

ORDINANCE NO. 62-09

Introduced by Mark Masser

An Ordinance adopting the addition of section 1044.22, Illicit Discharge and Obstruction of the Municipal separate storm sewer system to Chapter 1044 - Sewers.

WHEREAS, The City's National Pollution Discharge Elimination System II (NPDES II) Program calls for the City to update its storm water design standards; and

WHEREAS, EMH&T has created a storm water design manual consistent with current storm water design standards; and

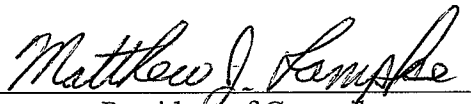
WHEREAS, the reference to this design manual in the Codified Ordinances of the City of Bexley will allow the City to be compliant with OEPA requirements under its NPDES II Program;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY,
OHIO:

SECTION 1: That Section 1044.25: Illicit Discharge and Obstruction of the Municipal Separate Storm Sewer System is hereby added.

SECTION 2: That this Ordinance shall go into full force and effect at the earliest time allowed by law.

PASSED: Dec. 8, 2009.

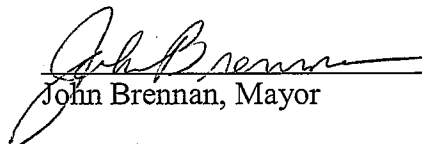


President of Council

ATTEST:



Clerk of Council



John Brennan, Mayor

First Reading 11-10-09
Second Reading 11-17-09
Third Reading 12-8-09

1044.25 ILLICIT DISCHARGE AND OBSTRUCTION OF THE MUNICIPAL
SEPARATE STORM SEWER SYSTEM.

(a) A person commits an offense if the person introduces, or causes to be introduced, into the MS4 any discharge that is not composed entirely of stormwater.

(b) It is an affirmative defense to any enforcement action for a violation of subsection (a) that the discharge was composed entirely of one or more of the following categories of discharges:

- (1) A discharge authorized by, and in full compliance with, an NPDES permit (other than the NPDES permit for discharges from the MS4);
- (2) A discharge or flow resulting from fire fighting by the Fire Department;
- (3) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the Fire Code requires to be contained and treated prior to discharge, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge;
- (4) Agricultural stormwater runoff;
- (5) A discharge or flow from water line flushing or disinfection that contains no harmful quantity of total residual chlorine (TRC) or any other chemical used in line disinfection;
- (6) A discharge or flow from lawn watering or landscape irrigation;
- (7) A discharge or flow from a diverted stream flow or natural spring;
- (8) A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
- (9) Uncontaminated groundwater infiltration (as defined at 40 C.F.R. 35.2005(20)) to the MS4;
- (10) Uncontaminated discharge or flow from a foundation drain, crawl space pump, or footing drain;
- (11) A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
- (12) A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
- (13) A discharge or flow from individual residential car washing;
- (14) A discharge or flow from a riparian habitat or wetland;
- (15) A discharge or flow from cold water (or hot water with prior permission of the Director) used in street washing or cosmetic cleaning that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance; or
- (16) Drainage from a private residential swimming pool or hot tub/spa containing no harmful quantities of chlorine or other chemicals. Drainage from swimming pool filter backwash is prohibited;
- (17) A discharge or flow of uncontaminated storm water pumped from an excavation or existing pond.

(c) No affirmative defense shall be available under subsection (b) if:

- (1) The discharge or flow in question has been determined by the City Engineer to be a source of a pollutant or pollutants to the waters of the United States or to the waters of the State or to the MS4;
- (2) Written notice of such determination has been provided to the discharger;
- (3) The discharge has continued after the expiration of the time given in the notice to cease the discharge;
- (4) A person commits an offense if the person introduces or causes to be introduced into the MS4 any harmful quantity of any substance.

(d) Definitions. For the purpose of this chapter, certain rules or word usage apply to the text as follows:

- (1) Municipal Separate Storm Sewer System (MS4): "Municipal Separate Storm Sewer System" or "MS4" 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):
 - A. Owned or operated by the City;
 - B. Designed or used for collecting or conveying storm water;
 - C. Which is not a combined sewer; and
 - D. Which is not part of a Publicly Owned Treatment Works (POTW) as defined by Title 40 Code of Federal Regulations Part 122.2 (40 CFR 122.2).

(e) Notice of Violation. Whenever the City of Bexley finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the City of Bexley may order compliance by written Notice of Violation and direct the responsible party to:

- (1) Comply immediately;
- (2) Comply in accordance with a schedule set forth in the Notice; or
- (3) Take appropriate remedial or preventative action in the event of a continuing or threatening violation.

Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
- (4) Payment of a fine to cover administrative and remediation costs; and
- (5) 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 actions 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 150% of the expenses thereof shall be charged to the violator. Whoever violates this section is guilty of a minor misdemeanor.