

JACKSON TOWNSHIP BOARD OF TRUSTEES, STARK COUNTY, OHIO

RESOLUTION

RESOLUTION NO. 13-018

ADOPTED: 3-26-13

SUBJECT: Amendment of Illicit Discharge and Illegal Connection Controls Policy and the Long Term Maintenance of Water Quality Practices Policy

The Board of Trustees of Jackson Township, Stark County, Ohio, met in regular session on the 26th day of March, 2013 with the following members present:

James N. Walters
John E. Pizzino
Todd J. Hawke

Trustee WALTERS moved for the adoption of the following resolution:

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 Tuscarawas River and Muskingum Watershed and their tributaries to protect and enhance the unique water resources of the watersheds; and,

WHEREAS, Jackson Township, Stark County, is a member of the Stark County and Muskingum Watershed and recognizes its obligation as a part of these watersheds/organizations 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 Jackson Township, Stark County, to develop a Storm Water Management Program that, among other components, requires Jackson Township, Stark County, 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 adopt long term maintenance of water quality practices policy and the enforcement thereof; and,

WHEREAS, ORC Section 504.21 grants limited home rule townships the legal authority to adopt these regulations.

WHEREAS, pursuant to ORC Section 504.21, the Board held two (2) public hearings during regular sessions on March 12, 2013 at 5:30 pm and on March 26, 2013 at 5:15 pm. The Fiscal Officer caused to be published, in a newspaper of general circulation in the Township, the attached notice of the public hearings. A copy of this Resolution containing the proposed amendments were made available by the Board at the Jackson Township Administration Building and a copy of this Resolution was also posted on the Board's website.

BE IT RESOLVED by the Board of Trustees of Jackson Township, Stark County, Ohio, that we hereby, amend the following Illicit Discharge and Illegal Connection Controls Policy and adopt the following Long Term Maintenance of Water Quality Practices Policy, effective April 26, 2013.

1.01 PURPOSE AND SCOPE

The purpose of these regulations is to provide for the health, safety, and general welfare of the citizens of the Jackson Township, Stark County, through the regulation of illicit discharges to the township separate storm sewer system (MS4). These regulations 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 these regulations are:

- A. To prohibit illicit discharges and illegal connections to the MS4.
- B. To establish legal authority to carry out inspections, monitoring procedures, and enforcement action necessary to ensure compliance with this resolution.

1.02 APPLICABILITY

These regulations shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the MS4 and on any lands in within Jackson Township, Stark County, except for those discharges generated by the activities detailed in Section 7.07 (A)(1) to (A)(3) of this resolution.

1.03 DEFINITIONS

The words and terms used in these regulations, 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. Community or Jackson Township, Stark County: means the Board of Trustees of Jackson Township, Stark County, 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 (Ohio EPA), or any duly authorized official of said agency.
- 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: 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 7.07 of these regulations.

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), township or 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, county, 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. 22.2.

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 area-wide 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 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.

O. Stark County Health Department: means the Board of Health of the Stark County Combined General Health District or its authorized representative as authorized by section 3709.05 of the Revised Code.

1.04 DISCLAIMER OF LIABILITY

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

1.05 CONFLICTS, SEVERABILITY, NUISANCES & RESPONSIBILITY

A. Where these regulations is in conflict with other provisions of law or ordinance, the most restrictive provisions, as determined by Jackson Township, Stark County, shall prevail.

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

C. These regulations shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of these regulations shall not be a defense in any action to abate such a nuisance.

D. Failure of Jackson Township, Stark County, 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 Jackson Township, Stark County, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

1.06 RESPONSIBILITY FOR ADMINISTRATION

Jackson Township, Stark County, shall, **within the provisions of ORC 504.21 (E)**, administer, implement, and enforce the provisions of these regulations.

1.07 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 fire fighting activities. These discharges are exempt until such time as they are determined by Jackson Township to significant contributors of pollutants to the MS4.

2. Discharges specified in writing by the as being necessary to protect public health and safety.

3. Discharges from off-lot discharging home sewage treatment systems permitted by the Stark Board of Health for the purpose of discharging treated sewage effluent in accordance with Ohio Administrative Code 3701-29-02 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 Stark Board of Health.

In compliance with the Jackson Township, Stark County, 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 these regulations.

