



Trustees
Dave Vore (President)
Steve Woolf
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Fiscal Officer
Brad Limbert

Clay Township

8207 Arlington Road
Brookville, Ohio 45309

RESOLUTION 2018-006

STORM WATER MANAGEMENT, SECTION 4001 OF ZONING CODE

This shall take effect immediately provided it receives the affirmative vote at least (2) two board members, or otherwise to take effect and be enforced at the earliest period allowed by law; and

WHEREAS, illicit discharges to the Clay Township, Montgomery County, storm water ditches create water quality risks to public health, safety, and general welfare; and,

WHEREAS, illicit discharges may necessitate repair of storm 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 Wolf Creek, North Branch Wolf Creek, Razor's Run, Swamp Creek, Brush Creek, and Tom's Run and their tributaries to protect and enhance the unique water resources of the watersheds; and,

WHEREAS, Clay Township, Montgomery County, is cooperating with the Montgomery Soil and Water 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, Title 40 Environmental Protection Agency C.F.R. Parts 9, 122, 123 and 124, and Ohio Administrative Code 3745-39 require designated communities, including Clay Township, Montgomery County, to develop a Storm Water Management Program that, among other components, requires Clay Township, Montgomery 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;

NOW THEREFORE BE IT RESOLVED, the Clay Township Board of Trustees adopt by resolution that we; Update Zoning Resolution, Section 4001 (Exhibit A) to be complaint with Ohio Environmental Protection Agency directive. (Copy of Exhibit-A Zoning Code attached).



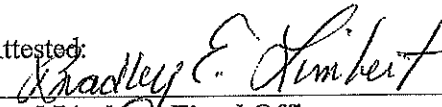
Dave Vore, President



Steve Woolf

Jeff Requarth

Attested:



Brad Limbert, Fiscal Officer

Passed: February 19, 2018

SECTION 4001 STORM WATER MANAGEMENT

1. Purpose and Scope

The purpose of this regulation is to provide for the health, safety, and general welfare of the citizens of Clay Township, Montgomery County, through the regulation of illicit discharge to the township 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 (NPDES) permit as required by the Ohio Environmental Protection Agency (Ohio EPA). The objectives of this regulation 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.

2. Applicability

This regulation shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the MS4 and on any lands within Clay Township, except for those activities detailed in Section 7.07(A)(1) to (A)(3) of this resolution.

3. Definitions

The words and terms used in this regulation, 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 Clay Township, Montgomery County**: means the Board of Trustees of Clay Township, Montgomery 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.

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- 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 an NPDES permit or noted in Section 7.07 of this regulation.
- 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 Systems (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 Discharge Permit:** means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC S 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.

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- 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 residence, commercial buildings, industrial plants, and institutions.
- O. **Montgomery County Health Department:** means the Board of Health of the Montgomery County Combined General Health District or its authorized representative as authorized by section 3709.05 of the Revised Code.
- P. **Montgomery Soil and Water Conservation District:** means a Soil and Water Conservation District (SWCD) is an independent body of our state government responsible for the conservation of soil and water resources within its boundaries. Formed under and subject to the Ohio Soil and Water Conservation District Law, Chapter 1515 and Chapter 940 of the Ohio Revised Code (ORC), the district was organized by local landowners in 1949 and is administered by a board of 5 supervisors elected by owners and occupiers of land within the district.

4. 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.

5. Conflicts, Severability, Nuisances & Responsibility

- A. Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions, as determined by Clay Township, Montgomery County, 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.

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- 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 a nuisance.
- D. Failure of Clay Township, Montgomery 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 Clay Township, Montgomery County, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

6. Responsibility for Administration

Clay Township, Montgomery County, shall administer, implement, and enforce the provisions of this regulation. Clay Township, Montgomery County, will contract with the Montgomery Soil and Water Conservation District to conduct inspections, mapping, monitoring and to maintain enforcement actions, within the scope of their authority. To include the review of each site SWMP, erosion and sediment control measures.

7. Discharge and Connection Prohibitions

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

- 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 Clay Township to be significant contributors of pollutants to the MS4.
 - 2) Discharges specified in writing by the SWCD, as being necessary to protect public health and safety.
 - 3) Discharges from off-lot discharging home sewage treatment systems permitted by the Montgomery 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

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exempt unless such discharges are deemed to be creating a public health nuisance by the Montgomery Board of Health.

