

ORDINANCE NO. 12-36

AN ORDINANCE ADDING CHAPTER 926 ILLICIT NON-STORMWATER DISCHARGE AND ILLEGAL CONNECTION TO STORM SEWER SYSTEM TO THE CITY OF DELAWARE CODIFIED ORDINANCES.

WHEREAS, passing an illicit stormwater discharge ordinance is a requirement of the of the United States EPA Stormwater Program, Municipal Separate Storm Sewer System (MS4) Phase II permit.

BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. That Chapter 926 be added to the Codified Ordinances of the City of Delaware:

926.01 PURPOSE AND SCOPE

THE PURPOSE OF THIS REGULATION IS TO PROVIDE FOR THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE CITIZENS OF THE CITY OF DELAWARE 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).

THIS REGULATION APPLIES TO ALL RESIDENTIAL, COMMERCIAL, INDUSTRIAL, OR INSTITUTIONAL FACILITIES RESPONSIBLE FOR DISCHARGES TO THE MS4 AND ON ANY LANDS IN THE CITY OF DELAWARE, EXCEPT FOR THOSE DISCHARGES GENERATED BY THE ACTIVITIES DETAILED IN SECTION 926.05 (A)(1) TO (A)(3) OF THIS REGULATION.

THE OBJECTIVES OF THIS REGULATION ARE AS FOLLOWS:

- (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.**

COMPLIANCE WITH THE PROVISIONS OF THIS REGULATION SHALL NOT RELIEVE ANY PERSON FROM RESPONSIBILITY FOR DAMAGE TO ANY PERSON OTHERWISE IMPOSED BY LAW.

926.02 DEFINITIONS

THE WORDS AND TERMS USED IN THIS REGULATION, UNLESS OTHERWISE EXPRESSLY STATED, SHALL HAVE THE FOLLOWING MEANING:

- (1) **BEST MANAGEMENT PRACTICES (BMPS):** MEANS SCHEDULES OF ACTIVITIES, PROHIBITIONS OF PRACTICES, GENERAL GOOD HOUSEKEEPING PRACTICES, POLLUTIONS 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.
- (2) **COMMUNITY:** MEANS THE CITY OF DELAWARE, ITS DESIGNATED REPRESENTATIVES, BOARDS, OR COMMISSIONS.
- (3) **ENVIRONMENTAL PROTECTION AGENCY:** MEANS THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (USEPA), THE OHIO ENVIRONMENTAL PROTECTION AGENCY (OHIO EPA), OR ANY DULY AUTHORIZED OFFICIAL OF SAID AGENCIES.
- (4) **FLOATABLE MATERIAL:** MEANS 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.
- (5) **HAZARDOUS MATERIAL:** MEANS 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.
- (6) **ILLICIT DISCHARGE:** MEANS ANY DISCHARGE TO AN MS4 THAT IS NOT COMPOSED ENTIRELY OF STORM WATER, EXCEPT FOR THOSE DISCHARGES TO AN MS4 PURSUANT TO A NPDES PERMIT OR NOTED IN SECTION 926.05 OF THIS REGULATION.
- (7) **ILLEGAL CONNECTION:** MEANS ANY DRAIN OR CONVEYANCE, WHETHER ON THE SURFACE OR SUBSURFACE, THAT ALLOWS AN ILLICIT DISCHARGE TO ENTER THE MS4.
- (8) **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** MEANS CONVEYANCE OR SYSTEM OF CONVEYANCES (INCLUDING ROADS WITH DRAINAGE SYSTEMS, MUNICIPAL STREETS, CATCH BASINS, CURBS, GUTTERS, DITCHES, MAN-MADE CHANNELS, OR STORM DRAINS):

- a. OWNED OR OPERATED BY THE CITY, THAT DISCHARGES TO WATERS OF THE UNITED STATES;
- b. DESIGNED OR USED FOR COLLECTING OR CONVEYING STORM WATER;
- c. WHICH IS NOT A COMBINED SEWER; AND
- d. WHICH NOT PART OF A PUBLICLY OWNED TREATMENT WORKS (POTW) IS AS DEFINED AT 40 C.F.R. 122.2.

