (1) The Mohawk River contains high levels of fecal coliform, oils and floating substances.
 - (2) The Utica Harbor contains high levels of fecal coliform.
 - (3) Ballou, Nail Creeks, and their tributaries contain high levels of phosphorus.
- (b) Efforts to address the POCs in the impaired waters by the municipality. This plan shall serve as an effort to address the POCs in the impaired waters within the municipality. Additionally, the municipality will implement the following activities to reduce the POCs in impaired waters:
- (1) Creating a long-term plan for the combined stormwater sewer outfalls
 - (2) Placing dog waste receptacles at each park in the municipality
 - (3) Mandating pets to be leashed at parks within the municipality
 - (4) Installing bird spikes on top of park pavilions

- (5) Displaying “Do not feed birds” signage at bird nuisance areas. The municipal facilities with nuisance bird populations include the following:
 - a. Utica Harbor
 - b. Chancellor Park
 - c. F.T. Proctor Park
 - d. Nurses Candlelight Park
 - e. Mini Hanna Park
- (6) Remove accumulated trash and debris from municipal facilities. Stormwater catch basin inspection form and cleaning procedure is documented in Appendix J. The standard operating procedure for the Department of Parks and Recreation to clean and maintain trash receptacles is documented in Appendix K.
- (7) Following a street sweeping procedure as identified in Appendix L
- (8) Washing municipal-owned vehicles at car wash stations
- (9) Eliminating the act of pesticides at each municipality facility
- (10) Constructing a flood bench along Nail Creek
- (11) Implementing blue and green infrastructure when possible

An analysis of the effects for the municipality’s contribution to reduce bird related pathogens entering the impaired waters from the above list of activities will be evaluated by next year’s NYSDEC MS4 annual report (April 2026).

ARTICLE II

Stormwater Management Regulations

Sec. 2-30-22. Title.

This article shall be known as and may be cited as the "City of Utica Stormwater Management Regulations."

Sec. 2-30-23. Legislative intent.

The intent of this plan is as follows:

- (1) To meet the requirements of the six minimum control measures (MCMs) of the GP-0-24-001, as of April 2026, the completed GP-0-24-001 submittals for the MCMs of this traditional land use control city is documented in Appendix L. Requirements for Part VII of the GP-0-24-001 are not applicable to the city because of the city type. Additionally, requirements of Part IX are not applicable to the city because the city is not within an approved total maximum daily load (TMDL) watershed as listed in Table 3 of the GP-0-024-001.
- (2) To minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- (3) To minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality; and
- (4) To minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable.

Sec. 2-30-24. Findings of fact.

It is hereby determined that:

- (1) Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- (2) This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- (3) Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- (4) Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- (5) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow;
- (6) Substantial economic losses can result from these adverse impacts on the waters of the city;
- (7) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and

minimized through the regulation of stormwater runoff from land development activities;

- (8) The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety; and
- (9) Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

Sec. 2-30-25. Definitions.

The definitions set forth in the zoning law of the city (article 55) at article III (section 55-3) are incorporated by reference herein for application in this article.

Sec. 2-30-26. Applicability.

No application for approval of a land development activity shall be reviewed until the appropriate board and/or department has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with and the GP-0-20-001 and the specifications in this article and until the SWPPP has been reviewed and approved.

The boundary of the MS4 automatically designated area for the municipality is shown in a comprehensive system map attached in Appendix H. Existing municipality layers and public layers were overlaid on a United States Geologic Survey (USGS) basemap using the software ESRI ArcGIS Pro to create the comprehensive system map. The following layers are visible in the comprehensive map:

- (1) MS4 automatically designated area for the municipality
- (2) MS4 outfalls
- (3) Interconnections, if applicable
- (4) Preliminary storm-sewershed boundaries
- (5) Impaired waters within the city's MS4 boundary limits

The map will be maintained through field investigations and collaboration between the municipality and Ramboll Americas Engineering Solutions (Ramboll).

Sec. 2-30-27. Exemptions.

The following activities may be exempt from review under this article:

- (1) Agricultural activity as defined in this plan.
- (2) Logging activity undertaken pursuant to an approved timber management plan prepared or approved by the county soil and water conservation district or the department; except that landing areas and log haul roads are subject to this law.
- (3) Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a stormwater

management facility.

- (4) Repairs to any stormwater management practice or facility deemed necessary by the SMO.
- (5) Cemetery graves.
- (6) Installation of fence; sign, telephone, and electric poles and other kinds of posts or poles.
- (7) Emergency activity immediately necessary to protect life, property or natural resources.
- (8) Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and their family.
- (9) Landscaping and horticultural activities in connection with an existing structure.

Sec. 2-30-28. Construction oversight program.

The purpose of this Construction Oversight Program is to implement and enforce the following procedures discussed in this section that will ensure the stormwater runoff within applicable construction sites are effectively controlled.

- (a) Applicable construction activities, projects and sites that must meet the Construction Oversight Program, may be defined as:
 - (1) Construction activities that result in a total land disturbance of greater than or equal to one acre; or
 - (2) A total land disturbance of less than one acre if the construction activity is part of a larger common plan of development or sale.
- (b) Applicable construction activities (as defined in Sec. 2-30-28.a.) and construction activities near water bodies or environmentally sensitive areas, such as wetlands or floodplains, may require additional stormwater control measures to ensure runoff is managed properly. Both types of construction activities are required to develop SWPPP. An inventory of construction activities is developed in Appendix M.
- (c) The contractor or developer must prepare a SWPPP prior to the start of construction activities. The plan must include all the necessary components such as erosion and sediment control measures, stormwater management practices, responsible parties for implementation and oversight, insurance, engineering design plans (completed by a licensed professional), property ownership, and license of contractor which is required for plumbing work and electricity. The completed SWPPP should be submitted to the City for review. The City's planning board typically reviews the SWPPP first, then the Departments of Engineering, Codes and Urban Development will follow the planning board's approval. After all departments have approved the SWPPP and all necessary permits, the city and owner will schedule a pre-construction meeting date. If the city has insufficient internal resources, the city will hire appropriate consultants to participate in SWPPP review. The approval of the SWPPP is required prior to the commencement of construction activities.
- (d) Electronic or hard copies of the SWPPP may need to be submitted. The SWPPP should be submitted a minimum of 60 days before construction activities begin, to allow time for review and any necessary revisions.
- (e) The SWPPP should remain on-site for the duration of the construction project.

