

CHAPTER 924
Illicit Discharge and Illegal Connection Control

924.01	Purpose and Scope	924.06	Responsibility for Administration
924.02	Applicability	924.07	Discharge and Connection Prohibitions
924.03	Definitions	924.08	Monitoring of Illicit Discharges and Illegal Connections
924.04	Disclaimer	924.09	Enforcement and Penalties
924.05	Conflicts, Severability, Nuisances and Responsibility	924.10	Penalties not Exclusive

924.01 PURPOSE AND SCOPE.

(a) The purpose of these regulations is to provide for the health, safety and general welfare of the citizens of the City of Franklin through the regulation of illicit discharges to the municipal stormwater sewer system (MS4). These regulations establish methods for controlling the introduction of pollutants into the stormwater system 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).

(b) The objectives of these regulations are to prohibit illicit discharges and illegal connections to the MS4, and to establish legal authority to carry out inspections, monitoring procedures and enforcement actions necessary to ensure compliance with these regulations.
(Ord. 2009-20. Passed 09/21/09)

924.02 APPLICABILITY.

These regulations shall apply to all residential, commercial, industrial and/or institutional premises responsible for discharges to the MS4 and on any lands within the corporate limits of the City of Franklin; excepting those discharges generated by activities detailed in Section 924.07 (A)(1) to (A)(3) of this Chapter.
(Ord. 2009-20. Passed 09/21/09)

924.03 DEFINITIONS.

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

(a) Best Management Practices (BMP's): 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. BMPs also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material storage.

(b) City or Community: The City of Franklin, Ohio, its officers, employees, designated representatives, boards and commissions.

(c) Environmental Protection Agency (EPA): The United States EPA and/or the State of Ohio EPA, or any duly authorized official of said agencies.

(d) Floatable Material: In general, this term 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 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), means any discharge to an MS4 that is not composed entirely of stormwater, except for those discharges to an MS4 pursuant to a NPDES permit or as otherwise noted in Section 924.07 of this Chapter.

(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) Stormwater Sewer System (MS4): As defined at 40 C.F.R. 122.26 (b)(8), a municipal separate stormwater sewer system means a conveyance or system of conveyances, including roads with drainage systems, municipal street, catch basins, curbs, gutters, ditches, man-made channels or storm drains that is:

- (1) Owned or operated by a state, city, town, borough, county, parish, district, municipality, township, district, association or other public body that was created by, or pursuant to, state law and that has jurisdiction over sewage and/or industrial wastes, including special districts under state law such as a sewer district or similar entity, or a Native American tribe or an authorized Native American tribal organization, or a designated and approved management agency under Section 208 of the Clean Water Act that discharge to waters of the United States;
- (2) Designed or used for collecting or conveying stormwater;
- (3) Not a combined sewer; and
- (4) 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) Stormwater Discharge Permit: A permit issued by the 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 to 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 discharge treated wastewater effluent off of the property into a stormwater or surface water conveyance or system.

(k) Owner/Operator: Any individual, agent, firm, association, organization, corporation, or partnership or other entity recognized by law that alone, jointly, or severally with others:

- (1) Has legal or equitable title to any premises, building, structure, dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- (2) Has charge, care or control of any premises, building, structure, dwelling or dwelling unit, as agent of the owner or as executor, administrator, trustee or guardian of the estate of the beneficial owner.

The person(s) shown on the records of the Warren County Recorder to be the owner(s) of a particular property shall be presumed to be the person(s) in control of that property.

(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) Premises: A lot, plot or parcel of land with its appurtenances, building, dwellings and/or structures thereon, and including any yards.

(n) Stormwater: Any surface flow, runoff and/or drainage consisting entirely of water from any form of natural precipitation that results from such precipitation.

(o) 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.

(Ord. 2011-18. Passed 10/03/11)

924.04 DISCLAIMER OF LIABILITY.

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

(Ord. 2009-20. Passed 09/21/09)

924.05 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.

(a) Where this Chapter is in conflict with other provisions of law or ordinance, the most restrictive provisions, as determined by the City, shall prevail.

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

(c) This Chapter shall not be construed as authorizing any Owner/Operator to maintain a nuisance on their property, and compliance with the provisions of this Chapter shall not be a defense in any action to abate such nuisance.

(d) Failure of the City to observe or recognize hazardous or unsightly conditions, or to recommend corrective measures, shall not relieve the Owner/Operator from the responsibility for the condition or damage resulting therefrom and shall not result in the City, its officers, employees or agents being responsible for any condition or damage resulting therefrom.

(Ord. 2009-20. Passed 09/21/09)

924.06 RESPONSIBILITY FOR ADMINISTRATION.

The City shall administer, implement and enforce the provisions of this Chapter. The City may contract with the Warren County Board of Health or other outside agency to conduct inspections, monitor and assist with enforcement actions.

(Ord. 2009-20. Passed 09/21/09)

924.07 DISCHARGE AND CONNECTION PROHIBITIONS.

(a) Prohibition of Illicit Discharges. No Owner/Operator shall discharge, or cause to be discharged, any illicit discharge into the City's MS4. The commencement, conduct or continuance of any illicit discharge to the MS4 is prohibited, except as herein described:

- (1) Waterline 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 fire fighting activities. These discharges are exempt until such time as they are determined by the City to be significant contributors of pollutants to the MS4.
- (2) Discharges specified, in writing, by the City as being necessary to protect public health and safety.
- (3) Discharges from off-lot discharging home sewage treatment systems permitted by the Warren County Board of Health for the purpose of discharging treated sewage effluent in accordance with Ohio Administrative Code 3701-29-02(6), until such time as the Ohio EPA issues an NPDES permitting mechanism for residential one-, two- or three-family dwellings. These discharges are exempt unless such discharges are deemed to be creating a public health nuisance by the Warren County Board of Health.
- (4) In compliance with the City's Stormwater Management Regulations, 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 EPA. 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. This prohibition expressly includes, but is not limited to, 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. An Owner/Operator is considered to be in violation of this regulation if the Owner/Operator connects a line conveying illicit discharges to the MS4, or allows such connection to continue.

