

## ORDINANCE NO. #19-208

### AN ORDINANCE TO ADOPT CHAPTER 19, ARTICLE VI, SECTIONS 19-208 TO 19-227 OF THE DEARBORN CITY CODE, TITLED "STORMWATER MANAGEMENT."

#### THE CITY OF DEARBORN ORDAINS TO:

#### Amend Chapter 19, Sections 19-208 to 19-227, as follows:

#### ARTICLE VI. STORMWATER SYSTEM MANAGEMENT

##### 19-208. - STATEMENT OF PURPOSE

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

- a) To regulate the quantity and quality of stormwater discharge from a private property into a municipal storm sewer, enclosed or open conveyance systems.
- b) To establish legal authority to implement permitting and delegation of monitoring and maintenance responsibilities necessary to ensure compliance with this article.

##### 19-209. - DEFINITIONS

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Authorized enforcement agency** means the Director, and their authorized representatives, which shall specifically include the City Engineer, all inspectors and code enforcement, and any other individual designated by the Mayor of the City of Dearborn to enforce this Article. Where applicable the terms may also mean the director of the Michigan Department of Environment, Great Lakes, and Energy or his/her designated official, and/or the United States EPA Administrator or his/her designated official.

**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 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.

**City** means the City of Dearborn.

**Clean Water Act** means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

**County** means the County of Wayne.

**Construction activity** means activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of five acres or more requiring an issued permit and small construction activities impacting one to five acres of land deemed to operate under a national permit. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

**Director** means the Director of the Department of Public Works and Facilities.

**MS4** means a municipal separate storm sewer system.

**National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit** means a permit issued by United States Environmental Protection Agency (EPA), or by the State of Michigan under authority delegated pursuant to 33 USC § 1342(b) and codified in the Michigan Natural Resources and Environmental Protection Act Protection at MCL 324.101, et seq., that authorizes the discharge of pollutants to waters of the United States or State of Michigan, whether the permit is applicable on an individual, group, or general area-wide basis.

**Non-stormwater discharge** means any discharge to the storm drain system that is not composed entirely of stormwater.

**Person** means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

**Pollutant** means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; 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.

**Premises** means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**Storm sewer system or storm drainage system** means a publicly owned facility 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.

**Stormwater** means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

**Stormwater pollution prevention plan** means 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.

**Wastewater** means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

#### **19-210. - APPLICABILITY**

This article shall apply to post-construction storm water runoff from new development and redevelopment projects that disturb one (1) or more acres, including projects less than one (1) acre that are part of a larger common plan of development, and that discharge to the City's MS4, including projects where the City is the developer.

#### **19-211. - RIGHT OF ENTRY**

The Director, or other authorized enforcement agency shall be permitted to enter upon all properties for the purposes of inspection of stormwater BMPs in accordance with the provisions of this article. Refusal of reasonable access to the Director and/or representatives of the authorized enforcement agency to any part of the premises is a violation of this article.

#### **19-212. - ENFORCEMENT, RESPONSIBILITY FOR ADMINISTRATION**

This Article shall be enforceable by the Director, or other enforcement agency authorized by this Code.

#### **19-213. - MINIMUM STANDARDS**

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore, this Article does not intend or imply that compliance by any person

will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

#### **19-214. - SUSPENSION OF STORM SEWER SYSTEM ACCESS**

**a) Suspension due to illicit discharges in emergency situations.**

The Director or other authorized enforcement agency may, without prior notice, suspend storm sewer system 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 storm sewer system or the Waters of the United States or this state. 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 storm sewer system or waters of the United States or this state, or to minimize danger to persons.

**b) Suspension due to the detection of illicit discharge.**

Any person discharging to the storm sewer system in violation of this article may have their storm sewer system access terminated if such termination would abate or reduce an illicit discharge. The Director will notify a violator of the proposed termination of its storm sewer system access. The violator may petition the Director for reconsideration and hearing.

**c) Violation.**

A person violates this article if the person reinstates storm sewer system access to premises terminated pursuant to this section, without the prior approval of the Director or other authorized enforcement agency.

#### **19-215. - INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES**

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director prior to the allowing of discharges to the MS4.