- (f) In cases where the owner does not file a SWPPP, the City immediately issues a stop work order on the project until proper permitting is obtained.
- (g) The SWPPP will be reviewed by the City within 60 days of submission. The review will assess whether the SWPPP adequately addresses all necessary regulatory components outlined in the permit. The SWPPP reviewers must review all SWPPPs for applicable construction activities and for conformance with the requirements of the GP-0-25-001 which includes the following:
 - (1) Erosion and sediment controls must be reviewed for conformance with the NYS Erosion & Sediment Control of 2016, or equivalent;
 - (2) Individuals responsible for review of post-construction stormwater management practices (SMPs) must be qualified professionals or under the supervision of a qualified professional; and
 - (3) Post-construction SMPs must be reviewed for conformance with the New York State Stormwater Management Design Manual, January 2015 (NYS SWMDM 2015) or equivalent, including:
 - a. All post-construction SMPs must meet the sizing criteria contained in the GP-0-25-001 and NYS SWMDM 2015.
 - b. Deviations from the performance criteria of the NYS SWMDM 2015 must demonstrate that they are equivalent.
- (h) The SWPPP must include an Operations and Maintenance plan that includes inspection and maintenance schedules and actions to ensure continuous and effective operation of each post-construction SMP. The SWPPP must identify the entity that will be responsible for the long-term operation and maintenance of each practice. If the SWPPP is determined to be in compliance, approval will be granted. If revisions are necessary, the applicant must modify the plan as requested and resubmit for approval. In this article, documentation of the SWPPP review process is required to keep on record including the information found in Part III.B. of the GP-0-25-001.
- (i) Prior to the commencement of construction activities, a pre-construction meeting will be held with all relevant parties (contractor as listed on the GP-0-25-001 NOI, developers, qualified inspectors, environmental consultants, and the MS4 operator) to discuss the SWPPP, stormwater management measures, and compliance expectations. The details of the meeting (e.g. date, attendance and agenda) will be documented as an attachment to this plan in Appendix N. The meeting agenda will confirm the approved project has received, or will receive, coverage under the GP-0-25-001 or an individual SPDES permit; verify contractors and subcontractors selected by the owner/operator of the construction activity have identified at least one individual that has received four (4) hours of NYSDEC endorsed training in proper erosion and sediment control principles from a Soil & Water Conservation District or other endorsed entity as required by the GP-0-25-001 and; review this construction oversight program and expectations for compliance. If all outstanding action items are completed after the pre-construction meeting has been conducted, the construction activities may be commenced.
- (j) Regular site inspections and oversight ensures the owner complies with the SWPPP and permit requirements. The construction activity sites identified in the inventory will be inspected at a minimum of once a year during active construction after the pre-construction meeting or sooner if deficiencies are noted that require attention. Follow up to construction site inspections must confirm corrective actions are completed within timeframes established by the GP-0-25-001 and

the city's Enforcement Response Plan (ERP) as identified in Sec 2-30-16. All site inspections must be documented in Appendix O. If non-compliance is identified, corrective actions will be required, and penalties will be imposed for continued violations. If deficiencies persist or corrective actions are not implemented in a timely manner, escalating enforcement actions will include fines, suspension of work, or legal action, depending on the severity of the violation. All violations of stormwater regulations or the SWPPP must be reported to the designated enforcement authority immediately.

- (k) The city must ensure a final construction site inspection is conducted, and documentation of the final construction site inspection must be maintained in this plan as an attachment in Appendix O. The final construction site inspection must be documented using the Construction Site Inspection Report Form (Appendix O), or an equivalent form containing the same information, or accept the construction site owner/operator's qualified inspector final inspection certification required by the GP-0-25-001. The Notice of Termination (NOT) and Certification of Completion/Occupancy must be signed by the city as required by the GP-0-25-001 for projects determined to be complete. The NOT and certifications verify that all standards are meant and the project is in substantial compliance. Failure to provide the City with a NOT and a Certification of Completion/Occupancy indicates the construction activity is incomplete or flawed, and the City has the authority to issue a ticket to the owner.
- (l) Other procedures associated with the control of stormwater runoff from applicable construction activities maintenance of best management practices (BMPs) includes ensuring all BMPs outlined in the SWPPP are maintained throughout the construction process and repaired or replaced if they become ineffective. Personnel responsible for stormwater management on-site must receive appropriate training to ensure they understand their roles in the SWPPP and compliance requirements. If any changes in the construction project occur that affect stormwater management (e.g., changes in grading or project scope), the SWPPP must be amended and submitted for approval. Procedures must be in place for responding to emergencies such as equipment failure or unexpected storm events that could cause pollution or inadequate stormwater management.
- (m) The City, such as the City's Department of Engineering, must train new and existing staff involved in the construction oversight program every five (5) years, or after any updates to the program, prior to conducting any construction oversight activities. Procedures to ensure those involved in the construction activity itself (e.g., contractor, subcontractor, construction site inspector, SWPPP reviewers) have received four (4) hours of NYSDEC endorsed training in proper erosion and sediment control principles from a Soil & Water Conservation District, or other NYSDEC endorsed entity. This training must be completed every three (3) years and all MS4 construction site inspectors receive this training prior to conducting construction site inspections. The staff members trained to proceed with the construction oversight program are listed in Appendix B.

Sec. 2-30-29. Post-construction SMP inspection and maintenance program.

- (a) A post-construction SMP inventory is developed in Appendix M. Each post-construction SMP identified in the post-construction SMP inventory is inspected with a checklist at the frequency specified in the Appendix M. The City's Department of Engineering trained staff will conduct the SMPs inspections listed in the post-construction SMP inventory (Appendix M). The City's trained inspection staff will contact the applicable operators of the SMPs to collect inspection or maintenance documentation, then the City will enforce action as needed.

- (b) If the post-construction SMP inspection requires additional maintenance, repair, or higher-level inspection, these follow-up actions must be met within thirty (30) days of the post-construction SMP inspection. If failure to meet the required follow-up actions, the enforcer will initiate enforcement within sixty (60) days of the post-construction SMP inspection.
- (c) The City must train new and existing staff involved in the post-construction SMP inspection and maintenance program and procedures outlined in the NYSDEC endorsed programs every five (5) years, or after any updates to the program, prior to conducting any construction oversight activities. The staff members trained to proceed with the post-construction SMP inspections and maintenance program are listed in Appendix B.

Sec. 2-30-30. Contents of stormwater pollution prevention plans (SWPPP).

- (n) In accordance with the NYSDEC SPDES general permit for construction activities GP-0-20-001 and the specifications in this article, SWPPPs shall provide the following background information and erosion and sediment controls:
 - (1) Background information about the scope of the project, including location, type, and size of project.
 - (2) Site map/construction drawing(s) for the project, including a general location map at a scale no smaller than one-inch equals 100 feet. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
 - (3) Description of the soil(s) present at the site;
 - (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
 - (5) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
 - (6) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
 - (7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
 - (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

- (9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
 - (10) Temporary practices that will be converted to permanent control measures;
 - (11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
 - i. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 - (12) Name(s) of the receiving water(s);
 - (13) Delineation of SWPPP implementation responsibilities for each part of the site;
 - (14) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
 - (15) Any existing data that describes the stormwater runoff at the site.
- (o) Land development activities meeting condition "A", "B" or "C" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in section 2-30-40 as applicable:
- (1) Condition A. Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
 - (2) Condition B. Stormwater runoff from land development activities disturbing five or more acres.
 - (3) Condition C. Stormwater runoff from construction activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.
- (p) SWPPP content requirements for condition A, B and C.
- (1) All information in section 2-30-36.
 - (2) Description of each post-construction stormwater management practice;
 - (3) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
 - (4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
 - (5) Comparison of post-development stormwater runoff conditions with pre development conditions;
 - (6) Dimensions, material specifications and installation details for each post construction stormwater management practice;

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

Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.

- (8) Inspection and maintenance agreement binding on all subsequent landowners served by the onsite stormwater management measures in accordance with section 2-30-41.

Sec. 2-30-31. Plan certification.

The SWPPP shall be prepared by a landscape architect, certified professional with an erosion and sediment control (CPESC) certificate or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in the NYSDEC SPDES general permit for construction activities GP-0-20-001 and this plan.

Sec. 2-30-32. Other environmental permits.

The applicant shall certify that all other applicable environmental permits have been acquired for the land development activity prior to making application to the city for approval of the stormwater management plan.

Sec. 2-30-33. Contractor certification.

- (a) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

- (b) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- (c) The certification statement(s) shall become part of the SWPPP for the land development activity.
- (d) A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

Sec. 2-30-34. Performance and design criteria for stormwater management and erosion and sediment control.

