

VILLAGE OF PELHAM BOARD OF TRUSTEES REGULAR MEETING
TUESDAY, JANUARY 8, 2008 – 7:30 PM
VILLAGE HALL – 195 SPARKS AVENUE, PELHAM, NY

MINUTES

- | | | |
|----|--------------------------------|---------------|
| 1. | Call To Order | |
| 2. | Pledge of Allegiance | |
| 3. | Mayor's Report | |
| 4. | Trustees' Reports | |
| 5. | Village Administrator's Report | Approximate |
| 6. | Public Comment | Starting Time |
| # | Agenda Items: | of |
| | Discussion | |

	Committee Reports	7:40 p.m.
7.	Report and status of 2007 Leaf Season clean-up.	Discussed
8.	Pelham Post Office.	Discussed
9.	Website and Telecommunications initiatives.	Discussed
10.	Flooding Initiatives.	Discussed
	Human Resources	8:00 p.m.
11.	Authorizing the completion of probation for a police officer.	Authorized
12.	Authorizing the appointment by the Mayor of a police officer.	Authorized
	Public Hearings	8:15 p.m.
13.	Village of Pelham Comprehensive Plan; continued hearing to allow for continued public comment and input.	Discussed/ Continued
14.	Public Hearing on a draft proposed Code Change regarding Storm Water Management and Control, including Detection and Elimination of Illegal Connections.	Approved
15.	Public Hearing and consideration of the Annual Housing Agency Plan for Pelham's Section 8 program.	Approved
	Land Use	8:30 p.m.
16.	Considering authorizing a reduction in the Pelham Medical Group Performance Bond from \$400,000 to \$200,000.	Tabled
	General Business and contracts	8:45 p.m.
17.	Authorizing the award of contract 2007-09 for a new/demonstration Fire Engine Pumper Truck for the Pelham Fire Department, paid in part with a \$261,250 grant from the FEMA/DHS Asstc. To FF Vehicle Program.	Approved as amended
18.	Authorizing renewal of the contract with the City of New Rochelle for the Village to dump organic waste at the City's leaf dump.	Approved
	Housekeeping	9:45 p.m.
19.	Authorizing the Accounts Payable	Approved
20.	Old Business/New Business	Discussed
21.	Minutes – November 13, December 4 and December 18, 2007	Approved Nov 13 and Dec 4 only
22.	Executive Session	Authorized
23.	Adjournment	Adjourned

Next Regular Board Meetings are Tuesdays January 22 and February 5, 2008.

* All meetings start at 7:30 p.m. unless otherwise noted.

Agenda is subject to change.

VILLAGE OF PELHAM BOARD OF TRUSTEES REGULAR MEETING
TUESDAY, JANUARY 8, 2008 – 7:30 P.M.
VILLAGE HALL – 195 SPARKS AVENUE, PELHAM, NY

Item #1 – Meeting called to order: The meeting of the Board of Trustees was called to order by Mayor Edward Hotchkiss at 7:35 p.m.

The following members of the Board of Trustees were present:

Mayor Edward Hotchkiss, Trustees Greco, Homan, Lewis, Morris, and Potocki. Trustee Weinstein arrived at 8:15pm.

Village staff in attendance:

Administrator/Treasurer Richard Slingerland and Administrative Aide Devron Wilson,

Item #2 – Pledge of Allegiance:

The Pledge of Allegiance was led by Mayor Edward Hotchkiss.

Item #3 – Mayor's Report:

Mayor Hotchkiss reported that the village is picking up Christmas trees curbside. The Village DPW will come around once or twice a week to pick them up, until all trees have been picked up. Mayor Hotchkiss also reported that there will be an E-Waste Drop Off Day in Pelham Manor on January 19, 2007. Pelham and Pelham Manor residents can take their computer monitors, computer towers, and telephones to the Pelham Manor DPW Yard on Spring Road. Westchester County representatives will be there to take the goods. Mayor Hotchkiss mentioned that Commerce Bank sent a letter to the village thanking the village building department for a great job handling the planning process.

Item #4 – Trustees' Report:

Trustee Greco reported that the Village of Pelham will have a fire pumper truck for sale soon, as soon as the new Fire Engine Pump truck is delivered. He reported that there was a fire on Second Avenue on December 31st. The Pelham Fire Department responded, and the fire was contained to one room and put out quickly. Lieutenant McCann was on duty during the fire.

Trustee Potocki reported on a number of matters, as follows:

- The suspects involved in robberies committed in Pelham before Christmas were apprehended. Trustee Potocki thanked Detectives Hynes and Deere for a job well done.
- The Village will post precautionary methods and procedures for residents on the village website, to establish preventative efforts to protect themselves and minimize robbery and theft in the village.
- He mentioned that if people have an emergency matter in Pelham, and they need to call for help from their cell phones, they should use 738-2000, because the number goes straight to the Pelham Police Desk, while 911 calls from cell phones go to the NYS Police.

- The village's police and public works departments regularly check street lights. He asked residents who notice a street light out to call village hall or the police department, to make sure we have it listed for repair.
- Residents should be aware of the Pelham Police "Dark-House" Program, for residents to register with the Police when they are away for extended periods of time.
- Four (4) Pelham tactical training officers will be going to tactical training in Tuckahoe with officers from several other municipalities.
- He announced the meeting scheduled on January 10th with Hutchinson Elementary School PTA to discuss the Safe Routes To School Program.
- Congratulations were issued to police officer Rita McConnell on her new baby.

Trustee Homan had nothing to report on that was not included in the agenda.

Trustee Lewis reported that the Pelham Global Warming Task Force, the Village of Pelham, and The Village of Pelham Manor had met on January 7th to discuss how to save energy in the two villages. He mentioned that the schools offer the greatest opportunity for energy savings, between the two Villages, because they have the most facilities in Pelham. He reported other initiatives the Village would be exploring with the Global Warming Task Force, including compiling resources and establishing links to environmental and energy savings resources on the Village's website. He reported to everyone that a few years ago the village had already installed low energy usage, energy saving traffic lights throughout the village. He mentioned that the village will explore performing an energy audit of the Village's facilities. He encouraged residents to submit their ideas on ways to save energy.

