

## ORDINANCE NO. 42 - 2016

AN ORDINANCE ENACTING CHAPTER 906 OF PART NINE, STREETS AND UTILITIES CODE, OF THE CODIFIED ORDINANCES OF MADISON VILLAGE, OHIO, ESTABLISHING COMPREHENSIVE REGULATIONS AGAINST ILLICIT DISCHARGE AND ILLEGAL CONNECTIONS TO THE VILLAGE SEPARATE STORM SEWER SYSTEM, AND DECLARING AN EMERGENCY.

WHEREAS, the Village is under legal mandate to bring its ordinances into compliance with Ohio and Federal environmental statutes; and

WHEREAS, illicit discharges and illegal connections to the Village separate storm sewer system damages property and degrades water resources and is injurious to the health, safety, and welfare of the citizens of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MADISON, COUNTY OF LAKE, STATE OF OHIO, THAT:

SECTION 1. That as of the effective date of this Ordinance the following ordinances of the Village of Madison, Ohio of a general and permanent nature as arranged into component codes, titles, articles and sections are hereby approved, adopted and enacted as Chapter 906 of Part Nine – Streets and Utilities Code of the Codified Ordinances of Madison Village, Ohio:

906.01	Purpose and Scope.
906.02	Applicability.
906.03	Definitions.
906.04	Disclaimer of Liability.
906.05	Conflicts, Severability, Nuisances & Responsibility.
906.06	Responsibility for Administration.
906.07	Discharge and Connection Prohibitions.
906.08	Monitoring of Illicit Discharges and Illegal Connections.
906.09	Enforcement.
906.99	Penalty.

SECTION 2. That the full, complete and accurate text of Chapter 906 of Part Nine – Streets and Utilities Code of the Codified Ordinances of Madison Village, Ohio is attached

hereto as Exhibit "1" and incorporated herein as if fully re-written.

SECTION 3. That publication of these ordinances shall occur in book form containing the certification of the President of Council and Fiscal Officer of their correctness and same shall constitute the Codified Ordinances of Madison Village, Ohio, Part Nine – Streets and Utilities Code, Chapter 906.

SECTION 4. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including § 121.22 of the Ohio Revised Code.


SECTION 5. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the inhabitants of the Village of Madison and because immediate enactment is necessary to meet EPA compliance deadlines; wherefore, this Ordinance shall take effect and be in force from and immediately upon passage.

PASSED:

1-3-2017


  
\_\_\_\_\_  
Kenneth D. Takacs  
President of Council

Attested:

  
\_\_\_\_\_  
Kristie M. Crockett  
Fiscal Officer / Clerk of Council

Approved:

Date: 1/3/17

  
\_\_\_\_\_  
Sam Britton, Jr.  
Mayor

**CHAPTER 906  
 ILLICIT DISCHARGE AND ILLEGAL CONNECTION CONTROL**

**906.01 PURPOSE AND SCOPE.**

The purpose of this Code is to provide for the health, safety, and general welfare of the citizens of the Village through the regulation of illicit discharges to the municipal separate storm sewer system (MS4). This Code 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 Code are:

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

**906.02 APPLICABILITY.**

This Code shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the MS4 and on any lands in the Village, except for those discharges generated by the activities detailed in § 906.07(A)(1) to (A)(3) of this Code.

**906.03 DEFINITIONS.**

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

- (A) "Best Management Practices (BMPs)" 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 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) "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.
- (C) "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.
- (D) "Illicit discharge" is as defined at 40 C.F.R. 122.26(b)(2), and as amended from time to time, 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 § 906.07 of this Code.

(E) "Illegal connection" means any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4.

(F) "Municipal Separate Storm Sewer System (MS4)" is defined at 40 C.F.R. 122.26(b)(8), and as amended from time to time, and 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 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.

(G) "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 area wide basis.

(H) "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.

(I) "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.

(J) "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.

(K) "Storm water" means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

(L) "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 buildings, industrial plants, and institutions.

**906.04 DISCLAIMER OF LIABILITY.**

Compliance with the provisions of this Code shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this Code 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.

**906.05 CONFLICTS, SEVERABILITY, NUISANCES & RESPONSIBILITY.**

(A) Where this Code is in conflict with other provisions of law, the most restrictive provisions, as determined by the Village, shall prevail.

(B) If any clause, section, or provision of this Code is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

(C) This Code shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this Code shall not be a defense in any action to abate such a nuisance.

(D) Failure of the Village 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 the Village, its officers, employees, or agents being responsible for any condition or damage resulting there from.

**906.06 RESPONSIBILITY FOR ADMINISTRATION.**

The Village Administrator shall administer, implement, and enforce the provisions of this Code.

**906.07 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; dechlorinated swimming pool discharges; street wash water; and discharges or flows from firefighting activities. These discharges are exempt until such time as



they are determined by the Village to be significant contributors of pollutants to the MS4.

(2) Discharges specified in writing by the Village 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 Household Sewage Treatment Systems existing prior to January 1, 2007. 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 Lake County Stormwater 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 Code.

(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 Code if the person connects a line conveying illicit discharges to the MS4, or allows such a connection to continue.

#### **906.08 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS.**

(A) Establishment of an Illicit Discharge and Illegal Connection Monitoring Program. The Village 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 Village shall be permitted to enter and inspect facilities subject to this Code as often as may be necessary to determine compliance with this Code.

- (2) The Village shall have the right to set up at facilities subject to this Code such devices as are necessary to conduct monitoring and/or sampling of the facility's storm water discharge, as determined by the Village.
- (3) The Village 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 Village 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 Village 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 Village access to a facility subject to this Code for the purposes of illicit discharge inspection is a violation of this Code.
- (6) If the Village is refused access to any part of the facility from which storm water is discharged, and the Village demonstrates probable cause to believe that there may be a violation of this Code, 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 Code or any order issued hereunder, or to protect the public health, safety, and welfare, the Village 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.

#### **906.09 ENFORCEMENT.**

(A) Notice of Violation. When the Village finds that a person has violated a prohibition or failed to meet a requirement of this Code, the Village 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 is 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) Any person aggrieved by any order, requirement, determination, or any other action or inaction by a Village officer in relation to this Code may appeal to the court of common pleas of Lake County. Such an appeal shall be made in conformity with Chapter 2506 of the Ohio Revised Code. Written notice of appeal shall be served on the Village in conformity with law.
- (E) Injunctive Relief. It shall be unlawful for any owner/operator to violate any provision or fail to comply with any of the requirements of this Code. If an owner/operator has violated or continues to violate the provisions of this Code, the Village 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.

**906.99 PENALTY.**

- (A) Any person, firm, entity or corporation; including but not limited to, the owner of the property, his/her agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this Code 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 Village 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 Code or other applicable laws, ordinances, rules, or regulations, or the orders of Village officials made pursuant to same.