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

- (1) Technical standards. For the purpose of this article, the following documents shall serve as

the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

- (2) NYS SWMDM 2015, or equivalent.
 - a. New York Standards and Specifications for Erosion and Sediment Control, (Empire State Article of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).
- (3) Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state.

Sec. 2-30-35. Maintenance and repair of stormwater facilities.

- (a) Maintenance during construction.
 - (1) The applicant or developer of the land development activity shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
 - (2) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to SMO and also copied to the site log book.
- (b) Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the NYS department of environmental conservation and/or a designated representative of the city to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article. The easement shall be recorded by the grantor in the office of the county clerk after review by the counsel for the city and acceptance by the planning board.
- (c) Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this law shall be operated and maintained to achieve the goals of this law. At a minimum, proper operation and maintenance includes the following:
 - (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.
 - (2) Written procedures for operation and maintenance and training new maintenance personnel.
 - (3) Actions to insure discharges from the SMPs shall not exceed design criteria or cause or

contribute to water quality standard violations.

- (d) Maintenance agreements. The city shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the county clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions in Appendix P which is the "Sample Stormwater Control Facility Maintenance Agreement." The city, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Sec. 2-30-36. Stormwater management inspections.

- (a) Inspection during construction. The SMO or designated agent that has completed the required training in Sec. 2-30-28 and Sec. 2-30-29 may choose to require such inspections as necessary to determine compliance with the stormwater management provisions of this law. Following any such inspection, the codes enforcement officer and/or the city engineer may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the SWPPP as approved. The city may determine the need for an inspection, the applicant shall notify the codes enforcement officer and/or the city engineer at least 48 hours before any of the following:
 - (1) Start of construction;
 - (2) Installation of sediment and erosion control measures;
 - (3) Completion of site clearing;
 - (4) Completion of rough grading;
 - (5) Completion of final grading;
 - (6) Close of the construction season;
 - (7) Completion of final landscaping;
 - (8) Successful establishment of landscaping in public areas.
- (b) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted, except for site stabilization, until any violations are corrected and all work previously completed has received approval by the codes enforcement officer and/or the city engineer.
- (c) "As-built" filing requirements. All applicants are required to submit to the codes enforcement officer and/or the city engineer "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.
- (d) Inspection of stormwater facilities after project completion. Inspection programs may be established on any reasonable basis after construction. The city may choose to conduct: routine inspections; random inspections; inspections based upon complaints or other notice

of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NYSDEC SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices. Such inspections may be performed by officials of the city or the city may designate an inspector who will be required to have a professional engineer's (PE) license or certified professional in erosion and sediment control (CPESC) certificate. The designated inspector shall be required to prepare and submit an inspection report to the commissioner of codes and/or the city engineer.

- (e) Submission of monitoring reports. The SMO may require monitoring and reporting from entities or applicants subject to this law as are necessary to determine compliance with this law.
- (f) Right-of-entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the city the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Section 2-30-42.

Sec. 2-30-37. Fees for services.

The city may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the city or performed by a third party for the city.

Sec. 2-30-38. Performance guarantee.

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

- (a) Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be

required to provide the city with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the city may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

- (b) Record keeping. The city may require entities subject to this law to maintain records demonstrating compliance with this law.

Sec. 2-30-39. Enforcement response plan.

- (a) The enforcement response plan for construction or post-construction activities will follow the procedures identified in Sec. 2-30-19.

Sec. 2-30-40. Additional remedies.

- (a) Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the city may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- (b) Stop work orders. The city may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the city confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this plan.
- (c) 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.
- (d) 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 city 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.
- (e) Remedies not exclusive. The remedies listed in this law are not exclusive of any other remedies available under any applicable federal, state or ordinance and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Sec. 2-30-41. Penalties.

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this plan shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for

conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 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 plan 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.

Sec. 2-30-42. Validity.

If any part or provision of this plan or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not effect or impair the validity of the remainder of this plan or the application thereof to other persons or circumstances, and the city hereby declares that it would have passed the ordinance from which this plan derives or the remainder thereof had such invalid application or invalid provision been apparent.

City of Utica, NY

Date

March 2026

STORMWATER MANAGEMENT PROGRAM (SWMP) PLAN CITY OF UTICA



ARTICLE I
Illicit Discharges, Activities and
Connections to Storm Sewers System

- Sec. 2-30-1. Purpose/intent.**
- Sec. 2-30-2. Definitions.**
- Sec. 2-30-3. Applicability.**
- Sec. 2-30-4. Responsibility for administration.**
- Sec. 2-30-5. Severability.**
- Sec. 2-30-6. Public involvement**
- Sec. 2-30-7. Illicit discharge prevention and reporting.**
- Sec. 2-30-8. Discharge prohibitions.**
- Sec. 2-30-9. Prohibition against failing individual sewage treatment systems.**
- Sec. 2-30-10. Prohibition against activities contaminating stormwater.**
- Sec. 2-30-11. Monitoring locations inspection and sampling program.**
- Sec. 2-30-12. Illicit discharge track down program.**
- Sec. 2-30-13. Illicit discharge elimination program.**
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ARTICLE I

Illicit Discharges, Activities And Connections To Separate Storm Sewer System Prohibited

Sec. 2-30-1. Purpose/intent.

The purpose of this plan is to provide for the health, safety, and general welfare of the citizens of the City of Utica (“city”, hereafter) through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state ordinance. This plan establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the New York State Department of Environmental Conservation (NYSDEC) State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharge from MS4s, Permit No. GP-0-24-001, as of April 2025. The objectives of this plan are:

- (1) To meet the requirements of the GP-0-24-001 or as amended or revised;
- (2) To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- (3) To prohibit illicit connections, activities and discharges to the MS4;
- (4) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this plan; and
- (5) To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.
- (6) To provide opportunities to involve the public in the development, review, and implementation of this plan.

Sec. 2-30-2. Definitions.

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

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

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

CONSTRUCTION ACTIVITY — Activities requiring authorization under the NYSDEC SPDES permit for stormwater discharges from construction activity, GP-0-20-001, 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 — The NYSDEC.

DESIGN PROFESSIONAL — A New York State licensed professional engineer or licensed architect.

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.

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

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

ILLCIT DISCHARGE — Any direct or indirect non-stormwater discharge to the MS4, except as exempted in section 2-30-6.

INDUSTRIAL ACTIVITY — Activities requiring the NYSDEC SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (1) Owned or operated by the city;
- (2) Designed or used for collecting or conveying 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.

MUNICIPALITY — The City of Utica.

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 ordinance and acting as either the owner or as the owner's agent.

POLLUTANT — Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be

expected to cause pollution of the waters of the state in contravention of the standards.

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

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 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 municipality 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 municipality'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 municipality'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 municipality 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 municipality'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 municipality 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 municipality must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

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

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO) — Also known as the stormwater program coordinator, is an employee, the municipal engineer or other public official(s) designated by the city to enforce this plan. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices. The contact information for the SMO is defined in the staffing plan (Appendix A). The SMO oversees the development, implementation, and enforcement of this plan; coordinates all elements in this plan to ensure compliance with the GP-0-24-001; and develops and submits the NYSDEC MS4 annual reports. The SMO will ensure MS4 reporting is completed as required. Additionally, the SMO will ensure illicit discharge reports adheres to the MS4 process of discovery, inspection, enforcement, correction and reporting is completed efficiently. Lastly, the SMO will lead the changes in this plan as needed to be compliant with MS4 regulations and requirements.

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)— 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.

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

Sec. 2-30-3. Applicability.

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

Sec. 2-30-4. Responsibility for administration.