Trustee Morris wished everyone a Happy New Year, and had nothing to report on that was not included in the agenda.

Item #5 – Village Administrator's Report:

Village Administrator Richard Slingerland reported that he contacted the New York Power Authority (NYPA) to conduct an energy audit of the village.

Item #6 – Public Comment: No general public comment at this time.

Item #11 – Authorizing the completion of probation for a police officer:
(THIS TOPIC WAS MOVED UP FROM LATER IN THE AGENDA)

Trustee Potocki mentioned that Police Officer Orlando Baerga received an excellent evaluation and a recommendation from the Police Chief to end his probation.

A motion was made by Trustee Potocki, with a second by Trustee Homan to adopt the resolution. The motion was approved unanimously by vote of six in favor, none opposed. Trustee Weinstein was absent.

RESOLUTION
AUTHORIZING THE PERMANENT APPOINTMENT OF
ORLANDO BAERGA AS A POLICE OFFICER, BASED ON
THE SUCCESSFUL COMPLETION OF HIS PROBATION

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham hereby acknowledges the successful completion of probation of Police Officer Orlando Baerga, based on his appointment date of January 15, 2007, and the end date of his one (1) year probationary period on January 15, 2008, as a Police Officer, and authorizes the Mayor, Village Administrator and Police Chief to take the necessary and appropriate actions to effect the completion of his probationary status under Civil Service.

Item #12 – Authorizing the appointment by the Mayor of a police officer:
(THIS TOPIC WAS MOVED UP FROM LATER IN THE AGENDA)

Mayor Hotchkiss mentioned that the village had performed interviews to fill a vacant police officer position. As a result of the interview process, the village chose to hire Douglas Bornholz as a police officer, to attend the January 2008 Police Academy.

A motion was made by Trustee Potocki, with a second by Trustee Homan to adopt the resolution. The motion was approved unanimously by vote of six in favor, none opposed. Trustee Weinstein was absent.

RESOLUTION
AUTHORIZING THE APPOINTMENT BY THE MAYOR
OF A CANDIDATE FOR THE POSITION OF POLICE OFFICER
IN THE PELHAM POLICE DEPARTMENT

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham authorize the appointment by the Mayor of Douglas Bornholz of Pelham, New York, to the position of Police Officer, attending the Police Academy starting Monday, January 7, 2008, with salary and effective date of employment determined by collective bargaining agreement with the Pelham Police and subject to the requirements of Civil Service, for a probationary period of eighteen months, conditioned upon the satisfactory completion of a pre-employment medical examination, and authorizes the Mayor, the Village Administrator and the Police Chief to take the necessary and appropriate actions to effect this offer and for Mr. Bornholz to begin the Police Academy on January 7, 2008.

*Mayor Hotchkiss swore in Mr. Bornholz.

Item #9 – Website and Telecommunications initiatives:
(THIS TOPIC WAS MOVED UP FROM LATER IN THE AGENDA)

John Butler and Symra Brandon from Verizon External Affairs attended the meeting, regarding the start of franchise negotiations between the Village and Verizon for Fios

Television. Mr. Butler gave a presentation about Verizon's plan to offer cable television services in the village. Mayor Hotchkiss informed everyone that there is a meeting scheduled for January 29th between the village and Verizon, to discuss a contract. Mr. Butler mentioned that Verizon already has a contract with Pelham Manor, and looks forward to working with the Village of Pelham. Mayor Hotchkiss asked what is the build out in the village. Mr. Butler informed everyone that the build out is about 40% in Pelham, with expectation to be significantly more by the end of the year.

John Cassone of 7th Avenue asked Mr. Butler if residents will be allowed to see the Verizon operation located in Tarrytown, NY. Mr. Butler informed everyone that he can fulfill that request on an individual basis if need be. Trustee Lewis asked Mr. Butler, what happens to the internal house wires. Mr. Butler let everyone know that a typical CAT-5 network cable will work fine. Trustee Morris asked Mr. Butler if the village needs to work out agreements with the landlords of the apartment buildings. Mr. Butler mentioned that it would be very helpful if the village could provide a list of landlord contacts.

Village Website:

Administrative Aide Devron Wilson reported that the village has contacted the Pelham High School Technology Department for assistance with improving the functionality and layout of the village website. Eddie Ganbaum of the Pelham High School Technology Department agreed setting up a class project to help the village improve its website. Mr. Ganbaum will introduce the idea to computer students next semester. Mr. Wilson has the web addresses for two (2) websites that pique the village's interest in terms of layout and functionality to Eddie Ganbaum for review. The websites are the City of Woburn, MA at <http://cityofwoburn.com/> and the Town of Agawam, MA at <http://www.agawam.ma.us/>.

Item #7 – Report and status of 2007 Leaf Season clean-up:

Acting General Foreman Michael Shriman gave a report and update on the status of leaf season clean-up. Mr. Shriman reported on some of the causes of the delay in the leaf pick-up, including the fact that the new DPW truck was not received until November, that there were a couple of snow storms which required the DPW to suspend leaf pickup for snow plowing, and also that DPW workers had to plant trees, read water meters, and decorate the Downtown light posts for the holidays while continuing to pickup leaves throughout the village. He reported that to date, Village leaf clean-up is approximately 95% complete, and that the schools and flood zones are priorities for leaf clean-up.

Trustee Potocki mentioned that the DPW did a great job with leaf pickup, especially near the schools. Trustee Homan mentioned it is important to remember that the DPW only consists of eight (8) workers. Leaf pickup is an enormous task for eight people.

Item #8 – Pelham Post Office:

Mayor Hotchkiss reported that the Village and the Architectural Review Board are trying to arrange for a final meeting with the Post Office, and that the revised plans are substantially better than the original proposed plans.