#### **19-216. - REQUIREMENTS TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY ADAPTING AND FOLLOWING THE FOLLOWING REQUIREMENTS OF THE CURRENT WAYNE COUNTY STORMWATER ORDINANCE, STORMWATER ADMINISTRATIVE RULES AND STORMWATER STANDARDS MANUAL**

Site plans for proposed development or redevelopment will be reviewed in accordance with the City's current zoning ordinance, to ensure plans meet the current Wayne County post-construction runoff control design standards. The city and designee will adopt requirements set out in the current Wayne County Stormwater Ordinance,

stormwater administrative rules and stormwater standards manual, here forth referred to as the Wayne County Stormwater Ordinance with the following exceptions:

- a) The storm water flood control and post-Construction Storm Water Runoff Controls Program will apply to all private and public developments or redevelopments exceeding one acre. It will also apply to construction of a new public or private road where no road existed previously. It will not apply to resurfacing projects where 50% of the pavement and parking lot base is not disturbed. It will not apply to full depth reconstruction of existing public roads. Where the control program applies and the proposed discharge connects to a City of Dearborn sewer, the peak flow rate of storm water runoff leaving the site must not exceed 0.50 cubic feet per second (cfs)/acre of property.

Site plans for proposed development or redevelopment will be reviewed by the City of Dearborn to ensure plans meet the current post-construction runoff control design standards. The property owner upon completion of construction must enter into a binding long-term maintenance agreement with the City, at their own expense, to document, routinely monitor and maintain the stormwater quantity and quality BMP's so they continue to operate as designed. The agreement shall be set up that if the property owner should be determined to be non-responsive to notice of maintenance action required that the City may enter the property to perform the maintenance required.

This long-term maintenance agreement shall be recorded with the Wayne County Register of Deeds and subject to transfer to the new owner upon sale of the property.

#### **19-217. - WATERCOURSE PROTECTION**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

#### **19-218. - ENFORCEMENT**

- a) **Notice of Violation:** Whenever the Director or their designee finds that a person has violated a prohibition or failed to meet a requirement of this Article, the City of Dearborn may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
  1. The performance condition monitoring, and measuring;
  2. The performance maintenance work in order to get BMPs functioning as designed;

3. Payment of a fine to cover reimbursement of direct plus administrative costs.

- b) **Abatement of a Violation:** 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 the City of Dearborn or its designee at the violator's expense.

#### **19-219. - APPEAL OF NOTICE OF VIOLATION**

Any person aggrieved by any decision, ruling, interpretation, notice, or order issued pursuant to this article may appeal same to the Director. A person wishing to appeal pursuant to this article must file a written statement of the grounds for appeal and the relief requested. Such appeal shall be filed with the Director within 30 days of the date of the Notice of Violation. The appeal shall be decided by the director without hearing, based on review of the written statement, any supporting documents or materials submitted by the appellant, and any other papers, materials, and documents associated with the decision, ruling, interpretation, notice, or order being appealed. The decision of the Director shall be final.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the Director or their designee may impose alternative compensatory actions upon a violator; including, but not limited to storm drain stenciling, attendance at compliance workshops, and creek cleanup.

#### **19-220. - 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 30 days of the decision of the City of Dearborn upholding its decision, then representatives of the City or its designees 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 City of Dearborn or its designee to enter upon the premises for the purposes set forth above.

#### **19-221. - COST OF THE ABATEMENT OF THE VIOLATION**

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 10 days. If the amount due is not paid within a timely manner as determined by the decision of the City of Dearborn or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of

this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of five percent (5%) per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

#### **19-222. - INJUNCTIVE RELIEF**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. If a person has violated or continues to violate the provisions of this article, the City of Dearborn 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.

#### **19-223. - 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 Article 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. The City of Dearborn may also simultaneously or alternatively initiate a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance.

#### **19-224. CRIMINAL PROSECUTION**

- a) Any person who has violates this article shall be guilty of a 93-day misdemeanor punishable by a fine of up to \$500 and jail for no more than 93 days.
- b) The City of Dearborn may recover all attorney's fees; court costs; and other expenses associated with enforcement of this article, including condition monitoring and maintenance expenses.

#### **19-225. - REMEDIES NOT EXCLUSIVE**

The remedies listed in this article 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.

#### **19-226. - SEVERABILITY**

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Article or its application to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Article.