

RESOLUTION NO. 14-00319

In the matter of approving storm water) County Commissioners' Office
regulations for illicit discharges and) Wood County, Ohio
illegal connections for Lake, Middleton) February 25, 2014
and Perrysburg Townships pursuant to)
R.C. §307.79 and the Federal Water)
Pollution Control Act and the Ohio)
Water Pollution Control Act.)

WHEREAS, illicit discharges to the Wood County separate storm sewer system create water quality risks to public health, safety, and general welfare; and,

WHEREAS, illicit discharges can require repair of storm sewers and ditches, cause damage to public and private property, and damage water resources by reducing water quality; and,

WHEREAS, watershed-wide efforts are necessary to reduce illicit discharges to the Maumee River, the Toussaint River, the Portage River and other streams, to protect and enhance the unique water resources of the Maumee River watershed, the Toussaint River watershed, the Portage River watershed and other watersheds; and,

WHEREAS, Wood County is a member of the Portage River Basin Council and recognizes its obligation as a part of these watersheds/organizations to control illicit discharges and to protect water quality within its borders; and,

WHEREAS, 40 C.F.R. Parts 9, 122, 123, and 124, and Ohio Administrative Code 3745-39 require designated communities, including Wood County, to develop a Storm Water Management Program that, among other components, requires Wood County to prohibit illicit discharges to their storm water system and to implement appropriate enforcement procedures and actions to detect and eliminate such illicit discharges; and,

WHEREAS, pursuant to R.C. §307.79 Wood County may “adopt, amend, and rescind rules . . . to achieve a level of management and conservation practices that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of those management and conservation practices,” “. . . to implement the applicable area wide waste treatment management plan prepared under section 208 of the ‘Federal Water Pollution Control Act,’ . . . and to implement phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. Part 122”; now, therefore, be it

RESOLVED, that the Wood County Board of County Commissioners pursuant to its authority under R.C. §307.79 hereby adopts the Wood County Illicit Discharge and Illegal Connection Control Resolution, attached hereto, and incorporates the same as if fully rewritten herein; and be it further

RESOLVED, that said rules shall be in full force and effect from and immediately upon the adoption of this resolution.

Commissioner Herringshaw moved and Commissioner Kuhlman seconded the resolution and the roll being called on its adoption, the vote resulted as follows:

JOEL M. KUHLMAN yes DORIS I. HERRINGSHAW, Ed.D. yes JAMES F. CARTER yes

Attest: Sandy A. Long
Clerk of said Board

sal
xc: Wood County Engineer

Wood County Illicit Discharge and Illegal Connection Control Resolution

CHAPTER I - Illicit Discharge and Illegal Connection Control

1.01 PURPOSE AND SCOPE

The purpose of this regulation is to provide for the health, safety, and general welfare of the citizens of Wood County through the regulation of illicit discharges to the municipal separate storm sewer system (MS4). This regulation establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process as required by the Ohio Environmental Protection Agency (Ohio EPA). The objectives of this regulation are:

- A. To prohibit illicit discharges and illegal connections to the MS4.
- B. To establish legal authority to carry out inspections, monitoring procedures, and enforcement actions necessary to ensure compliance with this regulation.

1.02 APPLICABILITY

This regulation shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the MS4 and on any lands in Wood County, except for those discharges generated by the activities detailed in Section 1.07 (A)(1) to (A)(3) of this regulation.

1.03 DEFINITIONS

The words and terms used in this regulation, unless otherwise expressly stated, shall have the following meaning:

- A. 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 to storm water. 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.
- B. Community: Wood County, its designated representatives, boards, or commissions.
- C. Environmental Protection Agency or United States Environmental Protection Agency (USEPA): The United States Environmental Protection Agency, including but not limited to the Ohio Environmental Protection Agency (Ohio EPA) or any duly authorized official of said agency.

- D. Floatable Material: In general, any foreign matter that may float or remain suspended in the water column and includes, but is not limited to, plastic, aluminum cans, wood products, bottles, and paper products.
- E. Hazardous Material: 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.
- F. Illicit Discharge: As defined at 40 C.F.R. 122.26 (b)(2), any discharge to a MS4 that is not composed entirely of storm water, except for those discharges to a MS4 pursuant to a NPDES permit or noted in Section 1.07 of this regulation.
- G. Illegal Connection: Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4.
- H. Municipal Separate Storm Sewer System (MS4): As defined at 40 C.F.R. 122.26 (b)(8), municipal separate storm sewer system, 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 a State, city, town, borough, county, parish, district, municipality, township, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over sewage, industrial wastes, including special districts under State law such as a sewer district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges to waters of the United States;
 2. Designed or used for collecting or conveying storm water;
 3. Which is not a combined sewer; and
 4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. 122.2.
- I. National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: A permit issued by the EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- J. Off-Lot Discharging Home Sewage Treatment System: A system designed to treat home sewage on-site and discharges treated wastewater effluent off the property into a storm water or surface water conveyance or system.

- K. Owner/Operator: Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or on the owner's behalf.
- L. Pollutant: Anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, hazardous materials, wastes, sewage, dissolved and particulate metals, animal wastes, residues that result from constructing a structure, and noxious or offensive matter of any kind.
- M. Storm Water: any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- N. Wastewater: The spent water of a community. From the standpoint of a source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions.