Item #10 – Flooding Initiatives:

Mayor Hotchkiss reported that En-Tech of Closter, NJ will start to video and reline specific storm drains and sewer pipes in the village soon. He reported that the village has submitted a grant application to FEMA for flood remediation. He also mentioned that the village is in the process of preparing a letter to Senator Klein and the Department of Environmental Conservation (DEC) outlining a list of all the flood remediation alternatives that the village is exploring in addition to the actions already taken by the village to alleviate flooding. Mayor Hotchkiss stated that Pelham Town Supervisor Joe Solimine gave a copy of the video from July 18, 2007 rainstorm to the Westchester County Flood Summit Task Force. Supervisor Solimine was in attendance and encouraged the village to continue to move forward with its efforts.

Item #13 – Village of Pelham Comprehensive Plan; continued hearing to allow for continued public comment and input:

Mayor Hotchkiss announced that the hearing would be continued until January 22, 2008, to allow additional spoken and written comments to be submitted on the draft plan. Trustee Potocki had additional language to share with the planners at Saratoga Associates, including language to prohibit "future" drive-thrus, and clarify additional issues.

Joe Marty of 275 Highbrook Avenue had questions about what could be done to couch the Comprehensive Plan in ways that would promote the Village. Trustee Weinstein responded by mentioning that the village will wait until the plan is adopted and then discuss methods and action steps for marketing to developers. Mayor Hotchkiss stated that in his mind, the three main purposes of the Comprehensive Plan are to establish a strategy for future growth and development, raise the Village's chances to receive future Downtown Improvement grants and other development related grants, and as a marketing tool to attract developers to explore developing in the Village.

Trustee Weinstein reported that the village is talking with the owner of the T & L Property to try and encourage development to take place there. Mayor Hotchkiss said the village expects preliminary plans soon. Trustee Weinstein said that the plan should have to go through the typical review process, and that the Village would require the appropriate number of units, and size of units, and required parking, to best suit the site.

The Public Hearing on the Comprehensive Plan was continued to January 22, 2008.

Item #14 – Continued Hearing on a proposed Code Change regarding Storm Water Management and Control, including Detection and Elimination of Illegal Connections:

CONTINUED PUBLIC HEARING
on a Proposed Local Law and Code change
as required by Federal Law for the Village of Pelham as a regulated Phase 2 MS-4

- A: to enact a new Chapter 83, with new references in Chapters 34 and 79
in the Pelham Code regarding Storm Water Management and Control
and
B: to enact a new Chapter 57 in the Pelham Village Code,
Regarding Detection and Elimination of Illegal Stormwater Connections.

The Board of Trustees of the Village of Pelham hereby continues a public hearing to be held at 7:30 p.m. on Tuesday, January 8, 2008, in Village Hall at 195 Sparks Avenue, Pelham, NY, on draft proposed Local Laws that would amend the Code of the Village of Pelham, as follows:

- A. Enact A Draft Proposed Local Law to add a new Chapter 83, with new references in Chapters 34 and 79, regarding Storm Water Management and Control; and
B. Enact a Draft Proposed Local Law to add a new Chapter 57, regarding Detection and Elimination of Illegal Stormwater Connections.

The Board reviewed the comments by Mr. Ritchie of Dolph Rotfeld's Office, and attorney Martha Conforti, from the December 18, 2007 meeting.

The changes resulting from the December 18th meeting, including in the amended law, are as follows:

Recommended changes per Mike Ritchie and Board discussion:

1. Change site disturbance in the law from 1,500 square feet or more to 2,000 square feet or more.
2. Change creation of new impervious surface from creation of 500 square feet or more to creation of 1,000 square feet or more of impervious surface.
3. Delete "Alternative Remedies" as they are not allowable within the recommended model legislation circulated by the State DEC. (page 30 of the agenda)

Changes to the disturbance area and impervious surface area will affect the following sections of the proposed law:

83-5A – Exemptions (page 9 of the agenda)

83-6 – Definitions (page 10 of the agenda)

83-8 B Contents of stormwater pollution prevention plans. (page 14 of the agenda)

34-81 – Increases in Impervious Surfaces (page 21 of the agenda)

57-3 Definitions (page 23 of the agenda)

The Mayor and Trustees asked that a letter go out to every property owner as soon as possible, regarding these new requirements, for both the stormwater law, and for the illegal discharge detection and elimination law.

On the motion of Trustee Greco, seconded by Trustee Homan, the following draft proposed Local Law was adopted, as amended, as Local Law 1 of 2008 by vote of seven in favor, none opposed.

A. Stormwater ~~Management Draft Proposed~~ Local Law

LOCAL LAW NUMBER 1 OF 2008

A local law to adopt a stormwater management and soil erosion and sediment control law

BE ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PELHAM AS FOLLOWS:

SECTION 1

A new Chapter 83 Stormwater Management and Erosion and Sediment Control is adopted as follows:

Chapter 83

STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

§ 83-1. Title

This chapter shall be known and may be cited as the "Stormwater Management and Erosion and Sediment Control Local Law of the Village of Pelham."

§ 83-2. Findings of fact.

The Village of Pelham finds that:

- A. 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;

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- B. This stormwater runoff contributes to increased quantities of waterborne pollutants, including siltation of aquatic habitats for fish and other desirable species;
 - C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitats;
 - D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff and thus increase streambank erosion and sedimentation;
 - E. Impervious surfaces allow less water to percolate into the soil and in that way decrease groundwater recharge and stream base flow;
 - F. Substantial economic losses can result from these adverse impacts on the waters of the Village;
 - G. Stormwater runoff, soil erosion and nonpoint-source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
 - H. 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
 - I. 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.

§ 83-3. Purpose.

The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in § 83-2 hereof. This chapter seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of minimum measures 4 and 5 of the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02, as amended or revised;
- B. Require land development activities to conform to the substantive requirements of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01, or as amended or revised;

- C. 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;
- D. Minimize increases in pollution caused by stormwater runoff from land development activities that would otherwise degrade local water quality;
- E. Minimize the total annual volume of stormwater runoff that flows from any specific site during and following development to the maximum extent practicable; and
- F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution wherever possible through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

§ 83-4. Applicability.