(9) NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: MEANS A PERMIT ISSUED BY THE EPA 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.

(10) OFF-LOT DISCHARGING HOME SEWAGE TREATMENT SYSTEM: MEANS 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.

(11) OWNER/OPERATOR: MEANS 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.

(12) POLLUTANT: MEANS 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.

(13) STORM WATER: ANY SURFACE FLOW, RUNOFF, AND DRAINAGE CONSISTING ENTIRELY OF WATER FROM ANY FORM OF NATURAL PRECIPITATION, AND RESULTING FROM SUCH PRECIPITATION.

(14) WASTEWATER: THE SPENT WATER OF A COMMUNITY. IT MAY BE A COMBINATION OF THE LIQUID AND WATER-CARRIED WASTES FROM RESIDENCES, COMMERCIAL BUILDINGS, INDUSTRIAL PLANTS, AND INSTITUTIONS.

926.03 CONFLICTS, SEVERABILITY, NUISANCES & RESPONSIBILITY

- (a) WHERE THIS REGULATION IS IN CONFLICT WITH OTHER PROVISIONS OF LAW OR ORDINANCE, THE MOST RESTRICTIVE PROVISIONS, AS DETERMINED BY THE CITY OF DELAWARE, 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 THE CITY OF DELAWARE 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 THEREFROM, AND SHALL NOT RESULT IN THE CITY OF DELAWARE, ITS OFFICERS, EMPLOYEES, OR AGENTS BEING RESPONSIBLE FOR ANY CONDITION OR DAMAGE RESULTING THEREFROM.

926.04 CITY MAY CONTRACT WITH OTHER AGENCIES

THE CITY OF DELAWARE MAY CONTRACT WITH OTHER AGENCIES TO CONDUCT INSPECTIONS AND MONITORING AND TO ASSIST WITH ENFORCEMENT ACTIONS.

926.05 DISCHARGE AND CONNECTION PROHIBITIONS

- (a) **PROHIBITION OF ILLICIT DISCHARGE. 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 GROUNDWATER'S; 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; SMALL CHARITY WASHES; FLOWS FROM RIPARIAN HABITATS AND WETLANDS; DECHLORINATED 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 THE CITY OF DELAWARE TO BE SIGNIFICANT CONTRIBUTORS OF POLLUTANTS TO THE MS4. ADDITIONAL, OTHER WATER SOURCES NOT CONTAINING POLLUTANTS MAY BE CONSIDERED AT THE DISCRETION OF THE CITY ENGINEER, DIRECTOR OF PUBLIC UTILITIES AND/OR THE CHIEF BUILDING OFFICIAL.

- (2) DISCHARGES SPECIFIED IN WRITING BY THE CITY OF DELAWARE AS BEING NECESSARY TO PROTECT PUBLIC HEALTH AND SAFETY.
- (3) DISCHARGES FROM OFF-LOT HOUSEHOLD SEWAGE TREATMENT SYSTEMS PERMITTED BY THE DELAWARE GENERAL HEALTH DISTRICT FOR THE PURPOSE OF DISCHARGING TREATED SEWAGE EFFLUENT IN UNLESS SUCH DISCHARGES ARE DEEMED TO BE CREATING A PUBLIC HEALTH NUISANCE BY THE DELAWARE GENERAL HEALTH DISTRICT. IN COMPLIANCE WITH THE CITY OF DELAWARE STORM WATER MANAGEMENT PROGRAM, DISCHARGES FROM ALL OFF-LOT HOUSEHOLD SEWAGE TREATMENT SYSTEMS MUST EITHER BE ELIMINATED OR HAVE COVERAGE UNDER AN APPROPRIATE NPDES PERMIT ISSUED AND APPROVED BY THE OHIO ENVIRONMENTAL PROTECTION AGENCY.

