

AN ORDINANCE ADOPTING CHAPTER 1182 OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOWICK AND DECLARING AN EMERGENCY.

WHEREAS, illicit discharges to the City of Willowick which occur in 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 Lake Erie Drainage Basin to protect and enhance the unique water resources of the watershed; and

WHEREAS, 40 C.F.R. Parts 9, 122, 123, and 124, and Ohio Administrative Code 3745-39 require designated communities, including City of Willowick, to develop a Storm Water Management Program that, among other components, requires City of Willowick 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 the City of Willowick, County of Lake, State of Ohio, that:

Section 1. Chapter 1182 of the Codified Ordinances of the City or Willowick is hereby adopted and shall read as follows:

Chapter 1182. Illicit Discharge and Illegal Connection Control.

1182.01 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 Willowick 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 (OEPA). The objectives of this regulation are:

- (a) To prohibit illicit discharges and illegal connections to the MS4; and

- (b) To establish legal authority to carry out inspections, monitoring procedures, and enforcement actions necessary to ensure compliance with this regulation.

1182.02 APPLICABILITY.

This regulation shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the MS4 and on any lands in the City of Willowick, except for those discharges generated by the activities detailed in Section 1182.07 (A)(1) to (A)(3) of this regulation.

1182.03 DEFINITIONS.

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

- (a) Best Management Practices (BMP): means 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 stormwater. BMP 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: means City of Willowick, its designated representatives, boards, or commissions.
- (c) Environmental Protection Agency or United States Environmental Protection Agency (USEPA): means the United States Environmental Protection Agency, including, but not limited to, the Ohio Environmental Protection Agency (OEPA), or any duly authorized official of said agency.
- (d) Floatable Material: in general 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.
- (e) Hazardous Materials: 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.
- (f) Illicit Discharge: as defined at 40 C.F.R 122.26(b)(2) 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 1182.07 of this Chapter.

- (g) Illegal Connection: means 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 means 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 pursuant to state law) having jurisdiction over sewage, industrial waste, 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 collection 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 Section 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 system 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/operator or on behalf of the owner/operator.
- (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 resulted from constructing a structure, and noxious or offensive matter of any kind.

- (m) Storm Water: means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (n) Wastewater: means 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 building, industrial plants, and institutions.

1182.04 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.

1182.05 CONFLICTS, SEVERABILITY, NUISANCES & RESPONSIBILITY.

- (a) Where the provisions of this Chapter is in conflict with other provision of other laws or ordinances, the most restrictive provisions, as determined by the City of Willowick, 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 nuisance.
- (d) Failure of the City of Willowick 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 Willowick, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

1182.06 RESPONSIBILITY FOR ADMINISTRATION.

The City of Willowick shall administer, implement, and enforce the provisions of the Chapter. The City of Willowick may contract with the Lake County Board of Health to conduct inspections and monitoring and to assist with enforcement actions.

1182.07 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 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; 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 Willowick to be significant contributors of pollutants to the MS4.
- (2) Discharges specified in writing by the City of Willowick as being necessary to protect public health and safety.
- (3) Discharges from off-lot discharging home sewage treatment systems permitted by the Lake County Board of Health for the purpose of discharging treated sewage effluent in accordance with Ohio Administrative Code 3701-29, or other applicable Lake County Board of Health regulations, until such time as the Ohio Environmental Protection Agency issues an NPDES permitting mechanism for residential 1, 2 or 3 family dwellings. These discharges are exempt unless such discharges are deemed to be creating a public health nuisance by the Lake County Board of Health.

In compliance with the City of Willowick Storm Water Management Program, discharges from all off-lot discharging home sewage treatment systems must either be eliminated or have coverage under an appropriate NPDES permit issued and approved by the Ohio Environmental Protection Agency. When such permit coverage is available, discharges from off-lot discharging home sewage treatment systems will no longer be exempt from the requirements of this Chapter.

(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 the 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.

1182.08 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS.

(a) Establishment of an Illicit Discharge and Illegal Connection Monitoring Program: . The City of Willowick 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 routing 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 Willowick shall be permitted to enter and inspect facilities subject to this regulation as often as may be necessary to determine compliance with this Chapter.
- (2) The City of Willowick shall have the right to set up 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 Willowick.
- (3) The City of Willowick 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 Willowick 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 Willowick 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 Willowick 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 Willowick is refused access to any part of the facility from which storm water is discharged, and the City of Willowick 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

to O.R.C. 3709.211. If an owner/operator has violated or continues to violate the provisions of this Chapter, The City of Willowick 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.

1182.10 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 in the discretion of the City of Willowick to seek cumulative remedies.

Section 2. All formal actions of this Council concerning the passage of this Ordinance were adopted in an open meeting, and 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 3.12 of the Charter of the City of Willowick, and section 121.22 of the Ohio Revised Code.

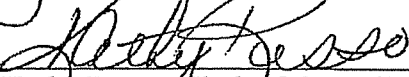
Section 3. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, welfare and dignity of the residents of the City of Willowick.

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

Adopted by Council: September 1, 2009

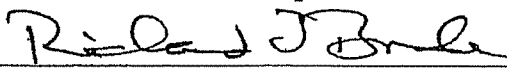


Judy Moran, President of Council

Attest: 

Kathy Russo, Clerk of Council

Approved by Mayor: September 2, 2009



Richard J. Bonde, Mayor