- A. All land development activities, including but not limited to land development activities subject to review and approval by the Planning Board, shall be reviewed subject to the standards contained in this chapter.
- B. It shall be unlawful for any person to engage in a land development activity other than an exempt activity as defined in §83-6 in the absence of a stormwater pollution prevention plan approved by the Stormwater Management Officer or other approving authority as specified in §83-4C.
- C. The Stormwater Management Officer shall be the approving authority for all stormwater pollution prevention plans except when the plan is for a property that is also the subject of a pending site plan. The Board of Trustees shall be the approving authority for any application for a property that pursuant to Chapter 79 is the subject of site plan review and approval.

§ 83-5. Exemptions.

For the purposes of this chapter, the following activities are exempt from review under this chapter:

- A. Routine maintenance activities to an existing stormwater management facility that disturb less than two thousand (2,000) square feet and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.

- B. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- C. Any part of a subdivision if a plat for the subdivision was approved by the Village on or before the effective date of this chapter
- D. Land development activities for which a building permit was approved on or before the effective date of this chapter.
- E. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- F. Emergency activity immediately necessary to protect life, property or natural resources, as determined by the Village Building Inspector.
- G. Activities of an individual engaging in home gardening, such as growing flowers, vegetables and other plants primarily for use by that person and his or her family.

- H. Landscaping and horticultural activities in connection with an existing structure.

§ 83-6. Definitions.

The terms used in this chapter or in documents prepared or reviewed under this chapter shall have the meanings set forth in this section.

APPLICANT — A property owner or agent of a property owner who has filed an application for a land development activity.

BUILDING — Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet.

CHANNEL — A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING — Any activity that removes the vegetative surface cover.

DEDICATION — The deliberate appropriation of property by its owner for general public use.

DEPARTMENT — The New York State Department of Environmental Conservation.

DESIGN MANUAL — The New York State Stormwater Management Design Manual, most recent version including applicable updates, which serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER — A person who undertakes land development activities.

EROSION CONTROL MANUAL — The most recent version of the New York Standards and Specifications for Erosion and Sediment Control Manual, commonly known as the "Blue Book."

GRADING — Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS SURFACES — Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT — A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries that regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION — The process of percolating stormwater into the subsoil.

LAND DEVELOPMENT ACTIVITY — Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of 2,000 square feet or more or that creates more than 1,000 square feet of new impervious area

LANDOWNER — The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT — A legally recorded document that acts as a property deed restriction and provides for long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION — Pollution from any source other than from any discernible, confined and discrete conveyances, and shall include but not be limited to pollutants from agriculture, mining, construction, subsurface disposal and urban runoff sources.

PHASING — Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN — Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT — Land development activity.

RECHARGE — The replenishment of underground water reserves.

SEDIMENT CONTROL — Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS — Cold-water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, and habitats for threatened, endangered or special concern species.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

STABILIZATION — The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER — A order issued which requires that all construction activity on a site to be stopped.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOTSPOT — A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxic materials than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT — The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY — One or a series of stormwater management practices installed, stabilized and operating in order to control stormwater runoff.

STORMWATER MANAGEMENT OFFICER — The Building Inspector or his representative as designated by the Mayor and the Village Board of Trustees to accept and review stormwater pollution prevention plans to determine whether the plans comply with all applicable law, to approve plans or forward the plans to the appropriate village boards, and conduct inspections to ensure that stormwater pollution prevention plans are followed.

STORMWATER MANAGEMENT PRACTICES (SMPs) — Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint-source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF — Flow on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK — Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of

New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons that also meet the criteria of this definition are not waters of the state. This exclusion applies only to man-made bodies of water which were neither originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

WATERCOURSE — A permanent or intermittent stream or other body of water, either natural or fabricated, which gathers or carries surface water.

WATERWAY — A channel that directs surface runoff to a watercourse or to the public storm drain.

§ 83-7. Stormwater pollution prevention plan requirement.

No application for approval of a land development activity shall be reviewed until the appropriate approving authority has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications of this chapter.

§ 83-8. Contents of stormwater pollution prevention plans.

- A.** All 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 the project;
 - (2) Site map/construction drawing(s) for the project, including a general location map. 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 the location(s) of stormwater discharges(s). The site map should be at a scale no smaller than one inch equals 100 feet;
 - (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 .
 - (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 closeout;
 - (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control measure;
 - (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 measures that will be converted to permanent control measures;
 - (11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
 - (12) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 - (13) Name(s) of the receiving water(s);
 - (14) Delineation of SWPPP implementation responsibilities for each part of the site;
 - (15) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable;
 - (16) Any existing data that describes the stormwater runoff at the site; and
 - (17) An acknowledgement by the landowner granting the Village of Pelham and other agencies having jurisdiction the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.

B. In addition to the information requirements of § 83-8A, SWPPP's for land development activities that disturb 2,000 square feet or more or that create more than 1,000 square feet of new impervious area, whether or not those land developments activities involve discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or to a total maximum daily load (TDML) designated watershed for which pollutants in stormwater have been identified as a source of the impairment, must provide the following quantity and/or quality controls (post-stormwater construction controls):

- (1) Description of each postconstruction stormwater management practice;
- (2) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice;
- (3) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
- (4) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions;
- (5) Dimensions, material specifications and installation details for each postconstruction stormwater management practice;
- (6) Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice;
- (7) 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 run with the land, remaining in effect with transfer of title to the property.
- (8) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with **§ 83-14** of this chapter.

§ 83-9. Plan certification.

The SWPPP shall be prepared by a licensed landscape architect or certified professional in erosion and sedimentation control or in stormwater quality or professional engineer or other professional deemed qualified by the Department 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 this chapter.

§ 83-10. Other environmental permits.

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

§ 83-11. Contractor certification.