(b) PROHIBITION OF ILLEGAL CONNECTIONS. THE CONSTRUCTION, USE, MAINTENANCE, OR CONTINUED EXISTENCE OF ILLEGAL CONNECTIONS TO THE MS4 IS PROHIBITED.

- (1) 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.
- (2) THIS PROHIBITION EXPRESSLY INCLUDES, WITHOUT LIMITATION CONNECTIONS MADE IN THE PAST, REGARDLESS OF WHETHER THE CONNECTION WAS PERMISSIBLE UNDER LAW OR PRACTICES APPLICABLE OR PREVAILING AT THE TIME OF CONNECTION.

926.06 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGE

(a) INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGE. ANY PERSON SUBJECT TO AN INDUSTRIAL OR CONSTRUCTION ACTIVITY NPDES 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 CITY OF DELAWARE PRIOR TO ALLOWING DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM.

(b) PORTABLE TOILETS

- (1) PROPERTY OWNERS, OCCUPANTS, MANAGERS OR OTHER PERSONS IN CHARGE OF ANY PREMISES, OFFICE, BUSINESS ESTABLISHMENT, INSTITUTION, INDUSTRY, OR SIMILAR FACILITY, INCLUDING CONSTRUCTION OR DEMOLITION SITES, SHALL BE RESPONSIBLE FOR THE PLACEMENT AND SANITARY MAINTENANCE OF PORTABLE TOILETS.**
- (2) PORTABLE TOILETS SHALL NOT BE LOCATED UPON ANY STREET OR PUBLIC RIGHT-OF-WAY WITHOUT PRIOR APPROVAL FROM THE CITY. PORTABLE TOILETS SHALL NOT BE LOCATED ON, OR WITHIN TWENTY (20) FEET OF A STORM DRAIN, OR WITHIN ONE HUNDRED (100) FEET FROM ANY BODY OF WATER INCLUDING BUT NOT LIMITED TO PROJECT PONDS WITH OVER FLOW DEVICES. PORTABLE TOILETS SHALL NOT BE LOCATED WITHIN ELEVEN (11) FEET OF A CURB AND/OR GUTTER. IF PORTABLE TOILET PLACEMENT IS FOR A PERIOD OF TIME LASTING LONGER THAN ONE WEEK, AND IS DETERMINED BY THE CITY TO BE VULNERABLE TO TIPPING FROM WIND, OR VANDALISM, THE PORTABLE TOILET SHALL BE SECURED BY STAKING OR CABLING.**
- (3) PORTABLE TOILETS SHALL BE INSTALLED IN A LEVEL POSITION AND BE EASILY ACCESSIBLE TO USERS.**
- (4) WHERE POSSIBLE, PORTABLE TOILETS SHALL BE LOCATED UPON NATURAL GROUND AND NOT ON AN IMPERVIOUS SURFACE SUCH AS CONCRETE OR ASPHALT.**
- (5) PORTABLE TOILETS SHALL NOT BE LOCATED WHEREBY A SPILL OR RUNOFF WILL ENTER INTO STORM DRAINS OR ANY WATER SYSTEM.**
- (6) PORTABLE TOILETS ARE NOT TO BE WASHED DOWN WHEREBY ALLOWING CONTAMINATION RUNOFF TO POLLUTE SOIL AND WATER RESOURCES AND CREATE POTENTIAL HUMAN HEALTH ISSUES AND/OR AQUATIC DEGRADATION.**
- (7) PORTABLE TOILETS MUST BE CLEANED AND SERVICED BY A LICENSED SERVICE COMPANY AT LEAST ONCE PER WEEK OR WHEN NEEDED TO MAINTAIN SANITARY CONDITIONS.**