The stormwater management officer(s) (SMO(s)) shall administer, implement, and enforce the provisions of this plan. 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 municipality. Appendix A that includes the job titles and responsibilities for the applicable roles required to meet the elements of this plan and the requirements set forth in the GP-0-24-001.

The following table is an inventory of the entities that assist the city in implementing the SWMP Plan according to the GP-0-24-001 requirements.

Name of Entity	Permit Requirement being Performed by Entity
Ramboll Americas Engineering Solutions (Ramboll).	<ul style="list-style-type: none">• IV.D. (Mapping)• Assistance in developing and maintaining Part VI and VIII.

Appendix B includes the specific executed documentation between the city and the assisting entity as listed in the above table. Chapter 2-30: Stormwater Management includes model local laws for illicit discharges and stormwater management and erosion & sediment control. Chapter 2-30 is available here: <https://ecode360.com/14017106>. The resolutions of Chapter 2-30 are documented in Appendix C.

Sec. 2-30-5. Severability.

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

Sec. 2-30-6. Public involvement

The municipality will post a notice on the municipality's website (<https://www.cityofutica.com/departments/engineering/storm-water-management/ms4/index>) to announce when the public can attend board meetings or public hearings. At these meetings or hearings, the SWMP plan and the annual report will be reviewed, and an opportunity will be given to the public to comment on the reports. Documentation of the opportunity for the public to be involved in stormwater management-focused meetings and their involvement is located in Appendix D. If the public is unable to attend the meeting or needs to view this plan at any time, a copy of the SWMP Plan, including the annual reports, will be published on the city's website (<https://www.cityofutica.com/departments/engineering/storm-water-management/ms4/index>).

Sec. 2-30-7. Illicit discharge prevention and reporting.

- (a) Allowable discharges are non-stormwater discharges through outfalls listed in Part 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) 750-1.2(a)(29)(vi) and 40 CFR 122.34(b)(3)(ii), are authorized by this NYSDEC SPDES general permit provided they do not violate Environmental Conservation Law (ECL) Section 17-0501. If the NYSDEC or city determines that one or more of the discharges are in violation of ECL Section 17-0501, the identified discharges are illicit and the city must eliminate such discharges by following the illicit discharge MCM requirements found in Part VI.C of the GP-0-24-001, depending on the city type. Discharges from firefighting activities are authorized only when the firefighting activities are emergencies/unplanned.
- (b) No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided herein. Examples that are an illicit discharge include, but are not limited, to the following:
 - (1) Dry weather discharges of wastewater into storm sewer system from illegal dumping, spills and other non-stormwater pollution sources
 - (2) Discharges of pollutants, contaminants or illicit materials into storm drainage/sewer systems (e.g. oil, grease, solvents, metals, nutrients, toxins, viruses, or bacteria)
 - (3) Improper antifreeze, oil disposal from vehicle maintenance, or service stations
 - (4) Vehicle washing wastewaters
 - (5) Autobody/repair facility wastewaters
 - (6) Plating shop wastewater
 - (7) Private service agencies wastewater
 - (8) Wholesale/retail est. wastewater
 - (9) Sanitary wastewater/connection
 - (10) Mobile rug cleaning waste dumping
 - (11) Laundry wastewaters
 - (12) Disposal of auto/household toxins
 - (13) Vehicular/accidental spills

- (14) Dairy barn wastewaters
- (15) On-lot disposal system- sewage effluent
- (c) Exempt illicit discharges shall be made in accordance with an appropriate plan for reducing pollutants. Examples of an exempt illicit discharge, unless the Department or the municipality has determined them to be substantial contributors of pollutants, include, but are not limited, to the following:
 - (1) Discharge from firefighting activities
 - (2) Potable water sources including dechlorinated waterline and fire hydrant flushing
 - (3) Irrigation drainage
 - (4) Landscape irrigation
 - (5) Water from individual residential car washing
 - (6) Dechlorinated swimming pool discharges
 - (7) Water from crawl space or basement sump pumps
 - (8) Uncontaminated water from foundation or footing drains
 - (9) Routine external building wash down which does not use detergents or other compounds
 - (10) Pavement wash water where spills or leaks of toxic or hazardous materials have not occurred (unless spilled material has been removed) and where detergents are not used
 - (11) Air conditioning condensate
 - (12) Existing diverted stream flows
 - (13) Springs
 - (14) Natural riparian habitat or wetland flows
 - (15) Uncontaminated groundwater
 - (16) 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 ordinances 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 plan.
 - (17) Dye testing in compliance with applicable state and local ordinances is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.
 - (18) The prohibition shall not apply to any discharge permitted under an NYSDEC 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 ordinances and regulations, and provided the written approval is granted for any discharge to the MS4.

- (19) Other water source not containing pollutants
- (d) The environmental hazards associated with the contaminants from illicit discharges and improper disposal of waste include, but are not limited, to the following:
- (1) Water quality for drinking water, fisheries, or recreation purposes; thus, decreasing tourism and waterfront home values, fishing and shellfish harvesting, and closure to beaches, primarily as a result of microbial contamination.
 - (2) Aquatic life and wildlife species are impacted such as disruptions to the ecosystem, mass fish die-offs and other aquatic life losses, and loss of biodiversity.
 - (3) Soil contamination which affects vegetation growth and contaminants could potentially enter the food chain and harming wildlife.
 - (4) Health risks to humans and wildlife if the substance is consumed from drinking water or swimming such as skin infections, respiratory issues, and other diseases.
 - (5) In some scenarios, illicit discharges could block drainage systems, leading to flooding and associated damage to property and infrastructure.
 - (6) In some scenarios, illicit discharges can spontaneously combust or be set on fire, posing a risk to nearby areas such as forested areas or property.
- (e) Suggestions to properly practice the handling and disposal of illicit discharges for the most common behaviors within the community (e.g., septic care, car washing, household hazardous waste, swimming pool draining, or other activities resulting in illicit discharges to the MS4) include, but are not limited to, the following:
- (1) Avoid disposing any waste into storm drains.
 - (2) Use lawn and garden chemicals sparingly. Repair vehicle leaks. If a vehicle leak was to occur, cover the spilled fluids with cat litter, then sweep into household waste.
 - (3) Clean up pet waste and dispose of the pet waste properly.
 - (4) Control soil erosion on your property by planting ground cover and stabilizing erosion-prone areas.
 - (5) Avoid grass clippings, leaves, litter, and debris out of street gutters and storm drains by sweeping any excess grass clippings from driveways, sidewalks and roads.
 - (6) Direct downspouts onto grassy areas and away from paved surfaces.
 - (7) Use a commercial car wash or wash your vehicle on the grass instead of the driveway.
 - (8) Dispose of used oil, antifreeze, paints and other household chemicals in an approved manner
- (f) Steps to reporting an illicit discharge:
- (1) Determine property owners name, if available, and street address of the discharge source in the event that follow-up action or elimination is required.
 - (2) Describe the possible illicit discharge for source identification and verification by determining the presences of any odors, the transparency, the colors, and location of source,

if possible. Additionally, describe the presence of any solid or floatables. Finally, examine the possible illicit discharge for iron leaches from soils forming a breakable sheen on stagnant water surfaces or oil sheens

(3) The point of contact for reporting an illicit discharge activity is documented in Appendix A.

(4) Within thirty (30) days of an illicit discharge, the municipality will document each report of an illicit discharge in Appendix E with the following information:

- a. Date of the report
- b. Location of the illicit discharge
- c. Nature of the illicit discharge
- d. Follow up actions taken or needed (including response times)
- e. Inspection outcomes and any enforcement taken

Sec. 2-30-8. Discharge prohibitions.