- A. Each contractor and subcontractor identified in the SWPPP and/or successor or substituted contractor or subcontractor 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, the 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.

§ 83-12. Retention of the approved SWPPP.

A copy of the approved 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.

§ 83-13. Performance and design criteria

A. For the purpose of this chapter, 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 chapter:

- (1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the "Design Manual").
- (2) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, or

most current version or its successor, hereafter referred to as the "Erosion Control Manual").

B. 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 of New York.

§ 83-14. Maintenance, inspection, and repair of stormwater facilities.

- A. 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 chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%, and placed in an acceptable location and properly stabilized.
- B. The applicant or developer or their representatives 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. Inspections shall be conducted and reports of those inspections shall be completed by a professional engineer or certified professional in erosion and sediment control or in stormwater quality or other professional deemed qualified by the Department 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 the Stormwater Management Officer and copies shall be maintained in a site logbook.
- C. The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall operate and maintain the practices to achieve the goals of this chapter. Proper operation and maintenance includes, at a minimum, the following:
- (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) that are installed or used by the owner or operator to achieve the goals of this chapter.
 - (2) Written procedures for operation and maintenance and training new maintenance personnel.
 - (3) Discharges from the SMPs shall not exceed design criteria, or cause or contribute to water quality standard violations in accordance with § 83-13.

§ 83-15. Erosion and sediment control inspections.

A. The Stormwater Management Officer may require such inspections as necessary to

determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this chapter and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Stormwater Management Officer at least 48 hours before any of the following, as required by the Stormwater Management Officer:

- (1) Start of construction;
- (2) Installation of sediment and erosion control measures;
- (3) Installation of constructed stormwater improvements;

- (4) Completion of final grading;
- (5) Interruption of construction for more than thirty consecutive days;
- (6) Completion of final landscaping;
- (7) Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and required corrective actions. No further work shall be conducted except for site stabilization until violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

- B. Stormwater management practice inspections. The Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit 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 licensed professional engineer.
- C. Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type that are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. 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.

- D. Submission of reports. The Stormwater Management Officer shall require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.
- E. 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 stormwater system, the Stormwater Management Officer shall have the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection C above.

§ 83-16. Performance guarantee and record keeping.

- A. 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 Village of Pelham in its approval of a stormwater pollution prevention plan, the Village 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 Village of Pelham as the beneficiary. The security shall be in an amount to be determined by the Village 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 Village, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility or facilities have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facility or facilities have been found to be acceptable to the Village of Pelham. Per-annum interest, if any, on cash escrow deposits shall be reinvested in the account until the surety is released from liability.
- B. 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 Village of Pelham 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 Village, upon written notice to the developer or landowner, may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.
- C. Recordkeeping. Entities subject to this chapter shall maintain records demonstrating compliance with this chapter.

§ 83-17. Enforcement and penalties.

- A. Notice of violation. When the Village of Pelham determines that a land development activity is violating the requirements of this chapter, it may issue a written notice of violation to the landowner. The notice of violation shall contain:
- (1) The name and address of the landowner, developer or applicant;
 - (2) The address, when available, or a description of the building, structure or land upon which the violation is occurring;
 - (3) A statement specifying the nature of the violation;
 - (4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a deadline for their completion;
 - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
 - (6) A statement that the determination of violation may be appealed to the Village Board of Trustees by filing a written notice of appeal within 15 days of service of notice of violation.
- B. Stop-work orders. The Village may issue a stop-work order for violations of this chapter. 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 Stormwater Management Officer 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 chapter.
- C. Violations. Any land development activity that is commenced or is conducted contrary to this chapter may be restrained by injunction or otherwise abated in a manner provided by law.
- D. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter 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 for a first offense; for conviction for a second offense, both of which were committed within a period of five years, punishable by a fine of 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 chapter 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.

- E. Withholding a certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, the Stormwater Management Officer may prohibit the occupancy of said building or land.
- F. 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 Village of Pelham may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§ 83- 18. Fees for services.

In accordance with Chapter 70, the Village of Pelham may require any person undertaking land development activities regulated by this chapter to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Village or performed by a third party for the Village.

§83-19. Severability.

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

SECTION 2.

Sections 34-80 and 34-81 of the Code of the Village of Pelham are repealed, and a new Section 34-80 is adopted as follows:

§ 34-80. Flow of water from leaders, basements and cellars.

- A. In no case shall the water from any rain leader be allowed to flow upon the sidewalks, onto adjoining property or into the village sanitary sewer system. The water from said leaders shall be conducted by pipes laid below the surface of the sidewalk to the street gutter or to any dry well on the owner's property or to a village storm sewer drain.**
- B. Except in emergency situations, all water pumped from basements or cellars, including groundwater periodically pumped from sump pits located in such basements or cellars, shall be piped directly into any dry well on the owner's property or into a village storm sewer drain.**

SECTION 3. A new Section 34-81 of the Code of the Village of Pelham is adopted as follows;

§ 34-81. Increases in impervious surfaces

On-site improvements expanding impervious surfaces by one thousand square feet (1,000 s.f.) or more must include provisions for retention of storm water runoff created by a two inch rainfall.

SECTION 4.

Section 79-5G of the Code of the Village of Pelham is repealed , and the following new Section 79-5G is adopted:

That the stormwater and sanitary sewage systems are adequate to accommodate any expected loads, including all runoff from the tributary watershed at full development under the existing zoning law, that all connections to Village systems are in accordance with all applicable laws, and that pursuant to § 34-81 provisions are made for retention of storm water runoff.

SECTION 5. Effective Date

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

On the motion of Trustee Greco, seconded by Trustee Homan, the following draft proposed Local Law was adopted, as amended, as Local Law 2 of 2008 by vote of seven in favor, none opposed.