In compliance with the Clay Township, Montgomery 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 this regulation.

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

8. Monitoring of Illicit Discharges and Illegal Connections

Clay Township has entered into a Contract with the Montgomery Soil and Water Conservation District to perform the following services on Clay Township's behalf.

A. *Establishment of an Illicit Discharge and Illegal Connection Monitoring Program:*

Clay Township, Montgomery County, 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) Clay Township, Montgomery County or its designated representative, shall be permitted to enter and inspect facilities subject to this regulation as often as may be necessary to determine compliance with this regulation.
- 2) Clay Township, Montgomery County or its designated representative, shall have the right to set up at 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 Clay Township.

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- 3) Clay Township, Montgomery County or its designated representative, 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 Clay Township, Montgomery County, or Designee/Contractor 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 Clay Township, Montgomery 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 Clay Township, Montgomery County, access to a facility subject to this regulation for the purposes of illicit discharge inspection is a violation of this regulation.
- 6) If Clay Township, Montgomery County or its designated representative, is refused access to any part of the facility from which storm water is discharged, and Clay Township, Montgomery County, 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 sampling program designed to verify compliance with this regulation or any order issued hereunder, or to protect the public health, safety, and welfare, Clay Township, Montgomery County, 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.

9. Enforcement

Clay Township, Montgomery County, shall enforce illicit discharge violations, which fall under its authority in accordance with its established nuisance policy. Otherwise, the following procedure shall be followed: The Montgomery Soil and Water Conservancy District will report all illicit discharges to Clay Township, Montgomery County.

- A. **Notice of Violation.** When Clay Township, Montgomery County, finds that a person has violated a prohibition or failed to meet a requirement of this regulation. Clay Township, Montgomery 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:

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- 1) The performance of monitoring, analysis, 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 with 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, Clay Township, Montgomery 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 registered mail. The administrative hearing shall be heard before and by the Clay Township, Montgomery County, Board of Zoning Appeals
- 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 regulation pursuant to O.R.C. 3709.211. If an owner/operator has violated or continues to violate the provisions of this regulation, the Clay Township, Montgomery 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.

10. Remedies Not Exclusive

The remedies listed in this regulation are not exclusive of any other remedies available under any applicable federal, state or local law and it is in the discretion of Clay Township, Montgomery County, to seek cumulative remedies.

SECTION 4002 CONSTRUCTION AND BUILDING

1. ANY subsurface drain (tile) that is damaged during construction shall be repaired to its original condition. Prior to relocating any subsurface drain, a map showing the existing and planned relocation shall be submitted to the Clay Township, Montgomery County,

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and approved prior to beginning any construction, earth moving, or relocation. The Montgomery Soil and Water Conservation District will provide technical assistance to the Township and landowner if requested.

2. Eavespouts or downspouts and other runoff will not be outletted directly into a subsurface drain through surface inlets unless the capacity of the drain can be shown to be adequate. If post construction runoff exceeds pre-development runoff, on-site storage will be required and will not exceed pre-development runoff. Subsurface drains will not be used to outlet storage facilities unless adequate capacity can be shown. Pre-construction approval from Clay Township, Montgomery County.

SECTION 4003 MAINTENANCE

1. Drainage is an important requirement for the developing land in Clay Township, Montgomery County. Nearly every land unit will have a subsurface drain. Maintenance of these systems is the responsibility of the property owner. Should "blowholes" or other damage occur, the property owner or his/her agent shall repair/replace/or reroute the drain so as to assure to original capacity and condition.
2. There are several drainage projects in Clay Township, that have been completed through petition. The improvements were paid by landowners in the watershed. Periodically, maintenance assessments will be placed on real estate tax statements. Procedures followed under this petition process are outlined in O.R.C. 1515.

SECTION 4004 PONDS

Anyone building a pond shall submit a plan to the Clay Township Zoning Office. Plans must meet the standards and specifications followed by the Montgomery Soil and Water Conservation District. A letter stating that the plans meet their standards and specifications from the District will accompany pond plans submitted to the Zoning Office. Ponds will be certified by the District after construction, including seeding. (Z-4-97)