(a) 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 ordinance or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this plan if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

Sec. 2-30-9. Prohibition against failing individual sewage treatment systems.

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

- (1) The backup of sewage into a structure.
- (2) Discharges of treated or untreated sewage onto the ground surface.
- (3) A connection or connections to a separate stormwater sewer system.
- (4) Liquid level in the septic tank above the outlet invert.
- (5) 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.
- (6) Contamination of off-site groundwater.

Sec. 2-30-10. Prohibition against activities contaminating stormwater.

(a) Activities that are subject to the requirements of this section are those types of activities that:

- (1) Cause or contribute to a violation of the municipality's MS4 NYSDEC SPDES permit.
 - (2) Cause or contribute to the municipality being subject to the special conditions as defined in section 2-30-2.
- (b) Such activities include failing individual sewage treatment systems as defined in section 2-30-8, improper management of pet waste or any other activity that causes or contributes to violations of the municipality's MS4 NYSDEC 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 municipality's MS4 NYSDEC 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 municipality's MS4 NYSDEC SPDES permit authorization.

Sec. 2-30-11. Monitoring locations inspection and sampling program.

The city will inspect each monitoring location identified in the inventory (Appendix F) during dry weather conditions or between 48-72 hours without precipitation, at least once every five years following the most recent inspection. All inspection and sampling results will be documented using the designated field sheets in Appendix F.

The program includes sampling all monitoring locations that indicate a suspect or obvious illicit discharge based on physical indicators such as odors, transparency, colors, solids, floatables, and sheens like an oil sheen. If the source of the illicit discharge is clear and discernable (e.g., sewage), sampling is not necessary. Sampling may be conducted using field test kits or instrumentation sensitive enough to detect parameters below the sampling action level.

Track down procedures will be initiated for any locations that indicate a suspect or obvious illicit discharge or exceed any sampling action level, such that reinspection of the monitoring location will be performed within thirty (30) days of the initial inspection. If persistent physical indicators are found, track down procedures will be initiated (section 2-30-12). New staff will be trained before conducting inspections and sampling, while existing staff will be trained every five years and when procedures are updated. The staffing plan (Appendix B) includes a list of trained individuals to perform the monitoring inspection and sampling procedures, and the list will be updated annually. Procedures will be reviewed and updated annually by April 1, with updates documented in the SWMP Plan.

Sec. 2-30-12. Illicit discharge track down program.

After the track down program is initiated based on monitoring location inspection and sampling procedures, immediate steps will be taken to eliminate the discharge. This may involve cleaning up spills, repairing equipment, or modifying operations to prevent further pollution.

When a suspect or obvious discharge is discovered, track down procedures, as described above or in Chapter 13 of the Center for Watershed Protection Manual, will be initiated within specific timeframes:

- twenty-four (24) hours for obvious discharges
- two (2) hours of discovery for sanitary wastewater affecting bathing areas during bathing season, shell fishing areas, or public water intakes
- five (5) days for suspect discharges

The investigation is to be reported orally or electronically to the regional water engineer and local health department. All findings and corrective actions are documented thoroughly, including the date

and nature of the discharge, the methods used to trace the source, and the steps taken to mitigate the issue. This documentation is included in the SWMP Plan and updated in Appendix D.

New staff will receive training in these procedures before conducting track downs, and existing staff will be trained at least every five years, and when procedures are updated. The staffing plan (Appendix B) includes a list of trained individuals to perform the illicit discharge track down procedures, and the list will be updated annually. Annually, by April 1, track down procedures will be reviewed and updated based on inspection results, with updates documented in the SWMP Plan.

Sec. 2-30-13. Illicit discharge elimination program.

The Illicit Discharge Elimination Program will include escalating enforcement and tracking that is consistent with the Enforcement Response Plan (ERP) (section XX). Additionally, this program includes confirmation of corrective actions taken and detailing necessary steps for illicit discharge elimination which will be based on a case-by-case basis.

Illicit discharges that have a reasonable likelihood of adversely affecting human health or the environment will be eliminated within twenty-four (24) hours of identification.

Training provisions will ensure new staff receive training in these procedures before conducting eliminations, and existing staff will be trained prior to conducting eliminations and every five years thereafter. Staff will also receive updated training if there are procedural changes. The staffing plan (Appendix B) includes a list of trained individuals to perform the illicit discharge track down procedures, and the list will be updated annually. Each year by April 1, the illicit discharge elimination program will be reviewed and updated, and completion of this requirement will be documented in the SWMP Plan.

Sec. 2-30-14. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

When applicable, the Village will consider BMPs at municipal facilities to minimize discharge of pollutants from municipal operations. A municipal facilities inventory is documented in Appendix G. Where the SMO has identified illicit discharges as defined in section 2-30-2 or activities contaminating stormwater as defined in section 2-30-9 the municipality may require implementation of best management practices (BMPs) to control those illicit discharges and activities.

- (a) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.
- (b) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in section 2-30-2 or an activity contaminating stormwater as defined in section 2-30-9, 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.
- (c) Compliance with all terms and conditions of a valid NYSDEC 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.

Sec. 2-30-15. Suspension of access to MS4— illicit discharges in emergency situations.

- (a) The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of

persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

- (b) Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this plan 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 therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if they find 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.

Sec. 2-30-16. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NYSDEC 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 municipality prior to the allowing of discharges to the MS4.

Sec. 2-30-17. Access and monitoring of discharges.

- (a) Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this plan, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this plan.
- (b) Access to facilities.
 - (1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this plan as often as may be necessary to determine compliance with this plan. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
 - (2) Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this plan.
 - (3) The municipality shall have the right to set up on any facility subject to this plan 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 municipality has the right to require the facilities subject to this plan to install monitoring equipment as is reasonably necessary to determine compliance with this plan. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

- (5) Unreasonable delays in allowing the municipality access to a facility subject to this plan is a violation of this plan. A person who is the operator of a facility subject to this plan commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this plan.
- (6) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and they is able to demonstrate probable cause to believe that there may be a violation of this plan, 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 plan or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 2-30-18. Notification of spills.

Notwithstanding other requirements of this plan, 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 SMO no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 2-30-19. Enforcement response plan.

- (a) Violation. It shall be unlawful for any person to violate any provision or fail to comply with any requirements of this plan.
- (b) Types of violation. The SMO or the City's Department of Codes (hereafter "enforcer") has the right to execute the following types of enforcement responses or a combination of the responses considering the type, magnitude, and duration of the violation; effects the violation has on the receiving water; compliance history and good faith efforts of the responsible party:
 - (1) Verbal notifications
 - (2) Written notices
 - (3) Citations (and associated fines)
 - (4) Stop work orders
 - (5) Withholding of plan approvals or other authorizations affecting the ability to discharge to the MS4
 - (6) Additional measures, supported in local legal authorities, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials to correct violations

(c) Notice of violation.