926.07 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS

- (a) INSPECTION OF RESIDENTIAL, COMMERCIAL, INDUSTRIAL, OR INSTITUTIONAL FACILITIES.**

- (1) THE CITY OF DELAWARE SHALL BE PERMITTED TO ENTER AND INSPECT FACILITIES SUBJECT TO THIS REGULATION AS OFTEN AS MAY BE NECESSARY TO DETERMINE COMPLIANCE WITH THIS REGULATION.
- (2) THE CITY OF DELAWARE SHALL HAVE THE RIGHT TO SET UP AT FACILITIES SUBJECT TO THIS REGULATION SUCH DEVICES AS ARE NECESSARY TO CONDUCT MONITORING AND/OR SAMPLING OF THE FACILITY'S STORM WATER DISCHARGE, AS DETERMINED BY THE CITY OF DELAWARE.
- (3) THE CITY OF DELAWARE SHALL HAVE THE RIGHT TO REQUIRE THE FACILITY OWNER/OPERATOR TO INSTALL MONITORING EQUIPMENT AS NECESSARY. THIS SAMPLING AND MONITORING EQUIPMENT SHALL BE MAINTAINED AT ALL TIMES IN SAFE AND PROPER OPERATING CONDITION BY THE FACILITY OWNER/OPERATOR AT THE OWNER/OPERATOR'S EXPENSE. ALL DEVICES USED TO MEASURE STORM WATER FLOW AND QUALITY MAY BE CALIBRATED BY THE CITY OF DELAWARE 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 VERBAL REQUEST OF THE CITY OF DELAWARE AND SHALL NOT BE REPLACED. THE COSTS OF CLEARING SUCH ACCESS SHALL BE BORNE BY THE FACILITY OWNER/OPERATOR.
- (5) UNREASONABLE DELAYS IN ALLOWING THE CITY OF DELAWARE ACCESS TO A FACILITY SUBJECT TO THIS REGULATION FOR THE PURPOSES OF ILLICIT DISCHARGE INSPECTION IS A VIOLATION OF THIS REGULATION.
- (6) IF THE CITY OF DELAWARE IS REFUSED ACCESS TO ANY PART OF THE FACILITY FROM WHICH STORM WATER IS DISCHARGED, AND THE CITY OF DELAWARE 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, THE CITY OF DELAWARE 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 OWNER/OPERATOR. UPON FAILURE TO MAKE PAYMENT, THE CHARGES MAY BE ASSESSED AGAINST THE PROPERTY SUBJECT TO THE INSPECTION

926.08 NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS

- (a) NOTWITHSTANDING OTHER REQUIREMENTS OF LAW, AS SOON AS ANY PERSON RESPONSIBLE FOR A FACILITY, ACTIVITY OR OPERATION, OR RESPONSIBLE FOR EMERGENCY RESPONSE FOR A FACILITY, ACTIVITY OR OPERATION HAS INFORMATION OF ANY KNOWN OR SUSPECTED RELEASE OF POLLUTANTS OR NON-STORMWATER DISCHARGES FROM THAT FACILITY OR OPERATION WHICH ARE RESULTING OR MAY RESULT IN ILLICIT DISCHARGES OR POLLUTANTS DISCHARGING INTO STORMWATER, THE MS4, STATE WATERS, OR WATERS OF THE UNITED STATES, SAID PERSON SHALL TAKE ALL NECESSARY STEPS TO ENSURE THE DISCOVERY, CONTAINMENT, AND CLEANUP OF SUCH RELEASE SO AS TO MINIMIZE THE EFFECTS OF THE DISCHARGE.
- (b) SAID PERSON SHALL NOTIFY THE CITY, BY PHONE, OR OTHER METHOD NO LATER THAN TWENTY-FOUR (24) HOURS OF THE NATURE, QUANTITY AND TIME OF OCCURRENCE OF THE DISCHARGE. NOTIFICATIONS SHALL BE CONFIRMED BY WRITTEN NOTICE ADDRESSED AND MAILED TO THE CITY OF DELAWARE WITHIN THREE (3) BUSINESS DAYS. 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 ACTIONS TAKEN TO PREVENT ITS RECURRENCE. SUCH RECORDS SHALL BE RETAINED FOR AT LEAST THREE (3) YEARS. SAID PERSON SHALL ALSO TAKE IMMEDIATE STEPS TO ENSURE NO RECURRENCE OF THE DISCHARGE OR SPILL.
- (c) IN THE EVENT OF SUCH A RELEASE OF HAZARDOUS MATERIALS, EMERGENCY RESPONSE AGENCIES AND/OR OTHER APPROPRIATE AGENCIES SHALL BE IMMEDIATELY NOTIFIED. FAILURE TO PROVIDE NOTIFICATION OF A RELEASE AS PROVIDED ABOVE IS A VIOLATION OF THIS ORDINANCE.