(Ord. 2009-20. Passed 09/21/09)

924.08 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS.

(a) Establishment of an Illicit Discharge and Illegal Connection Monitoring Program: The City 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 stormwater outfalls to the MS4; and the systematic investigation of potential residential, commercial, industrial and institutional premises for the sources of any dry-weather flows found as the result of these inspections.

(b) Inspection of Residential, Commercial, Industrial or Institutional Premises.

- (1) The City shall be permitted to enter and inspect premises subject to this Chapter as often as may be necessary, at reasonable times and upon reasonable notice to the Owner/Operator, to determine compliance with this Chapter. This right of entry shall be subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the City is authorized to pursue recourse as provided by law including, but not limited to, seeking an administrative search warrant, injunctive relief and/or criminal remedies.

- (2) The City shall have the right to set up at a premises subject to this Chapter such devices as are necessary to conduct monitoring and/or sampling of the premises' stormwater discharge, as determined by the City.
- (3) The City shall have the right to require the premises' Owner/Operator to install sampling and/or monitoring equipment as the City deems necessary. This sampling and/or monitoring equipment shall be maintained at all times in safe and proper operating condition by the Owner/Operator at the Owner/Operator's expense. All devices used to measure stormwater flow and quality shall be calibrated by the City to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and reasonable access to the premises to be inspected and/or monitored shall be promptly removed by the premises' Owner/Operator at the written or oral request of the City and shall not be replaced. The cost of clearing such access shall be borne by the premises Owner/Operator.
- (5) Unreasonable delays in allowing the City access to premises subject to this Chapter for the purposes of illicit discharge inspection may be a violation of this Chapter.
- (6) Any costs associated with these inspections shall be assessed to the premises Owner/Operator. If such costs are not paid within thirty (30) days of the date of the invoice sent to the Owner/Operator, the City may cause a lien to be placed upon the property of the premises.

(Ord. 2009-20. Passed 09/21/09)

924.09 ENFORCEMENT AND PENALTIES.

(a) Notice of Violation and Correction Order.

- (1) When the City finds that a premises is in violation of any provision of this Chapter, or that an Owner/Operator has violated any provision of this Chapter or has failed to meet any requirement of this Chapter, the City may order compliance by written Notice of Violation and/or Correction Order. Such notice must specify the violation and shall be hand delivered and/or sent by certified mail to the Owner/Operator of the premises. Such Notice and/or Order may require the following actions:
 - A. The performance of monitoring, analyses and reporting;
 - B. The elimination of illicit discharges or illegal connections;
 - C. The "cease and desist" of any violation discharges, practices or operations;
 - D. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and/or
 - E. The implementation of source control or treatment BMPs.
- (2) If abatement of a violation and/or restoration of affected property is required, the Correction Order shall set forth a deadline within which such remediation or restoration must be completed. Said Order shall further advise that should the Owner/Operator fail to remediate and/or restore within the established deadline, legal action for enforcement may be initiated.
- (3) Any Owner/Operator receiving Notice of Violation and/or Correction Order must meet compliance standards within the time established in the Notice of Violation and/or Correction Order.

(b) Appeals: Any Owner/Operator who is adversely affected by the issuance of a Notice of Violation and/or Correction Order under this Chapter may appeal to the Appeals Board. Such appeal shall be in writing and shall be filed within twenty (20) days of the issuance of the Notice of Violation and Correction Order.

(c) Prosecution of Violations: Upon the failure of any Owner/Operator to comply with a Notice of Violation and Correction Order, or upon a violation of any section of this Chapter, the City may institute the appropriate proceeding, whether in law or in equity, to penalize, restrain, correct or abate such violation.

(d) Penalties. Unless otherwise provided in this Chapter, the penalties for failure to comply with a Notice of Violation and Correction Order, and/or for a violation of this Chapter shall be as follows: Whoever violates this section is guilty of an unclassified misdemeanor, and in addition to any other penalties allowed by law, the Court shall fine the person as follows:

- (1) On a first offense, not less than twenty-five dollars (\$25.00);
- (2) On a second offense within one year, not less than fifty dollars (\$50.00);
- (3) On a third offense within one year, not less than one hundred dollars (\$100.00);
- (4) On a fourth offense within one year, not less than two hundred dollars (\$200.00);
- (5) On a fifth offense within one year, not less than four hundred dollars (\$400.00);
- (6) On a sixth offense within two years, not less than six hundred dollars (\$600.00);
- (7) On a seventh offense within two years, not less than eight hundred dollars (\$800.00);
- (7) On an eighth offense or higher within two years, not less than one thousand dollars (\$1,000.00).

Each day the violation continues shall be considered a separate offense. The application of the penalties herein described shall not prevent the abatement of prohibited conditions.

(Ord. 2011-18. Passed 10/03/11)

924.10 PENALTIES NOT EXCLUSIVE.

The penalties listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the City to seek cumulative remedies. If an Owner/Operator has violated or continues to violate this Chapter, the City may institute an appropriate action, whether in law or in equity, to restrain, correct or abate a violation, or petition for an injunction, to any court of competent jurisdiction.

(Ord. 2011-18. Passed 10/03/11)