- (1) When the enforcer determines that a party has violated a prohibition or failed to comply with a requirement of this plan, the enforcer will send a written letter titled "Notice and Order." Such notice may include, without limitation, the following considering the type, magnitude, and duration of the violation; effects the violation has on the receiving water; compliance history and good faith efforts of the responsible party:
 - The name and address of the party responsible for the violation.
 - The address, if available, or a description of the building, structure or land upon which the violation is occurring.
 - A statement specifying the nature of the violation.
 - A description of the remedial measures necessary to comply with this plan such as the elimination of illicit discharges.
 - (2) A letter is sent with an affidavit of service. Based on the violation, the enforcer establishes a duration for the reinspection which is typically ten (10) days from the original violation, and a maximum of thirty (30) days. Any request for beyond thirty (30) days to solve the violation must be written and sent to the enforcer. If the violation is not addressed in the given time to reinspection, the City proceeds with the following options:
 - Abate the violation using the City's Department of Parks or the City's Department of Public Works, and the expenses incurred by the City for addressing the violation will be charged to the violator's property tax bill, or
 - Issue a ticket to the violator which will require them to address the violation through the City Court.
 - (3) Abatement is typically completed when the City has realistically declared to resolve the violation. Tickets will be issued when the City is incapable of resolving the violation.
- (d) Response to the notice of violation. The responsible party must respond to the notice of violation with a plan that meets the requirements of the notice and this plan within given time to reinspection outlined in the notice.
- (e) Appeal of notice of violation. Any person receiving a notice of violation may appeal the determination of the enforcer to the City within 7 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.
- (f) Corrective measures after appeal.
- (1) If the violation has not been corrected according to the requirements outlined in the notice of violation, or if the violation is not corrected within five business days of a municipal authority's decision to uphold the enforcer's decision in the event of an appeal, then the enforcer shall request the responsible party's permission to access the private property in order to take any necessary actions to abate the violation and/or restore the property.
 - (2) If refused access to the subject private property, the enforcer 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 enforcer may seek a court order to take 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.

- (g) Enforcement Tracking. The SMO must track instances of non-compliance of this plan in Appendix H. The enforcement case documentation must include, at a minimum, the following:
- (1) Name of the owner/operator of the facility or site of the violation (can be redacted from the publicly available version of this plan).
 - (2) Location of the stormwater source (e.g., construction project).
 - (3) Description of the violation.
 - (4) Schedule for returning to compliance.
 - (5) Description of enforcement response used, including escalated responses if repeat violations occur or violations are not resolved in a timely manner; Accompanying documentation of enforcement response (e.g., notices of noncompliance, notices of violations).
 - (6) Any referrals to different departments or agencies.
 - (7) Date violation was resolved.
 - (8) Penalties for the first, repeating, and continuing offences are defined in Sec. 2-30-20.

Sec. 2-30-20. Penalties/remedies.

- (a) Penalties. In addition to or as an alternative to any penalty provided herein or by ordinance, any person who violates the provisions of this plan shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700, or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 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 plan shall be deemed misdemeanors and for such purpose only all provisions of this plan relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- (b) Alternative remedies.
- (1) Where a person has violated a provision of this plan, they may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the municipal attorney and concurrence of the municipal code enforcement officer, where:
 - a. The violation was unintentional.

- b. The violator has no history of previous violations of this plan.
 - c. Environmental damage was minimal.
 - d. Violator acted quickly to remedy violation.
 - e. Violator cooperated in investigation.
- (2) Alternative remedies may consist of one or more of the following:
- a. Attendance at compliance workshops.
 - b. Storm drain stenciling or storm drain marking.
 - c. River, stream or creek cleanup activities.
- (c) 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 plan 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.
- (d) Injunctive relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this plan. If a person has violated or continues to violate the provisions of this plan, 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.
- (e) Remedies not exclusive. The remedies listed in this plan are not exclusive of any other remedies available under any application federal, state or local ordinance, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Sec. 2-30-21. Impaired Waters

- (a) Known impaired waters in the municipality. The Mohawk River, the Utica Harbor, Ballou Creek and its tributaries, and Nail Creek and its tributaries are all impaired waters within the municipality. The impairment status for all waterbodies in the municipality are shown on the comprehensive map in Appendix I. The pollutants of concern (POC) for each impaired water in the municipality are as follows:
- (1) The Mohawk River contains high levels of fecal coliform, oils and floating substances.
 - (2) The Utica Harbor contains high levels of fecal coliform.
 - (3) Ballou, Nail Creeks, and their tributaries contain high levels of phosphorus.
- (b) Efforts to address the POCs in the impaired waters by the municipality. This plan shall serve as an effort to address the POCs in the impaired waters within the municipality. Additionally, the municipality will implement the following activities to reduce the POCs in impaired waters:
- (1) Creating a long-term plan for the combined stormwater sewer outfalls
 - (2) Placing dog waste receptacles at each park in the municipality
 - (3) Mandating pets to be leashed at parks within the municipality
 - (4) Installing bird spikes on top of park pavilions

- (5) Displaying “Do not feed birds” signage at bird nuisance areas. The municipal facilities with nuisance bird populations include the following:
 - a. Utica Harbor
 - b. Chancellor Park
 - c. F.T. Proctor Park
 - d. Nurses Candlelight Park
 - e. Mini Hanna Park
- (6) Remove accumulated trash and debris from municipal facilities. Stormwater catch basin inspection form and cleaning procedure is documented in Appendix J. The standard operating procedure for the Department of Parks and Recreation to clean and maintain trash receptacles is documented in Appendix K.
- (7) Following a street sweeping procedure as identified in Appendix L
- (8) Washing municipal-owned vehicles at car wash stations
- (9) Eliminating the act of pesticides at each municipality facility
- (10) Constructing a flood bench along Nail Creek
- (11) Implementing blue and green infrastructure when possible

An analysis of the effects for the municipality’s contribution to reduce bird related pathogens entering the impaired waters from the above list of activities will be evaluated by next year’s NYSDEC MS4 annual report (April 2026).

ARTICLE II

Stormwater Management Regulations

Sec. 2-30-22. Title.

This article shall be known as and may be cited as the "City of Utica Stormwater Management Regulations."

Sec. 2-30-23. Legislative intent.

The intent of this plan is as follows:

- (1) To meet the requirements of the six minimum control measures (MCMs) of the GP-0-24-001, as of April 2026, the completed GP-0-24-001 submittals for the MCMs of this traditional land use control city is documented in Appendix L. Requirements for Part VII of the GP-0-24-001 are not applicable to the city because of the city type. Additionally, requirements of Part IX are not applicable to the city because the city is not within an approved total maximum daily load (TMDL) watershed as listed in Table 3 of the GP-0-024-001.
- (2) To minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- (3) To minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality; and
- (4) To minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable.

Sec. 2-30-24. Findings of fact.

It is hereby determined that:

- (1) Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- (2) This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- (3) Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- (4) Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- (5) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow;
- (6) Substantial economic losses can result from these adverse impacts on the waters of the city;
- (7) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and

minimized through the regulation of stormwater runoff from land development activities;

- (8) The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety; and
- (9) Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

Sec. 2-30-25. Definitions.

The definitions set forth in the zoning law of the city (article 55) at article III (section 55-3) are incorporated by reference herein for application in this article.

Sec. 2-30-26. Applicability.

No application for approval of a land development activity shall be reviewed until the appropriate board and/or department has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with and the GP-0-20-001 and the specifications in this article and until the SWPPP has been reviewed and approved.

The boundary of the MS4 automatically designated area for the municipality is shown in a comprehensive system map attached in Appendix H. Existing municipality layers and public layers were overlaid on a United States Geologic Survey (USGS) basemap using the software ESRI ArcGIS Pro to create the comprehensive system map. The following layers are visible in the comprehensive map:

- (1) MS4 automatically designated area for the municipality
- (2) MS4 outfalls
- (3) Interconnections, if applicable
- (4) Preliminary storm-sewershed boundaries
- (5) Impaired waters within the city's MS4 boundary limits

The map will be maintained through field investigations and collaboration between the municipality and Ramboll Americas Engineering Solutions (Ramboll).

Sec. 2-30-27. Exemptions.