926.09 ENFORCEMENT

- (a) NOTICE OF VIOLATION. WHEN THE CITY OF DELAWARE FINDS THAT A PERSON HAS VIOLATED A PROHIBITION OR FAILED TO MEET A REQUIREMENT OF THIS REGULATION, THE CITY OF DELAWARE MAY ORDER COMPLIANCE BY WRITTEN NOTICE OF VIOLATION. SUCH NOTICE MUST SPECIFY THE VIOLATION AND SHALL BE HAND DELIVERED, AND/OR SENT BY REGISTERED 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) THAT VIOLATING DISCHARGES, PRACTICES, OR OPERATIONS CEASE AND DESIST;
- (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 WITHIN WHICH SUCH REMEDIATION OR RESTORATION MUST BE COMPLETED. SAID NOTICE SHALL FURTHER ADVISE THAT, SHOULD THE FACILITY OWNER/OPERATOR FAIL TO REMEDIATE OR RESTORE WITHIN THE ESTABLISHED DEADLINE, A LEGAL ACTION FOR ENFORCEMENT MAY BE INITIATED.
- (c) ANY PERSON RECEIVING A NOTICE OF VIOLATION MUST MEET COMPLIANCE STANDARDS WITHIN THE TIME ESTABLISHED IN THE NOTICE OF VIOLATION.
- (d) ADMINISTRATIVE HEARING: IF THE VIOLATION HAS NOT BEEN CORRECTED PURSUANT TO THE REQUIREMENTS SET FORTH IN THE NOTICE OF VIOLATION, THE CITY OF DELAWARE 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 REGISTERED MAIL.
- (e) INJUNCTIVE RELIEF: IT SHALL BE UNLAWFUL FOR ANY OWNER/OPERATOR TO VIOLATE ANY PROVISION TO FAIL TO COMPLY WITH ANY OF THE REQUIREMENTS OF THIS REGULATION PURSUANT TO O.R.C. 3709.211. IF AN OWNER/OPERATOR HAS VIOLATED OR CONTINUES TO VIOLATE THE PROVISIONS OF THIS REGULATION, THE CITY OF DELAWARE MAY PETITION FOR A PRELIMINARY OR PERMANENT INJUNCTION RESTRAINING THE OWNER/OPERATOR TO PERFORM ABATEMENT OR REMEDIATION OF THE VIOLATION. SUCH INJUNCTION SHALL BE HEARD BY THE CITY OF DELAWARE PUBLIC UTILITIES/PUBLIC WORKS COMMITTEE.

926.10 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 THE DISCRETION OF THE CITY OF DELAWARE TO SEEK CUMULATIVE REMEDIES.

SECTION 2. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Ohio Revised Code.

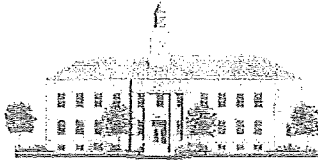
SECTION 3. That Chapter 926 is hereby added to the Codified Ordinances of the City of Delaware.