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B. Illegal Discharge Detection and Elimination ~~Draft Proposed~~ Local Law

LOCAL LAW NUMBER 2 OF 2008

**A local law to prohibit
illegal discharges and
illicit connections to the
municipal separate
storm sewer system**

**BE ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PELHAM AS
FOLLOWS:**

SECTION 1

A new Chapter 57 Illegal Discharges and Illicit Connections is adopted as follows:

§ 57-1. Title.

This chapter shall be known and may be cited as the "Illegal Discharges and Illicit Connections Law of the Village of Pelham."

§ 57-2. Purpose; objectives.

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

B. The objectives of this chapter are:

- (1) To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge nonstormwater wastes;
- (2) To prohibit illegal discharges and illicit connections to the MS4;
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

§ 57-3. Definitions.

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

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 — Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of 2,000 square feet or more.

HAZARDOUS MATERIALS -- Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE -- Any direct or indirect nonstormwater discharge to the MS4, except as exempted in § 57-6 of this chapter.

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:

- A. Any conveyances which allow any nonstormwater discharge, including but not limited to 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
- B. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

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

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)– Facilities owned by the Village of Pelham through which stormwater is collected and/or conveyed, including but not limited to roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains:

NONSTORMWATER DISCHARGE -- Any discharge to the MS4 that is not composed entirely of stormwater.

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

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.



POLLUTANT OF CONCERN -- Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity.

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

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

STORMWATER -- Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER -- The Building Inspector or his representative as designated by the Mayor and the Village Board of Trustees

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

§ 57-4. Applicability.

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

§ 57-5. Administration and enforcement.

The Stormwater Management Officer shall administer, implement, and enforce the provisions of this law. The Stormwater Management Officer may delegate any powers granted or duties imposed herein.

§ 57-6. Prohibition on illegal discharges and illicit connections.

A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in § 57-6A(1). The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this chapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, water from fire-fighting activities, and any other water source not containing pollutants.

(2) Discharges approved in writing by the Stormwater Management Officer to protect public health and safety.

(3) Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the Stormwater Management Officer prior to the time of the test.

(4) The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the The New York State Department of Environmental Conservation, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

B. Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited.

(2) The prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or

practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the Village's municipal separate storm sewer system or allows such a connection to continue.



§ 57-7. Suspension of access to MS4.

A. The Stormwater Management Officer 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 Stormwater Management Officer 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 Stormwater Management Officer 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 illegal discharge. Any person discharging to the Village's MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illegal 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 he/she finds that the illegal 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 illegal 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.

§ 57-8. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Village prior to the allowing of discharges to the MS4.

§ 57-9. Access to property; inspection; monitoring of discharges.

A. Applicability. This section applies to all facilities that the Stormwater Management Officer must inspect to enforce any provision of this chapter, or whenever he has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this chapter.

B. Access to facilities.

- (1) The Stormwater Management Officer shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the Stormwater Management Officer.
- (2) Facility operators shall allow the Stormwater Management Officer ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this chapter.
- (3) The Village shall have the right to set up on any facility subject to this chapter such devices as are necessary in the opinion of the Stormwater Management Officer to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The Village has the right to require the facilities subject to this chapter to install monitoring equipment as is reasonably necessary to determine compliance with this chapter. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Unreasonable delays in allowing the Village access to a facility subject to this chapter is a violation of this chapter. A person who is the operator of a facility subject to this chapter commits an offense if the person denies the Village reasonable access to the facility for the purpose of conducting any activity authorized or required by this chapter.
- (6) If the Stormwater Management Officer has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

§ 57-10. Notification of spills.

Notwithstanding other requirements of this chapter, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the 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 nonhazardous materials, said person shall notify the Village in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Village 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.

§ 57-11. Notice of violation; penalties for offenses.

A. Notice of violation. When the Village's SMO finds that a person has violated a prohibition or failed to meet a requirement of this chapter, he/she may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:

- (1) The elimination of illicit connections or illegal discharges;
- (2) That violating discharges, practices, or operations shall cease and desist;
- (3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (4) The performance of monitoring, analyses, and reporting;
- (5) Payment of a fine; and
- (6) The implementation of source control or treatment best management practices.

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

C. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding \$500 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 \$500 nor more than \$1,000 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 \$1,000 nor more than \$2,500 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and for such purpose, only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

§ 57-12. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the stormwater management officer to the Village Board of Trustees within 15 days of its issuance. The Village Board of Trustees shall hear the appeal within 30 days after its filing. Within five days of making its decision, the Village Board of Trustees shall file same in the office of the Village Clerk and mail a copy by certified mail to the charged party.

57-13. Corrective measures after appeal.

A. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within five business days of the decision of the Village Board of Trustees upholding the decision of the stormwater management officer (SMO), then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.

B. If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

C. Within 10 days after abatement of the violation by or under authorization of the SMO, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest with the Village Board of Trustees objecting to the amount of the charges within 10 days of receipt of said notice. If the amount due is not paid within 30 days after the disposition of any protest or the expiration of the time to file an appeal, whichever is earlier, the charges shall become a lien on the property to be collected in the same manner as real estate taxes.

§ 57-14. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the Stormwater Management Office 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.

**§ 57-15. Reserved.**

This section is reserved for future use.

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~~A. ___ In lieu of enforcement proceedings, penalties and remedies authorized by this chapter, when a person has violated a provision of this chapter, he/she may be eligible for alternative remedies, upon recommendation of the Village Counsel and concurrence of the Stormwater Management Officer, if~~

- ~~(1) ___ The violation was unintentional.~~
- ~~(2) ___ The violator has no history of previous violations of this chapter.~~
- ~~(3) ___ Environmental damage was minimal.~~
- ~~(4) ___ Violator acted quickly to remedy violation.~~
- ~~(5) ___ Violator cooperated in investigation and resolution.~~

~~B. ___ Alternative remedies may consist of one or more of the following:~~

- ~~(1) ___ Attendance at compliance workshops.~~
- ~~(2) ___ Storm drain stenciling or storm drain marking.~~
- ~~(3) ___ River, stream or creek cleanup activities.~~

§ 57-16. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a

threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§ 57-17. Remedies not exclusive.