The following activities may be exempt from review under this article:

- (1) Agricultural activity as defined in this plan.
- (2) Logging activity undertaken pursuant to an approved timber management plan prepared or approved by the county soil and water conservation district or the department; except that landing areas and log haul roads are subject to this law.
- (3) Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a stormwater

management facility.

- (4) Repairs to any stormwater management practice or facility deemed necessary by the SMO.
- (5) Cemetery graves.
- (6) Installation of fence; sign, telephone, and electric poles and other kinds of posts or poles.
- (7) Emergency activity immediately necessary to protect life, property or natural resources.
- (8) Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and their family.
- (9) Landscaping and horticultural activities in connection with an existing structure.

Sec. 2-30-28. Construction oversight program.

The purpose of this Construction Oversight Program is to implement and enforce the following procedures discussed in this section that will ensure the stormwater runoff within applicable construction sites are effectively controlled.

- (a) Applicable construction activities, projects and sites that must meet the Construction Oversight Program, may be defined as:
 - (1) Construction activities that result in a total land disturbance of greater than or equal to one acre; or
 - (2) A total land disturbance of less than one acre if the construction activity is part of a larger common plan of development or sale.
- (b) Applicable construction activities (as defined in Sec. 2-30-28.a.) and construction activities near water bodies or environmentally sensitive areas, such as wetlands or floodplains, may require additional stormwater control measures to ensure runoff is managed properly. Both types of construction activities are required to develop SWPPP. An inventory of construction activities is developed in Appendix M.
- (c) The contractor or developer must prepare a SWPPP prior to the start of construction activities. The plan must include all the necessary components such as erosion and sediment control measures, stormwater management practices, responsible parties for implementation and oversight, insurance, engineering design plans (completed by a licensed professional), property ownership, and license of contractor which is required for plumbing work and electricity. The completed SWPPP should be submitted to the City for review. The City's planning board typically reviews the SWPPP first, then the Departments of Engineering, Codes and Urban Development will follow the planning board's approval. After all departments have approved the SWPPP and all necessary permits, the city and owner will schedule a pre-construction meeting date. If the city has insufficient internal resources, the city will hire appropriate consultants to participate in SWPPP review. The approval of the SWPPP is required prior to the commencement of construction activities.
- (d) Electronic or hard copies of the SWPPP may need to be submitted. The SWPPP should be submitted a minimum of 60 days before construction activities begin, to allow time for review and any necessary revisions.
- (e) The SWPPP should remain on-site for the duration of the construction project.

- (f) In cases where the owner does not file a SWPPP, the City immediately issues a stop work order on the project until proper permitting is obtained.
- (g) The SWPPP will be reviewed by the City within 60 days of submission. The review will assess whether the SWPPP adequately addresses all necessary regulatory components outlined in the permit. The SWPPP reviewers must review all SWPPPs for applicable construction activities and for conformance with the requirements of the GP-0-25-001 which includes the following:
 - (1) Erosion and sediment controls must be reviewed for conformance with the NYS Erosion & Sediment Control of 2016, or equivalent;
 - (2) Individuals responsible for review of post-construction stormwater management practices (SMPs) must be qualified professionals or under the supervision of a qualified professional; and
 - (3) Post-construction SMPs must be reviewed for conformance with the New York State Stormwater Management Design Manual, January 2015 (NYS SWMDM 2015) or equivalent, including:
 - a. All post-construction SMPs must meet the sizing criteria contained in the GP-0-25-001 and NYS SWMDM 2015.
 - b. Deviations from the performance criteria of the NYS SWMDM 2015 must demonstrate that they are equivalent.
- (h) The SWPPP must include an Operations and Maintenance plan that includes inspection and maintenance schedules and actions to ensure continuous and effective operation of each post-construction SMP. The SWPPP must identify the entity that will be responsible for the long-term operation and maintenance of each practice. If the SWPPP is determined to be in compliance, approval will be granted. If revisions are necessary, the applicant must modify the plan as requested and resubmit for approval. In this article, documentation of the SWPPP review process is required to keep on record including the information found in Part III.B. of the GP-0-25-001.
- (i) Prior to the commencement of construction activities, a pre-construction meeting will be held with all relevant parties (contractor as listed on the GP-0-25-001 NOI, developers, qualified inspectors, environmental consultants, and the MS4 operator) to discuss the SWPPP, stormwater management measures, and compliance expectations. The details of the meeting (e.g. date, attendance and agenda) will be documented as an attachment to this plan in Appendix N. The meeting agenda will confirm the approved project has received, or will receive, coverage under the GP-0-25-001 or an individual SPDES permit; verify contractors and subcontractors selected by the owner/operator of the construction activity have identified at least one individual that has received four (4) hours of NYSDEC endorsed training in proper erosion and sediment control principles from a Soil & Water Conservation District or other endorsed entity as required by the GP-0-25-001 and; review this construction oversight program and expectations for compliance. If all outstanding action items are completed after the pre-construction meeting has been conducted, the construction activities may be commenced.
- (j) Regular site inspections and oversight ensures the owner complies with the SWPPP and permit requirements. The construction activity sites identified in the inventory will be inspected at a minimum of once a year during active construction after the pre-construction meeting or sooner if deficiencies are noted that require attention. Follow up to construction site inspections must confirm corrective actions are completed within timeframes established by the GP-0-25-001 and

the city's Enforcement Response Plan (ERP) as identified in Sec 2-30-16. All site inspections must be documented in Appendix O. If non-compliance is identified, corrective actions will be required, and penalties will be imposed for continued violations. If deficiencies persist or corrective actions are not implemented in a timely manner, escalating enforcement actions will include fines, suspension of work, or legal action, depending on the severity of the violation. All violations of stormwater regulations or the SWPPP must be reported to the designated enforcement authority immediately.

- (k) The city must ensure a final construction site inspection is conducted, and documentation of the final construction site inspection must be maintained in this plan as an attachment in Appendix O. The final construction site inspection must be documented using the Construction Site Inspection Report Form (Appendix O), or an equivalent form containing the same information, or accept the construction site owner/operator's qualified inspector final inspection certification required by the GP-0-25-001. The Notice of Termination (NOT) and Certification of Completion/Occupancy must be signed by the city as required by the GP-0-25-001 for projects determined to be complete. The NOT and certifications verify that all standards are meant and the project is in substantial compliance. Failure to provide the City with a NOT and a Certification of Completion/Occupancy indicates the construction activity is incomplete or flawed, and the City has the authority to issue a ticket to the owner.
- (l) Other procedures associated with the control of stormwater runoff from applicable construction activities maintenance of best management practices (BMPs) includes ensuring all BMPs outlined in the SWPPP are maintained throughout the construction process and repaired or replaced if they become ineffective. Personnel responsible for stormwater management on-site must receive appropriate training to ensure they understand their roles in the SWPPP and compliance requirements. If any changes in the construction project occur that affect stormwater management (e.g., changes in grading or project scope), the SWPPP must be amended and submitted for approval. Procedures must be in place for responding to emergencies such as equipment failure or unexpected storm events that could cause pollution or inadequate stormwater management.
- (m) The City, such as the City's Department of Engineering, must train new and existing staff involved in the construction oversight program every five (5) years, or after any updates to the program, prior to conducting any construction oversight activities. Procedures to ensure those involved in the construction activity itself (e.g., contractor, subcontractor, construction site inspector, SWPPP reviewers) have received four (4) hours of NYSDEC endorsed training in proper erosion and sediment control principles from a Soil & Water Conservation District, or other NYSDEC endorsed entity. This training must be completed every three (3) years and all MS4 construction site inspectors receive this training prior to conducting construction site inspections. The staff members trained to proceed with the construction oversight program are listed in Appendix B.