PASSED: 6/25, 2012

YEAS 5 NAYS 0
ABSTAIN 0

ATTEST: *Christine Flaw*
CITY CLERK

[Signature]
MAYOR



CITY OF DELAWARE

Date: May 2, 2012

To: Mr. R. Thomas Homan, City Manager
Mayor Gary Milner
Delaware City Council

From: Brad Stanton, Public Utilities Director

RE: Illicit Non-Stormwater Discharge & Illegal Connection to the Storm Sewer System

City of Delaware, Ohio
Public Utilities Department
Illicit Non-Stormwater Discharge & Illegal Connection to Storm Sewer System Summary

DESCRIPTION:

The purpose of this ordinance is to provide regulations to detect and address illicit discharges which include pathogens, nutrients and various toxic pollutants from entering the City's waterways. Illicit discharge detection and elimination is one of the six minimal control measures that the operator of a Phase II regulated small MS4 is required to include in its stormwater management program to meet the conditions of its NPDES permit.

Common sources of non-stormwater discharges include apartment complexes, car washes, restaurants, airports and gas stations. These sites are often referred to as "generating sites". Generating sites discharge (directly or indirectly) sanitary wastewater, septic system effluent, vehicle wash water and other pollutants into a storm drain.

Currently there are no specific regulations that require illicit discharge detection and elimination within the City's Codified Ordinances. The proposed ordinance will meet the City's requirement to implement an illicit discharge ordinance.

SUMMARY OF ORDINANCE:

The following is a summary of the ordinance within this code amendment:

General Intent:

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

The following discharges will be exempt from the ordinance requirements:

- **Natural Discharges**
 - Rising Ground Waters
 - Flows from Riparian Habitats and Wetlands
 - Springs

- Diverted Stream Flows
- Uncontaminated Ground Water Infiltration
- Individual Houses and Businesses
 - Landscape Irrigation
 - Lawn Watering
 - Individual Residential Car Washing
 - Small Charity Car Washes
 - Foundation Drains
 - Footing Drains
 - Air Conditioning Condensation
 - Dechlorinated Swimming Pool Discharges
 - Water from Crawl Space Pumps
- Public Utility and Construction Discharges
 - Water Line Flushing
 - Discharges from Potable Water Sources
 - Street Wash Water
 - Uncontaminated Pumped Ground Water
- Firefighting activities and other discharges specified in writing from the City's Public Utilities Department as being necessary to protect public health and safety are also exempt from discharge prohibitions.
- Non-stormwater discharges which are already permitted under the NPDES permit are also exempt from discharge prohibitions.

Property Owner Responsibilities

- Persons owning or leasing property that a watercourse passes have to maintain that part of the watercourse free of trash, debris, excessive vegetation and other obstacles.
- The property owner is responsible to prevent illicit connections.
- The expense of implementing additional measures to prevent illicit discharges is the responsibility of the property owner.
- The property owner in charge of any premises, including construction or demolition sites shall be responsible for the placement and sanitary maintenance of portable toilets per the requirements described in the ordinance.
- The person in charge of a site shall immediately, but no later than 24 hours, notify the City, by phone, or other method of the nature, quantity and time of occurrence of the discharge that will or may result in an illicit discharge into a MS4.

Required Inspections

- A City representative shall be allowed to enter and inspect any property or premises for the purpose of determining compliance with this ordinance, NPDES permit, state or federal law and rules or regulations.

Enforcement

- Any person who violates or fails to comply with this ordinance will be issued a Notice of Violation which would identify the nature of the violation, a description of the remedial actions necessary to correct the deficiency, a statement of penalty and a required time schedule in which the violator must remedy the situation or the City has the right to perform the work and the violator will be responsible for the expenses incurred by the City.
- Under emergency situations (situation which presents or may present imminent and substantial harm to the environment, or to the health and welfare of persons, or to the MS4, watercourses or receiving waters) the City shall suspend a site from discharging into a MS4.