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

 **§ 57-18. Severability.**

If the provisions of any section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this chapter.

SECTION 2. Effective Date

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Item #15 - Public Hearing and consideration of the Annual Housing Agency Plan for Pelham's Section 8 program:

At the meeting of December 18, 2007, the board discussed its request to make sure the priorities of the plan reflect the priorities of the Village.

The priorities the Board mentioned were – Seniors in the Village, Seniors in the Town, Singles and Families in the Village, Singles and Families living in the Town, Singles and Families working in the Town, disabled singles, and working families. As stated in the plan, the preferences and priorities are not exactly stated in that manner, but they meet those general goals, in compliance with the requirements of Federal Law.

A motion was made by Trustee Lewis, with a second by Trustee Homan to adopt the resolution. The motion was approved unanimously by vote of seven in favor, none opposed.

RESOLUTION TO ADOPT
THE VILLAGE OF PELHAM YEAR 4/1/2008 THROUGH 3/31/2009
ANNUAL PUBLIC HOUSING AGENCY PLAN

WHEREAS, upon notice of public hearing, and upon holding the public hearing on the Village of Pelham Year 4/1/08 through 3/31/09 Annual Public Housing Agency Plan; and

WHEREAS, at the hearing on December 18, 2007, and on January 8, 2008, there was no public comment to amend the plan as proposed.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of the Village of Pelham hereby adopts the Year 4/1/08 through 3/31/09 Annual Public Housing Agency Plan, as proposed; and

BE IT FURTHER RESOLVED, that the Mayor, the Village Administrator and the New Rochelle Neighborhood Revitalization Corporation (NRNRC) are authorized to take the necessary and appropriate actions to effect and administer this Annual Public Housing Agency Plan, including filing it with the United States Housing and Urban Development (HUD) Agency.

Item #16 - Considering authorizing a reduction in the Pelham Medical Group Performance Bond from \$400,000 to \$200,000:

***This topic was tabled, due to lack of an application and plans from the applicant.**

RESOLUTION
Authorizing a reduction in the Pelham Medical Group Completion Bond
For the Cliff Remediation Project From \$400,000 to \$200,000

Item #17 - Authorizing the award of contract 2007-09 for a new/demonstration Fire Engine Pumper Truck for the Pelham Fire Department, paid in part with a \$261,250 grant from the FEMA/DHS Asstc. To FF Vehicle Program:

Trustee Greco reported that Village Administrator Slingerland and Fire Chief Carfora had prepared a Request for Bids (RFB) for a new or demonstration model Fire Engine Pumper Truck. Five (5) bids were received by the village. The bids were reviewed by the Fire Lieutenants and the Chief.

The Fire Chief mentioned that the demonstration truck is in great condition considering that it is a 2004 model and has only been driven to shows. However, the Chief asked for additional funds to provide for few added features (i.e. new hoses and new fittings), and to cover training required to comply with the parameters of the FEMA vehicle grant.

The Board discussed additional costs and recommendations for needed equipment, including fittings and couplings, and training required as a notation in the grant from FEMA/DHS, by appropriation from fund balance.

Mayor Hotchkiss thanked the fire department for working on the grant, and Congresswoman Nita Lowey for her assistance in obtaining the appropriation for Pelham.

Upon discussion, a motion was made by Trustee Homan, with a second by Trustee Potocki to approve the added features requested by Fire Chief Carfora up to twenty-four thousand five hundred fifty dollars (\$24,550). The Chief's request was reviewed for the additional funds to provide for few added features which would give the fire department optimal use of the truck (i.e. new hoses and new fittings), and to cover training required to comply with the parameters of the FEMA vehicle grant. The motion was approved by vote of six in favor, one opposed. Mayor Hotchkiss voted opposed to the motion.

A motion was made by Trustee Homan, with a second by Trustee Potocki to adopt the resolution, as amended. The motion was approved unanimously by vote of seven in favor, none opposed.

RESOLUTION

AUTHORIZING THE AWARD OF CONTRACT NUMBER 2007-09
FOR A NEW OR DEMONSTRATION FIRE ENGINE PUMPER TRUCK
FOR THE PELHAM FIRE DEPARTMENT,
PAID IN PART WITH A \$261,250 GRANT
FROM THE FEMA/DHS ASSTC. TO FF VEHICLE PROGRAM

WHEREAS, The Village Of Pelham Issued a Notice to Bidders and Request For Bids for Contract 2007-09 for a new/demonstration Fire Engine Pumper Truck for the Pelham Fire Department; and

WHEREAS, a public notice was published on November 21 and November 26, 2007, in the Gannett Westchester Newspaper, an official newspaper of the Village of Pelham; and

WHEREAS, during the notice period at least nine (9) companies were contacted and sent copies of the bid request document and specifications; and

WHEREAS, at 11 a.m. E.S.T., Friday, December 7, 2007, the Village of Pelham publicly opened and read proposals from five (5) companies, for seven (7) vehicle proposals; and

WHEREAS, on reviewing the proposals, the bid prices were as follows:

Company	Base Bid
1. Excelsior Sales and Service (Seagrave) of Mamaroneck, NY (Both vehicles)	\$338,828
2. Ferrara Fire Apparatus of New Hyde Park, NY	\$329,500
3. Hendrickson Fire Apparatus (Crimson) of Huntington Station, NY	\$316,950
4. HME/Twin Lights of Milford, CT	\$330,000
5. KME/William H. McGuffey Fire Apparatus of Tuxedo, NY	production unit \$323,233 Demo unit \$341,741

WHEREAS, the Fire Chief, the Fire Lieutenants and the Village Administrator prepared a review of the vehicles bid; and

WHEREAS, several problems and issues of non-compliance with specifications were defined in the bid proposal from Hendrickson Fire Apparatus for the Crimson Pumper Truck, including the following:

- Aluminum Cab proposed, rather than specified stainless steel or galvaneel specified.
- 270 Amp alternator proposed, rather than 320 Amp alternator specified.
- Height of the truck at one inch lower than the maximum contract height, combined with bulk/width of the truck, create major difficulties getting the truck in and out of the firehouse without damage to the vehicle exhaust system;
- Poor Ground Clearance – During the vehicle demonstration, due to low ground clearance, the apparatus frame scraped, got stuck and left gouges in the street.