Sec. 2-30-29. Post-construction SMP inspection and maintenance program.

- (a) A post-construction SMP inventory is developed in Appendix M. Each post-construction SMP identified in the post-construction SMP inventory is inspected with a checklist at the frequency specified in the Appendix M. The City's Department of Engineering trained staff will conduct the SMPs inspections listed in the post-construction SMP inventory (Appendix M). The City's trained inspection staff will contact the applicable operators of the SMPs to collect inspection or maintenance documentation, then the City will enforce action as needed.

- (b) If the post-construction SMP inspection requires additional maintenance, repair, or higher-level inspection, these follow-up actions must be met within thirty (30) days of the post-construction SMP inspection. If failure to meet the required follow-up actions, the enforcer will initiate enforcement within sixty (60) days of the post-construction SMP inspection.
- (c) The City must train new and existing staff involved in the post-construction SMP inspection and maintenance program and procedures outlined in the NYSDEC endorsed programs every five (5) years, or after any updates to the program, prior to conducting any construction oversight activities. The staff members trained to proceed with the post-construction SMP inspections and maintenance program are listed in Appendix B.

Sec. 2-30-30. Contents of stormwater pollution prevention plans (SWPPP).

- (n) In accordance with the NYSDEC SPDES general permit for construction activities GP-0-20-001 and the specifications in this article, SWPPPs shall provide the following background information and erosion and sediment controls:
 - (1) Background information about the scope of the project, including location, type, and size of project.
 - (2) Site map/construction drawing(s) for the project, including a general location map at a scale no smaller than one-inch equals 100 feet. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
 - (3) Description of the soil(s) present at the site;
 - (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
 - (5) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
 - (6) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
 - (7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
 - (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

- (9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
 - (10) Temporary practices that will be converted to permanent control measures;
 - (11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
 - i. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 - (12) Name(s) of the receiving water(s);
 - (13) Delineation of SWPPP implementation responsibilities for each part of the site;
 - (14) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
 - (15) Any existing data that describes the stormwater runoff at the site.
- (o) Land development activities meeting condition "A", "B" or "C" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in section 2-30-40 as applicable:
- (1) Condition A. Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
 - (2) Condition B. Stormwater runoff from land development activities disturbing five or more acres.
 - (3) Condition C. Stormwater runoff from construction activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.
- (p) SWPPP content requirements for condition A, B and C.
- (1) All information in section 2-30-36.
 - (2) Description of each post-construction stormwater management practice;
 - (3) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
 - (4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
 - (5) Comparison of post-development stormwater runoff conditions with pre development conditions;
 - (6) Dimensions, material specifications and installation details for each post construction stormwater management practice;

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

Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.

- (8) Inspection and maintenance agreement binding on all subsequent landowners served by the onsite stormwater management measures in accordance with section 2-30-41.

Sec. 2-30-31. Plan certification.

The SWPPP shall be prepared by a landscape architect, certified professional with an erosion and sediment control (CPESC) certificate or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in the NYSDEC SPDES general permit for construction activities GP-0-20-001 and this plan.

Sec. 2-30-32. Other environmental permits.

The applicant shall certify that all other applicable environmental permits have been acquired for the land development activity prior to making application to the city for approval of the stormwater management plan.

Sec. 2-30-33. Contractor certification.

- (a) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

- (b) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- (c) The certification statement(s) shall become part of the SWPPP for the land development activity.
- (d) A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

Sec. 2-30-34. Performance and design criteria for stormwater management and erosion and sediment control.

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

- (1) Technical standards. For the purpose of this article, the following documents shall serve as

the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

- (2) NYS SWMDM 2015, or equivalent.
 - a. New York Standards and Specifications for Erosion and Sediment Control, (Empire State Article of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).
- (3) Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state.

Sec. 2-30-35. Maintenance and repair of stormwater facilities.

- (a) Maintenance during construction.
 - (1) The applicant or developer of the land development activity shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
 - (2) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to SMO and also copied to the site log book.
- (b) Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the NYS department of environmental conservation and/or a designated representative of the city to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article. The easement shall be recorded by the grantor in the office of the county clerk after review by the counsel for the city and acceptance by the planning board.
- (c) Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this law shall be operated and maintained to achieve the goals of this law. At a minimum, proper operation and maintenance includes the following:
 - (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.
 - (2) Written procedures for operation and maintenance and training new maintenance personnel.
 - (3) Actions to insure discharges from the SMPs shall not exceed design criteria or cause or

contribute to water quality standard violations.

- (d) Maintenance agreements. The city shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the county clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions in Appendix P which is the "Sample Stormwater Control Facility Maintenance Agreement." The city, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Sec. 2-30-36. Stormwater management inspections.

- (a) Inspection during construction. The SMO or designated agent that has completed the required training in Sec. 2-30-28 and Sec. 2-30-29 may choose to require such inspections as necessary to determine compliance with the stormwater management provisions of this law. Following any such inspection, the codes enforcement officer and/or the city engineer may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the SWPPP as approved. The city may determine the need for an inspection, the applicant shall notify the codes enforcement officer and/or the city engineer at least 48 hours before any of the following:
 - (1) Start of construction;
 - (2) Installation of sediment and erosion control measures;
 - (3) Completion of site clearing;
 - (4) Completion of rough grading;
 - (5) Completion of final grading;
 - (6) Close of the construction season;
 - (7) Completion of final landscaping;
 - (8) Successful establishment of landscaping in public areas.
- (b) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted, except for site stabilization, until any violations are corrected and all work previously completed has received approval by the codes enforcement officer and/or the city engineer.
- (c) "As-built" filing requirements. All applicants are required to submit to the codes enforcement officer and/or the city engineer "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.
- (d) Inspection of stormwater facilities after project completion. Inspection programs may be established on any reasonable basis after construction. The city may choose to conduct: routine inspections; random inspections; inspections based upon complaints or other notice

of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NYSDEC SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices. Such inspections may be performed by officials of the city or the city may designate an inspector who will be required to have a professional engineer's (PE) license or certified professional in erosion and sediment control (CPESC) certificate. The designated inspector shall be required to prepare and submit an inspection report to the commissioner of codes and/or the city engineer.

- (e) Submission of monitoring reports. The SMO may require monitoring and reporting from entities or applicants subject to this law as are necessary to determine compliance with this law.
- (f) Right-of-entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the city the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Section 2-30-42.

Sec. 2-30-37. Fees for services.

The city may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the city or performed by a third party for the city.

Sec. 2-30-38. Performance guarantee.

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

- (a) Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be

required to provide the city with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the city may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

- (b) Record keeping. The city may require entities subject to this law to maintain records demonstrating compliance with this law.

Sec. 2-30-39. Enforcement response plan.

- (a) The enforcement response plan for construction or post-construction activities will follow the procedures identified in Sec. 2-30-19.

Sec. 2-30-40. Additional remedies.

- (a) Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the city may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- (b) Stop work orders. The city may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the city confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this plan.
- (c) 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.
- (d) 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 city 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.
- (e) Remedies not exclusive. The remedies listed in this law are not exclusive of any other remedies available under any applicable federal, state or ordinance and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Sec. 2-30-41. Penalties.

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this plan shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for

conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 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 plan 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.

Sec. 2-30-42. Validity.

If any part or provision of this plan or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not effect or impair the validity of the remainder of this plan or the application thereof to other persons or circumstances, and the city hereby declares that it would have passed the ordinance from which this plan derives or the remainder thereof had such invalid application or invalid provision been apparent.