

ORDINANCE NO. 2008-0-07

AN ORDINANCE REGULATING ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS TO THE CITY STORM WATER SEWER SYSTEM AND DECLARING AN EMERGENCY

WHEREAS, illicit discharges to the ~~City of Mentor-on-the-Lake~~ separate storm sewer system create water quality risks to public health, safety, and general welfare; and,

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

WHEREAS, there are watershed-wide efforts to reduce illicit discharges to the rivers and to Lake Erie to which City of Mentor-on-the-Lake drains and to protect and enhance the unique water resources of the rivers to which City of Mentor-on-the-Lake drains watershed(s); and,

WHEREAS, the City of Mentor-on-the-Lake is a member of the Lake County Storm Water Management Program and recognizes its obligation as a part of this organization 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 the City of Mentor-on-the-Lake, to develop a Storm Water Management Program that, among other components, requires the City of Mentor-on-the-Lake 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, Article XVIII, Section 3 of the Ohio Constitution grants municipalities the legal authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary, and other similar regulations, as are not in conflict with general laws.

NOW, THEREFORE BE IT ORDAINED by the Council of City of Mentor-on-the-Lake, County of Lake, State of Ohio, that:

SECTION 1: Codified Ordinance Chapter 1460 Illicit Discharge and Illegal Connection Control is hereby adopted to read in total as follows:

CHAPTER 1460 ILLICIT DISCHARGE AND ILLEGAL CONNECTION CONTROL

1460.01 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 Mentor-on-the-Lake 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.

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: means a permit issued by 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 areawide basis.

J. 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.

K. 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.

L. 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.

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 the City of Mentor-on-the-Lake. 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.

1460.04 DISCLAIMER OF LIABILITY

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

1460.05 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 Mentor-on-the-Lake, shall prevail.

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.

1460.08 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS

A. Establishment of an Illicit Discharge and Illegal Connection Monitoring Program: The City of Mentor-on-the-Lake 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. The City of Mentor-on-the-Lake 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 Mentor-on-the-Lake 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 Mentor-on-the-Lake.
3. The City of Mentor-on-the-Lake 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 shall be calibrated by the City of Mentor-on-the-Lake 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 the City of Mentor-on-the-Lake 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 Mentor-on-the-Lake 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 Mentor-on-the-Lake is refused access to any part of the facility from which storm water is discharged, and the City of Mentor-on-the-Lake 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 Mentor-on-the-Lake 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.

1460.10 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 the City of Mentor-on-the-Lake to seek cumulative remedies.

1460.99 PENALTY.

(a) Any person, firm, entity or corporation; including but not limited to, the owner of the property, his agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the third degree and shall be fined no more than five hundred dollars (\$500.00) or imprisoned for no more than sixty (60) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

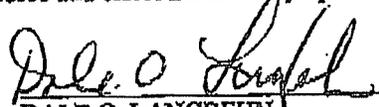
(b) The imposition of any other penalties provided herein shall not preclude the City of Mentor-on-the-Lake, Ohio instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the City of Mentor-on-the-Lake, Ohio.

Section 2. That all formal actions of this Council concerning the passage of this Ordinance were adopted in an open meeting, and that all deliberations of this Council, or any of its Committees, which resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. That this Ordinance is hereby declared to be and is passed as an emergency measure, the emergency being the need to continually provide for the proper and prudent administration of City affairs and to protect the storm water system of the City and the Grand River and Lake Erie from illicit discharges. Said Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the City of Mentor-on-the-Lake.

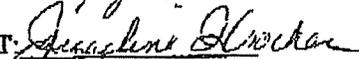
Passed by Council this 13th day of May, ~~2007~~ 2008.

WHEREFORE, this Ordinance shall be in full force and effect immediately upon its passage by Council and approval by the Mayor.


DALE O. LANGBEHN
PRESIDENT OF COUNCIL

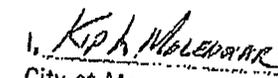
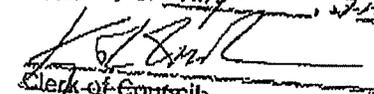
JOHN M. ROGERS
MAYOR

ADOPTED: May 13, 2008

ATTEST: 
Clerk of Council

First Reading: April 8, 2008
Second Reading: April 22, 2008
Third Reading: May 13, 2008
Passage: May 13, 2008

-7-

I, Kip Molevane 
Clerk of Council of the
City of Mentor-on-the-Lake, do hereby certify
that the foregoing is a true and exact copy of
Ordinance No. 2008-0-07 passed by the
Council on the 13th day of May, 2008

Clerk of Council