WHEREAS, several problems and issues of non-compliance with specifications were defined in the bid proposal from William H. McGuffey Fire Apparatus for the KME Pumper Truck, including the following:

- Entire vehicle – frame and cab – constructed of aluminum, rather than stainless steel or Galvaneel as specified.
- 270 Amp alternator proposed, rather than 320 Amp alternator specified.
- Caterpillar C9 Motor does not meet required horsepower and torque specifications.
- Allison EVS-3000 transmission proposed (EVS-4000 specified).
- Fiberglass booster tank, rather than poly-vinyl tank specified.

AND WHEREAS, the reviewers have determined that the lowest responsible bid that meets requirements is Ferrara Fire Apparatus of New Hyde Park, NY, with a demonstration vehicle at a total bid price of \$329,500.

RESOLVED, that the Board of Trustees of the Village of Pelham hereby award new/demonstration Fire Engine Pumper Truck for the Pelham Fire Department to Ferrara Fire Apparatus of New Hyde Park, NY, with a demonstration vehicle at a total bid price of three hundred twenty nine thousand five hundred dollars (\$329,500) for the truck as specified; and

BE IT FURTHER RESOLVED, that funding of this vehicle shall be provided with the grant from FEMA/DHS Assistance to Firefighters Program in the amount of \$261,250, and the additional vehicle purchase cost of \$68,250, plus an additional fund balance appropriation in the amount of twenty four thousand five hundred fifty dollars (\$24,550), for an overall total appropriation of \$92,800, which shall be performed by an appropriation from fund balance for this long-term capital asset, which has an estimated useful life of 20-25 years, and

BE IT FURTHER RESOLVED, that the Mayor and Village Administrator are authorized to take the necessary and appropriate actions to authorize the purchase of this truck.

Item #18 - Authorizing renewal of the contract with the City of New Rochelle for the Village to dump organic waste at the City's leaf dump:

It was noted that last year's rate was \$20.21 per ton, which is unchanged for 2008, and the County dumping rate is \$25 per ton.

A motion was made by Trustee Homan, with a second by Trustee Lewis to adopt the resolution. The motion was approved unanimously by vote of seven in favor, none opposed.

RESOLUTION
AUTHORIZING RENEWAL OF AN AGREEMENT
BETWEEN THE CITY OF NEW ROCHELLE AND THE VILLAGE OF PELHAM
FOR THE DISPOSAL OF ORGANIC WASTE
INCLUDING YARD WASTE AND FALL LEAVES
AT THE CITY OF NEW ROCHELLE'S WASTE TRANSFER STATION

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham hereby authorizes the renewal of an agreement between the Village of Pelham and the City of New Rochelle for the Disposal of Organic Waste, including Yard Waste, Leaves and Brush at the City of New Rochelle Waste Transfer Station, per the agreement provided for by the City of New Rochelle (attached hereto and made a part hereof); and

BE IT FURTHER RESOLVED, that the Mayor and the Village Administrator are authorized to sign this agreement and to take the necessary and appropriate actions to effect this agreement.

Item #19 - Authorizing the Accounts Payable:

Trustee Morris had performed the review and audit of the accounts payable. Board questions and comments included purposes for payments to Westchester County Labs and Research, and a rent/lease payment to Metro North. Administrator/Treasurer Slingerland explained that the payment to WC Labs and Research is for required water quality tests for the Village's Water Supply System, and the payment to Metro North is lease/rent for the sewer and storm drain that go beneath Metro North's embankment.

A motion was made by Trustee Weinstein, with a second by Trustee Potocki to adopt the resolution. The motion was approved unanimously by vote of seven in favor, none opposed.

RESOLUTION

WHEREAS, pursuant to Section 5-524 of the New York State Village Law, the Board of Trustees shall audit all claims against the Village.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the Board of Trustees after audit of the following claims, authorizes payment for services rendered and materials received, for the following items that have been submitted to the Treasurer's Office for payment and authorized by the Village Administrator:

<u>Fund Name:</u>	<u>Amount</u>
General Fund	\$165,425.70
Water Fund	\$ 2,137.53
Capital Projects Fund	\$ 25,450.00
Trust and Agency Fund	\$ 350.00
H3 Fund	\$0.00
Expendable Trust Fund	\$0.00
Grand Total	\$193,363.23

NOW, THEREFORE, BE IT RESOLVED, that this Board hereby approves payment of the above-mentioned claims and authorizes payment thereof.

Item #20 - Old Business/New Business:

Mayor Hotchkiss reported that the village is working on a village newsletter. The newsletter will be done and sent out soon. He also reported that the village is working to develop a Human Resources Policy Manual.

Item #21 - Minutes – November 13, December 4 and December 18, 2007:

A motion was made by Trustee Homan, with a second by Trustee Greco to only adopt the minutes from November 13, 2007 and December 4, 2007. The motion passed by vote of six in favor, none opposed, one abstention (Trustee Homan). The December 18th minutes were tabled for future consideration.

Item #22 - Executive Session:

The Mayor asked for a motion to go into Executive Session to discuss personnel matters. On the motion of Trustee Weinstein, seconded by Trustee Potocki, the Board

voted to go into Executive Session. The motion was passed unanimously by vote of seven in favor, none opposed.

Item #23 - Adjournment:

On the motion of Trustee Potocki, seconded by Trustee Morris, the Board voted to adjourn the public portion of the board meeting and go into Executive Session at 9:42 p.m., to discuss personnel matters. The motion passed unanimously by vote of seven in favor, none opposed.

Respectfully submitted,

Devron Wilson, Administrative Aide

Richard Slingerland, Administrator/Treasurer/Deputy Clerk