

ARTICLE 8. MUNICIPAL SEPARATE STORM SEWER SYSTEM¹²**Division I. General Provisions****Sec. 9-170 Purpose and Intent.**

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the Depauw/Greencastle MS4 community through the regulation of non-stormwater discharges to the storm drainage system as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- a. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4).
- b. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.
- c. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

Sec. 9-171 Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

Sec. 9-172 Definitions.

For the purposes of this ordinance, the following shall mean:

- a. **AUTHORIZED ENFORCEMENT AGENCY.** Employees or designees of the Mayor of the City of Greencastle designated to enforce this ordinance.
- b. **BEST MANAGEMENT PRACTICES (BMPs).** 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 directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. 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.
- c. **CLEAN WATER ACT.** The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- d. **CONSTRUCTION ACTIVITY.** Activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

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Ordinance 2008-9, passed June 10, 2008 and establishes Article 7 under Chapter 9, Utilities.

e. **HAZARDOUS MATERIALS.** 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. **ILLEGAL DISCHARGE.** Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 8 of this ordinance.

g. **ILLICIT CONNECTIONS.** An illicit connection is defined as either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, processed wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

h. **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT.** 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.

i. **NON-STORMWATER DISCHARGE.** Any discharge to the storm drain system that is not composed entirely of stormwater.

j. **POLLUTANT.** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

k. **STORM DRAINAGE SYSTEM.** Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

l. **STORMWATER.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

m. **STORMWATER POLLUTION PREVENTION PLAN.** A document which describes the

Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

n. **WASTEWATER.** Means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Sec 9-173 Permits.

a. No person shall be granted a site development permit for land-disturbing activity that would require the uncovering of *1 acre or more* without the approval of an Erosion and Sediment Control Plan by the City of Greencastle.

b. No site development permit is required for the following activities:

(1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(2) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

c. Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm.

d. Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan.

Sec. 9-174 Review and Approval.

a. The City of Greencastle will review each application for a site development permit to determine its conformance with the provisions of this regulation and:

(1) Approve the permit application allowing the owner to submit a Notice of Intent to IDEM with the required filing fee;

(2) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or

(3) Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission

Sec. 9-175 Erosion and Sediment Control Plan.

a. The Erosion and Sediment Control Plan shall include the following:

- (1) A natural resources map identifying soils, forest cover, and natural resources.
 - (2) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
 - (3) All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
 - (4) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
 - (5) Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.
- b. Modifications to the plan shall be processed and approved or disapproved in the same manner as Section 4 of this regulation. Modifications must be approved by the City of Greencastle by written authorization to the permittee, and may include:
- (1) Major amendments of the erosion and sediment control plan submitted to the City of Greencastle.
 - (2) Field modifications of a minor nature.
- c. Erosion control requirements shall include the following:
- (1) Soil stabilization shall be completed within *five days* of clearing or inactivity in construction.
 - (2) If seeding or another vegetative erosion control method is used, it shall become established within *two weeks* or the City of Greencastle may require the site to be reseeded or a non-vegetative option employed.
 - (3) Special techniques that meet the design criteria outlined in the Erosion and Sediment Control Manual issued by IDEM on steep slopes or in drainage ways shall be used to ensure stabilization.
 - (4) Soil stockpiles must be stabilized or covered at the end of each workday.
 - (5) The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
 - (6) Techniques shall be employed to prevent the blowing of dust or sediment from the site.

(7) Techniques that divert upland runoff past disturbed slopes shall be employed.

d. Sediment control requirements shall include:

(1) Settling basins, sediment traps, or tanks and perimeter controls.

(2) Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.

e. Waterway and watercourse protection requirements shall include:

(1) A temporary stream crossing installed and approved by the approving agency, (*e.g.*, *Waterways Division, ESC agency*) if a wet watercourse will be crossed regularly during construction.

(2) Stabilization of the watercourse channel before, during, and after any in-channel work.

(3) All on-site stormwater conveyance channels designed according to the criteria outlined in the Erosion and Sediment Control Manual issued by IDEM.

(4) Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.

f. Construction site access requirements shall include:

(1) a temporary access road provided at all sites.

(2) other measures required by the City of Greencastle in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

Sec. 9-176 Inspection.

a. The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures.

b. The City of Greencastle shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved.

Sec. 9-177 Discharge Prohibitions.

Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows, which shall be:

a. Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if de-chlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water sources not containing pollutants.

b. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

c. Dye testing, provided that a verbal notification has been given to the City of Greencastle prior to the time of the test.

d. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Sec. 9-178 Suspension of MS4 Access.

a. Suspension due to Illicit Discharges in Emergency Situations. The authorized enforcement agency may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

b. Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

c. A person commits an ordinance violation if the person reinstates MS4 access to premises terminated pursuant to this Section without the prior approval of the authorized enforcement agency.

Sec. 9-179 Industrial or Construction Activity Discharges.

Any person subject to an industrial or construction activity NPDES storm water discharge permit or erosion and sediment control permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the authorized enforcement agency prior to the allowing of discharges to the MS4.

Sec. 9-180 Requirement to Prevent, Control, and Reduce Stormwater Pollutants Through the Use of Best Management Practices.

The owner will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The said BMPs will apply to the owner or operator who shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWP3) as necessary for compliance with requirements of the NPDES permit.

Sec. 9-181 Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies and appropriate regulatory agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized enforcement agency within three business days of the phone notice. 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 the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 9-182 Enforcement.

a. Notice of Violation.

Whenever the authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) Monitoring, analysis, and reporting;
- (2) The elimination of illicit connections or discharges;

- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (5) Payment of a fine to cover administrative and remediation costs; and
- (6) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

b. Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 5 days from the date of the Notice of Violation. Hearing on the appeal before the Greencastle Board of Works shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

c. Enforcement Measures After Appeal

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 days of the decision of the municipal authority of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above. The violator shall be responsible for all expenses associated with the abatement of the violation. The City of Greencastle shall place a lien on the property for any expenses that are unpaid for 30 days.

d. Injunctive Relief

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

e. Violations deemed a Public Nuisance

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and

welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

f. Fines

In addition to the above measures the authorized enforcement agency may assess a fine for any violation of the ordinance of a minimum of \$100.00 and a maximum of \$2500.00 per day as determined by the authorized enforcement agency. Each day that a violation occurs shall constitute a separate violation, subject to a fine.

g. Remedies not exclusive

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Sec. 9-183 through Sec. 9-200 Reserved for Future Use.

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