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

1.08 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS

Jackson Township shall perform the following obligations:

A. Establishment of an Illicit Discharge and Illegal Connection Monitoring Program: Jackson Township, Stark County, shall establish a program to detect and eliminate illicit discharges and illegal connections to the MS4. **Attached is the Jackson Township MS4 Outfall Inspection Program.** This program **will also** 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. Jackson Township, Stark County, shall be permitted to enter and inspect facilities subject to these regulations as often as may be necessary to determine compliance with these regulations.
2. Jackson Township, Stark County, shall have the right to set up at facilities subject to these regulations such devices as are necessary to conduct monitoring and/or sampling of the facility's storm water discharge, as determined by Jackson Township.
3. Jackson Township, Stark County, 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 Jackson Township, Stark County, 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 Jackson Township, Stark County, and shall not be replaced. The costs of clearing such access shall be borne by the facility owner/operator.
5. Unreasonable delays in allowing Jackson Township, Stark County, access to a facility subject to these regulations for the purposes of illicit discharge inspection is a violation of these regulations.
6. If Jackson Township, Stark County, is refused access to any part of the facility from which storm water is discharged, and Jackson Township, Stark County, demonstrates probable cause to believe that there may be a violation of these regulations, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with these regulations or any order issued hereunder, or to protect the public health, safety, and welfare, Jackson Township, Stark County, may, **pursuant to the provisions of ORC 504.21 (E)(1) request, in writing, the Stark County Prosecuting Attorney to 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.

1.09 LONG TERM MAINTENANCE OF WATER QUALITY PRACTICES POLICY

The Storm Water Quality Regulations developed by the Stark county Soil and Water Conservation District (SWCD) are the standards for erosion and sediment control and post construction water quality design in Jackson Township and are available on the

Stark County SWCD website at www.starkswcd.org. Excluding Section 108 of the Storm Water Quality Regulations, these regulations shall be applicable to all developments in the Jackson Township which are covered by the regulations as specified in the regulations.

A. Following the initial inspection of erosion and sediment control devices by the developer's delegated representative, regular inspections (bi-monthly) will be performed by the Stark County SWCD for compliance with Storm Water Quality Regulations. If it appears that a violation of any of the regulations has occurred, the owner and developer will be notified of deficiencies or non-compliance in writing by certified mail, return receipt requested. If within 30 days after receipt of the letter, the owner or developer has not rectified the deficiency or received approval of plans for its correction, a second notice of violation will be issued. The owner or developer has another 15 days to rectify the violation. If the violation is not rectified, the violation shall be reported to the Jackson Township Public Works Department for consideration of referral to the Jackson Township Law Director for immediate enforcement of these regulations as authorized by these regulations or law.

B. The Stark County SWCD may require revisions to the Storm Water Pollution Prevention Plan as necessary to achieve compliance to the Storm Water Quality Regulations.

C. A final inspection will be made to determine if the criteria of the Storm Water Quality Regulations have been satisfied and a report sent to the Jackson Township Public Works Department on the compliance status of the site.

1.10 ENFORCEMENT

The Stark County Health District shall enforce illicit discharge violations or long term maintenance of water quality practices policy, that fall under its authority in accordance with its established nuisance policy. Otherwise, the following procedure shall be followed:

A. Notice of Violation. When Jackson Township, Stark County, finds that a person has violated a prohibition or failed to meet a requirement of these regulations, Jackson Township, Stark County, 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. Administrative Hearing: If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, Jackson Township, Stark County, shall schedule an administrative hearing to determine reasons for non-compliance and to determine the next enforcement activity. Notice of the administrative hearing shall be hand delivered and/or sent by registered mail.

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 these regulations pursuant to O.R.C. 3709.211. If an owner/operator has violated or continues to violate the provisions of these regulations, the Jackson Township, Stark County, 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.

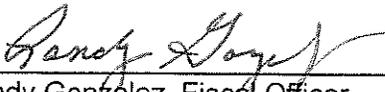
1.11 REMEDIES NOT EXCLUSIVE

The remedies listed in these regulations are not exclusive of any other remedies available under any applicable federal, state or local law and it is in the discretion of Jackson Township, Stark County, to seek cumulative remedies.

Trustee PIZZINO seconded the motion and upon roll call the vote resulted as follows:

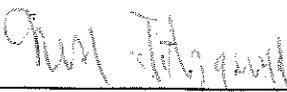
Mr. Walters	<u>YES</u>
Mr. Pizzino	<u>YES</u>
Mr. Hawke	<u>ABSENT</u>

The foregoing is a true and correct counterpart of Resolution Number 13- 018, duly adopted on March 26, 2013 and filed with me as the Township Fiscal Officer on March 27, 2013.



Randy Gonzalez, Fiscal Officer

The foregoing resolution is approved as to form:



Neal Fitzgerald, Law Director