1.04 FOR DAMAGES FOR ILLICIT DISCHARGE

Compliance with the provisions of these regulations shall not relieve any person from responsibility for damage to any person otherwise imposed by law. These regulations are promulgated to promote the health, safety, and welfare of the public and are not for the benefit of any individual or for the benefit of any particular parcel of property.

1.05 CONFLICTS, SEVERABILITY, NUISANCES & RESPONSIBILITY

- A. Where this regulation is in conflict with other provisions of law or resolution, the most restrictive provisions, as determined by Wood County shall prevail.
- B. If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.
- C. This regulation shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.
- D. Failure of Wood County to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting there from, and shall not result in Wood County, its officers, employees, or agents being responsible for any condition or damage resulting there from.

1.06 RESPONSIBILITY FOR ADMINISTRATION

Wood County shall administer, implement, and enforce these regulations. Wood County may contract with the Wood County Board of Health to conduct inspections and monitoring and to assist with enforcement actions.

1.07 DISCHARGE AND CONNECTION PROHIBITIONS

- A. Prohibition of Illicit Discharges. No person shall discharge, or cause to be discharged, an illicit discharge into the MS4. The commencement, conduct, or continuance of any illicit discharge to the MS4 is prohibited except as described below:
1. Water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensate; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; de-chlorinated swimming pool discharges; street wash water; and discharges or flows from fire fighting activities. These discharges are exempt until such time as they are determined by Wood County to be significant contributors of pollutants to the MS4.
 2. Discharges specified in writing by Wood County as being necessary to protect public health and safety.
 3. Sewage effluent from household sewage treatment systems may be permitted to discharge to a storm sewer or other drainage way from residential 1, 2, or 3 family dwellings by the Wood County Board of Health in accordance with Ohio Administrative Code 3701-29. All sewage systems that discharge effluent off-lot to surface waters are subject to NPDES permits issued by the Ohio EPA, and must comply with quality standards.
- B. Prohibition of Illegal Connections. The construction, use, maintenance, or continued existence of illegal connections to the MS4 is prohibited.
1. This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 2. A person is considered to be in violation of this regulation if the person connects a line conveying illicit discharges to the MS4 or allows such a connection to continue.

1.08 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS

- A. Establishment of an Illicit Discharge and Illegal Connection Monitoring Program: Wood County shall establish a program to detect and eliminate illicit discharges and illegal connections to the MS4. This program shall include the mapping of the MS4, including MS4 outfalls and home sewage treatment systems; the routine inspection of storm water outfalls to the MS4, and the systematic investigation of potential residential, commercial, industrial, and institutional facilities for the sources of any dry weather flows found as the result of these inspections.
- B. Inspection of Residential, Commercial, Industrial, or Institutional Facilities.
1. Wood County shall have a right of entry to inspect facilities subject to these regulations as often as may be necessary to determine compliance with these regulations.
 2. Wood County shall have the right to set upon facilities subject to these regulations such devices necessary to conduct monitoring and/or sampling of the facility's storm water discharge.
 3. Wood County shall have the right to require the facility owner/operator to install monitoring equipment. This sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the facility owner/operator at their expense. Wood County shall calibrate all devices used to measure storm water flow and quality to ensure their accuracy.
 4. Any temporary or permanent obstruction to safe and reasonable access to the facility to be inspected and/or sampled shall be promptly removed by the facility's owner/operator at the written or oral request of Wood County and shall not be replaced. The costs of clearing such access shall be borne by the facility's owner/operator.
 5. Unreasonable delays in allowing Wood County access to a facility subject to this regulation for the purposes of illicit discharge inspection is a violation of this regulation.
 6. If Wood County is refused access to any part of the facility from which storm water is discharged, and Wood County demonstrates probable cause to believe that there may be a violation of this regulation, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with this regulation or any order issued hereunder, or to protect the public health, safety, and welfare, Wood County may seek issuance of a search warrant, civil remedies including but not limited to injunctive relief, and/or criminal remedies from any court of appropriate jurisdiction.

7. Any costs associated with these inspections shall be assessed to the facility's owner/operator.

1.09 ENFORCEMENT

- A. Notice of Violation. When Wood County finds that a person has violated a prohibition or failed to meet a requirement of this regulation, Wood County may order compliance by written Notice of Violation. Such notice must specify the violation and shall be hand delivered and/or sent by certified mail, to the owner/operator of the facility. Such notice may require the following actions:
 1. The performance of monitoring, analyses, and reporting;
 2. The elimination of illicit discharges or illegal connections;
 3. The cessation of discharges, practices, or operations in violation of these regulations;
 4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; or
 5. The implementation of source control or treatment BMPs.
- B. If abatement of a violation and/or restoration of affected property are required, the Notice of Violation shall set forth a deadline for completion of remediation or restoration. Wood County will initiate legal action to enforce remediation or restoration if the facility owner does not meet the remediation or restoration deadline.
- C. Administrative Hearing: If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, Wood County shall schedule an administrative hearing to determine reasons for non-compliance and to determine the next enforcement activity. Notice of the administrative hearing shall be hand delivered and/or sent certified mail.
- D. Injunctive Relief: If an owner/operator has violated or continues to violate the provisions of this regulation, Wood County may petition for a preliminary or permanent injunction restraining the owner/operator from activities that would create further violations or compelling the owner/operator to perform abatement or remediation of the violation.

1.10 REMEDIES NOT EXCLUSIVE

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